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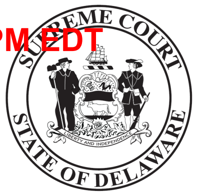

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TERRELL S. MOBLEY,	)	
	)	
Defendant-Below,	)	
Appellant,	)	
	)	
v.	)	**No. 158, 2023**
	)	
STATE OF DELAWARE,	)	
	)	
Plaintiff-Below,	)	
Appellee.	)	

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE'S ANSWERING BRIEF

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DATE: April 18, 2024

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NATURE AND STAGE OF THE PROCEEDINGS

On June 5, 2019, Wilmington Police arrested Terrell Mobley on weapons charges. DI 1.[1] On July 8, 2019, a New Castle County Grand Jury indicted Mobley on the following charges: Possession of a Firearm by a Person Prohibited ("PFBPP"), Possession of Ammunition by a Person Prohibited ("PABPP"), and Carrying a Concealed Deadly Weapon ("CCDW").[2]

On October 11, 2019, Mobley filed a motion to suppress evidence and a motion to sever counts I and II. DI 10, 11. The State filed a response to the motion to suppress (DI 16), and the Superior Court conducted an evidentiary hearing on November 12, 2019, after which the court denied the motion. DI 17. The court granted the unopposed motion to sever at the same hearing and issued a written order to that effect the following day. DI 17, 18.

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[1] A29-33. "DI_" refers to docket item numbers in *State v. Mobley*, No. 1906003128A, found in Vol. I of App'x to Op. Brf., at A1-16(a).

[2] A34-35. Prior to the July indictment, a New Castle County Grand Jury indicted Mobley in a separate case on the following charges (Case No. 1906003201): Murder First Degree, Possession of a Deadly Weapon During the Commission of a Felony ("PDWDCF"), Possession of a Firearm During the Commission of Felony ("PFDCF") (2 counts), PFBPP/PABPP, Attempted First Degree Murder (2 counts), and PFBPP/Injury. *See* A1268.

The final case review took place on January 23, 2020.[3] The State declined to offer a plea agreement, and the case was set for trial on February 25, 2020.[4] On February 7, 2020, Mobley filed a motion to exclude certain prior convictions should he elect to testify at trial. DI 22. The State responded on February 19, 2020. DI 26. Mobley filed a letter withdrawing the part of his motion pertaining to his 2005 Burglary Second Degree conviction. DI 31. The Superior Court, in a written order, granted Mobley's motion to exclude as to his 2016 Drug Dealing convictions.[5] DI 34.

After a delay due to the COVID-19 pandemic, the Superior Court held a plea rejection colloquy with Mobley on June 1, 2021. DI 37. The court issued a new scheduling order on August 17, 2022, setting a trial date of November 14, 2022. DI 45. On October 13, 2022, the State informed Mobley that two of the Wilmington Police officers present during his arrest were subjects of internal investigations and the State would not be calling them as witnesses at trial.[6] DI 45. After the final case review on October 31, 2022, the CCDW jury trial started on

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[3] *See* A5.

[4] A356-57.

[5] *State v. Mobley*, 2020 WL 2572738, at *1 (Del. Super. Ct. May 21, 2020).

[6] *See* A482-83.

November 15, 2022. DI 49. The Superior Court declared a mistrial on November 17, 2022, due to a hung jury. DI 49.

On November 22, 2022, Mobley filed a motion to compel production of *Brady* material. DI 51. The State responded on December 14, 2022. DI 55. On December 16, 2022, the Superior Court directed the State to review Corporal Moses's personnel file for *Brady* material and report back to the court and Mobley's counsel. DI 54. The State filed its report on December 20, 2022. DI 56. The court denied Mobley's motion to compel and his motion for partial reargument on January 3, 2023. DI 59.

