

Circuit Court for Washington County
Case No. C-21-CR-18-000120

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3244

September Term, 2018

ANTHONY GEORGE ABLONCZY

v.

STATE OF MARYLAND

Fader, C.J.,
Wright,
Kehoe,

JJ.

PER CURIAM

Filed: October 1, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Washington County, Anthony Ablonczy, appellant, was convicted of attempted armed robbery, along with various lesser included offenses and related firearms offenses. Mr. Ablonczy filed an appeal, claiming that the circuit court erred in denying his pretrial motion to suppress an extra-judicial identification. Because Mr. Ablonczy affirmatively waived his challenge to the identification procedure at trial, we shall affirm the judgments of the circuit court.

Prior to trial, Mr. Ablonczy moved to suppress what he claimed was an impermissibly suggestive identification procedure. A suppression hearing was held, at which Mr. Ablonczy asserted that a photo array that was shown to the victim was unduly suggestive because the individuals whose photographs were included in the array did not have “uniform physical features,” and therefore, “an identification was inevitable.”¹ Consequently, according to Mr. Ablonczy, the photo array and any in-court identification that would be tainted by the use of the photo array should be excluded from evidence. The court found that the photo array was not impermissibly suggestive and denied the motion to suppress. At trial, when the State moved to admit the photo array into evidence, defense counsel informed the court that there was “[n]o objection.”

Maryland Rule 4-252(h)(2)(c) provides, in relevant part, that “[a] pretrial ruling denying [a] motion to suppress is reviewable . . . on appeal of a conviction.” This is true even if no contemporaneous objection is made at trial. *See Jackson v. State*, 52 Md. App.

¹ Mr. Ablonczy also argued that the identification procedure was unduly suggestive because it was not conducted in a double-blind fashion. Mr. Ablonczy abandons that contention on appeal.

327, 331 (1982). But, “if a pretrial motion is denied and at trial appellant says he has no objection to the admission of the contested evidence, his statement effects a waiver” of the right to appellate review. *Id.* at 332. *See also Exxon Mobil Corp. v. Ford*, 433 Md. 426, 462 (2013) (defining waiver as “a voluntary act of a party which is inconsistent with the assignment of errors on appeal [which] normally precludes that party from obtaining appellate review.”) (citation and emphasis omitted). We conclude that Mr. Ablonczy waived his right to appellate review of the issue on appeal and, consequently, we decline to address it.

**JUDGMENTS OF THE CIRCUIT COURT
FOR WASHINGTON COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**