The case proceeded to retrial on January 31, 2023. DI 64. The jury found Mobley guilty of CCDW the same day. DI 64. The next day, after the State presented additional evidence, the same jury found Mobley guilty of PFBPP and PABPP.[7]

On April 4, 2023, the State filed a motion to declare Mobley an habitual offender. DI 72. On April 14, 2023, the Superior Court granted the State's motion and sentenced Mobley, effective June 5, 2019, as follows: for PFBPP, to 15 years at Level 5 pursuant to 11 *Del. C.* § 4214(c); for CCDW, to 8 years at Level 5

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[7] *See* A24 at DI 38 (B case).

pursuant to 11 *Del. C.* § 4214(c); and for PABPP, to 8 years at Level 5 pursuant to 11 *Del. C.* § 4204(k), followed by 6 months of supervision at Level 4.[8] DI 74, 75.

Mobley filed a timely Notice of Appeal and an Opening Brief. This is the State's Answering Brief.

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[8] Corr. Sent. Order, Ex. A to Op. Brf.

SUMMARY OF THE ARGUMENT

I. Appellant's claim is denied. The trial court did not err in denying Mobley's motion to compel *Brady* material. Mobley was aware that the Wilmington Police officer who testified at trial had been found to have made misleading and inconsistent sworn statements in another Superior Court criminal case. Mobley did not explain how communications between the Department of Justice and the Wilmington Police or communications within the Department of Justice were material to the impeachment of Corporal Moses. Mobley possessed all the information required to impeach the witness.

II. Appellant's claim is denied. The trial court did not err by informing the jury that the case would be tried in two parts. Mobley moved to sever the CCDW charge from the PFBPP and PABPP charges, on the basis that he would be prejudiced "if the evidence of his prior convictions was admitted at trial." The jury was not informed that Mobley was a person prohibited due to his prior criminal record until after the verdict in the CCDW case. There is no evidence that Mobley was prejudiced by the trial judge's informational instruction that the case would be in two parts.

STATEMENT OF FACTS

On June 5, 2019, Wilmington Police Corporal Leonard Moses was working, assigned to patrol in the City of Wilmington.[9] Corporal Moses was with Corporal Rosado and Corporal Akil on that day, riding in an unmarked patrol vehicle, a gray Chevrolet Caprice.[10] The vehicle was equipped with sirens and lights.[11] People in the community generally knew the Caprice to be a police vehicle.[12] Corporal Akil was driving, Corporal Rosado was seated in the front passenger seat, and Corporal Moses was in the rear of the vehicle.[13]

On that day, Corporal Akil drove the Caprice to the Browntown area of Wilmington.[14] The officers had received information that there was an individual in that area that may have a firearm in a book bag.[15] The identity of the individual they were seeking was known to the officers; it was not Terrell Mobley.[16] As they

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[9] A1024.
[10] A1027.
[11] A1027.
[12] A1029.
[13] A1029-30.
[14] A1028; A1030.
[15] A1025.
[16] A1026; A1032.

were traveling south on Coleman Street, the officers saw a male on the east side of the street carrying a purple bag on his right shoulder that appeared to have a heavy object in it.[17] Because the male was not the individual the officers were looking for, they continued on down the street.[18]

Once the officers in the Caprice reached the end of Coleman Street, Corporal Akil made a U-turn and started heading back into the city to continue their area search.[19] The officers saw the individual still walking on the east side of the street, but he no longer had the purple bag.[20] Finding the lack of the bag to be unusual, the officers stopped the Caprice and exited the vehicle.[21] One of the officers could see the purple bag farther down the path where the individual had been seen walking.[22]

Corporal Rosado headed toward the bag to further investigate, while Corporal Moses attempted to contact the individual.[23] Corporal Moses called out,

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[17] A1032.

[18] A1032.

[19] A1033.

[20] A1033.

[21] A1033.

[22] A1033.

[23] A1033; A1040.

but the individual, later identified as Mobley, did not respond.[24] Mobley kept on walking.[25] Corporal Moses jogged toward Mobley, who looked like he might take off running.[26] Corporal Moses continued running toward Mobley and started to pull out his taser.[27] Mobley then stopped and turned around, so Corporal Moses put away his taser.[28]

Corporal Moses introduced himself to Mobley, but before proceeding any further, Corporal Rosado signaled him to detain Mobley.[29] Corporal Moses detained Mobley and walked him back to the police vehicle.[30] While they were walking, Corporal Moses asked Mobley what was going on with the bag, to which Mobley responded, "What bag?"[31] Corporal Moses did not ask any additional questions after that point.[32] Corporal Moses looked into the bag retrieved by

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[24] A1033-34; A1041.

[25] A1034.

[26] A1034.

[27] A1034.

[28] A1034.

[29] A1035; A1042.

[30] A1035.

[31] A1035; A1042.

[32] A1035-36.

Corporal Rosado.[33] The bag contained a camouflage jacket, a T-shirt, a container of coffee, a ginger ale bottle, and a black Cobray 911 nine millimeter handgun.[34] The handgun had a round chambered and an additional twenty-one rounds in the magazine inserted into the firearm.[35]

To determine if Mobley had a permit to carry the firearm, Corporal Moses asked him his name, but he did not provide it.[36] The officer also looked to see if Mobley had any identification on him; he did not.[37] Because Mobley could not be identified, the officers took him back to the police department for further investigation.[38] Once there, Mobley identified himself; the officer ran a computer check and verified that Mobley did not have a permit to carry concealed.[39] Testing revealed the DNA from the ginger ale bottle was consistent with Mobley's DNA.[40]

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[33] A1042-43.

[34] A1043.

[35] A1043.

[36] A1045.

[37] A1044.

[38] A1045.

[39] A1045.

[40] A1114.

I. THE SUPERIOR COURT DID NOT ERR BY DENYING MOBLEY'S MOTION TO COMPEL *BRADY* MATERIAL.

Question Presented

Whether the Superior Court erred by denying Mobley's motion to compel *Brady*[41] material, where Mobley already was aware of the impeachment material regarding Corporal Moses and his credibility issues, and the material sought was not *Brady* material.

Standard and Scope of Review

This Court "review[s] questions of law *de novo*, including issues surrounding the State's obligation to disclose exculpatory or impeachment evidence."[42]

Merits of the Argument

Prior to trial, Mobley filed a motion to compel *Brady* material regarding Corporal Moses, particularly with respect to his preliminary hearing testimony in another criminal case.[43] In the other case, cross-examination of Corporal Moses at trial revealed that he had authored an arrest warrant stating that he and another

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[41] *Brady v. Maryland*, 373 U.S. 83 (1963).

[42] *McGuiness v. State*, __A.3d__, 2024 WL 566607, at *11 (Del. Feb. 13, 2024) (citing *Brady*, 373 U.S. at 87).

[43] *See* A881.

officer had observed a man with a gun, when the officers had actually been informed by Downtown Visions that a video showed a person with a gun.[44] Corporal Moses testified at the preliminary hearing to the events captured in the video as if he had personally witnessed the events leading up to the defendant's arrest.[45] Because the trial prosecutor failed to call a witness from Downtown Visions who witnessed the events on the video, the trial judge struck Corporal Moses's testimony as inadmissible hearsay and granted the defense motion for a judgment of acquittal.[46] The trial judge also informed the prosecutor, that "by the way, [prosecutor], I hope as an officer of this Court you are going to bring to the attention of that officer's superiors" "the circumstances of the Court of Common Pleas testimony."[47] The State did not provide Mobley with any of this material from the other case in discovery. Mobley obtained information about Corporal Moses's testimony from an independent source prior to the second trial.[48]

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[44] *See* A920.

[45] *See* A899-900; *but see also* A903 (". . . when I first pulled up, we pulled up and took him into custody. We saw him remove the firearm from -- from his person from an undisclosed location.")

[46] *See* A920-21; A925-26.

[47] A925.

[48] *See* A881.

Mobley filed a motion to compel *Brady* material prior to the second trial, seeking; (a) "[a]ll communications of any kind" between the DDOJ and the Wilmington Police after the DAG "was ordered to report Corporal Moses to his supervisors"; (b) materials from the Wilmington Police Department, including "any disciplinary actions, reports, and communications of any kind" with Corporal Moses; (c) "[a]ll communications of any kind within the DOJ" regarding Corporal Moses and his credibility as a witness; and (d) a disclosure of any other cases in which Corporal Moses swore affidavits or testified in false, deceptive, or misleading manner.[49] The State filed a response in opposition, noting that the State "[u]pon diligent inquiry," was unaware of any other cases in which Corporal Moses has sworn affidavits or testified in a false, deceptive, or misleading manner.[50] Further, the State maintained that Corporal Moses's affidavit and testimony had not actually been false because he had "observed" the video.[51] The Superior Court, thereafter found that "to the extent Cpl. Moses' conduct in [the other case] constitutes *Brady* material, [Mobley] is in possession of it."[52] The

[49] *See* A888.

[50] A929.

[51] A932.

[52] A938

court declined to compel production of the requested internal communications within and between the DOJ and the Wilmington Police Department ("WPD").[53] Finally, the court directed the State to review Corporal Moses's personnel file for *Brady* material.[54] The State responded that it had reviewed Corporal Moses's personnel file and found no *Brady* material.[55]

Mobley then sought reargument of the Superior Court's order, asserting that the requested materials would be used for impeachment of Corporal Moses and "to refresh recollection, to confront with a prior inconsistent statement, or other means of impeachment."[56] The Superior Court again directed the State:

> To advise the Court and counsel whether Cpl. Moses' personnel file contains any material consistent with Mobley's position that Cpl. Moses' conduct in [the other case] is *Brady* material. The Court further directs the State to review its representation in its opposition to the Motion to Compel that it was unaware of any other cases in which Cpl. Moses swore out affidavits and/or testified in a matter which was or was later determined to be false, deceptive, or misleading from the same perspective and, similarly report the results to the Court and counsel.[57]

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[53] *See* A939.

[54] *See* A940.

[55] *See* A941.

[56] A949.

[57] A956.

After receipt of the State's response reiterating its earlier representations, the Superior Court issued a written opinion addressing what the court believed to be the remaining items in dispute: "communications between the trial prosecutor in *Whittle* and anyone else at DOJ and WPD regarding Cpl. Moses' conduct in that trial and communications within the DOJ regarding Cpl. Moses' credibility both in connection with [the other case] and generally."[58] The court explained its earlier findings:

> [T]he Motion lacked any rationale why those *particular* items should be produced. In other words, the Motion did not explain why peripheral, secondary evidence in the form of communications between others in the DOJ and WPD about what Cpl. Moses had said or written in [the other case] were material when the primary impeaching evidence – the affidavit and testimony - was already in the [Mobley's] possession.[59]

As to Mobley's assertion that the DOJ and WPD communications could "be used to refresh recollection, to confront with a prior inconsistent statement, or other means of impeachment," the court was "not persuaded."[60] The court therefore denied Mobley's motions to compel and for partial regargument.[61]

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[58] *State v. Mobley*, 2023 WL 107387, at *2 (Del. Super. Ct. Jan. 3, 2023).

[59] *Id.*

[60] *Id.*

[61] *Id.* at *3.

On appeal, Mobley asserts that the Superior Court erred by denying his motions to compel *Brady* material and for partial reargument, by failing to find a *Brady* violation, and by not ordering the State to provide "impeachment evidence related to Corporal Moses's false statements in an arrest warrant and in preliminary hearing testimony in a prior case."[62] His claims are unavailing.

The Superior Court properly found that Mobley failed to demonstrate how internal communications of the DOJ and WPD were exculpatory or impeaching, and thus properly denied Mobley's motion to compel.

As this Court has recently explained:

> Under the United States Supreme Court's decision in *Brady*, the government violates a defendant's due process rights if the prosecution suppresses or withholds evidence that is favorable to the defense and material to the defendant's guilt or punishment. The State's *Brady* obligations arise from a prosecutor's responsibility to "search for truth" in criminal cases and are founded on the premise that "[s]ociety wins not only when the guilty are convicted but when criminal trials are fair." Under *Brady* and its progeny, the State must produce exculpatory and impeachment evidence in its possession to a defendant when that evidence could be material to a case's outcome. A prosecutor therefore is charged with learning of any evidence favorable to the defense and "known to the others acting on the government's behalf in the case, including the police."
>
> A defendant who alleges that her *Brady* rights were violated bears the burden of proving three elements: (1) evidence exists that is favorable to the defendant because it is exculpatory or impeaching; (2)

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[62] Op. Brf. at 28.

> the State suppressed that evidence; and (3) the suppression prejudiced the defendant.[63]

"[S]trictly speaking, there is never a real "*Brady* violation" unless the nondisclosure was so serious that there is a reasonable probability that the suppressed evidence would have produced a different verdict."[64] Evidence is material under *Brady* if "there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different."[65] Specifically,

> Impeachment evidence is material if the failure to disclose the evidence "undermines confidence in the outcome of the trial." "The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence." In *Kyles v. Whitley*, the U.S. Supreme Court held this is not a "sufficiency of the evidence test[;]" rather, a *Brady* violation is shown when "the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict."[66]

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[63] *McGuiness*, 2024 WL 566607, at *12 (citations omitted).

[64] *Strickler v. Greene*, 527 U.S. 263, 281 (1999).

[65] *Risper v. State*, 250 A.3d 76, 91 (Del. 2021) (quoting *Wright v. State*, 91 A.3d 972, 988 (Del. 2014)).

[66] *Wilson v. State*, 271 A.3d 733, 740 (Del. 2022) (quoting *United States v. Bagley*, 473 U.S. 667, 678 (1985), and *Kyles v. Whitley*, 514 U.S. 419, 434-35 (1995)).

Mobley failed to sustain his burden to show the materials he sought were impeaching or material in this case. And, as to the Court of Common Pleas transcripts regarding the other case in which Corporal Moses testified, Mobley had possession of those transcripts, as well as the warrant application, prior to the retrial. The Superior Court explained that Mobley's motion to compel "did not explain why peripheral, secondary evidence in the form of communications between others in the DOJ and WPD about what Cpl. Moses had said or written in [the other case] were material when the primary impeaching evidence – the affidavit and testimony - was already in the Defendant's possession."[67] Moreover, the trial judge found Mobley's claim that the communications between DOJ and the WPD could be used to in cross-examination of Corporal Moses "to refresh recollection, to confront with a prior inconsistent statement, or other means of impeachment" was not sufficient to establish materiality.[68] The trial judge noted that Mobley "has Cpl. Moses' affidavit and testimony to confront him with a prior inconsistent statement and to refresh his recollection should his memory of them

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[67] *Mobley*, 2023 WL 107387, at *2.

[68] *Id.* (quoting Motion for Partial Reconsideration).

falter at trial. Citing unspecified 'other means of impeachment' adds nothing to the argument."[69]

The Superior Court was correct. Mobley had all the material required to impeach Corporal Moses before his trial:

> [DEFENSE COUNSEL]: Well, here's what I have. I laid it out in my most recent letter and previously. We have his police report from the [other cases] incident. We have his affidavit of probable cause, which is different. I'm going to ask him why. We have his testimony at the preliminary hearing, which is different than his police report.
>
> And, finally, we have his trial testimony where he reverts back to his original version from the police report and then admits on cross-examination that the information that he testified to under oath at the preliminary hearing was, as he put it, incorrect.
>
> So I'm going to ask him about those things. I mean, I don't really need to -- I don't feel comfortable previewing my entire cross-examination.[70]

To establish a *Brady* violation, Mobley was required to show the suppression of the evidence prejudiced him. Because he received the impeachment evidence from an independent source, Mobley cannot meet that element of a *Brady* violation. Any additional evidence regarding the communications within and between the

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[69] *Id.* (footnote omitted).

[70] A977-78.

DOJ and WPD was not admissible and added nothing material to the impeachment evidence already in Mobley's possession.[71]

Moreover, Mobley's counsel cross-examined Corporal Moses at length about his actions related to the other case.[72] Because he availed himself of the documents demonstrating Corporal Moses's inconsistent sworn statements in the other case, Mobley cannot establish a *Brady* violation that would result in reversal here. Mobley received all the impeachment evidence, and the Superior Court did not limit its use at trial. Mobley suffered no prejudice from the State's failure to provide the relevant impeachment material prior to trial. The Superior Court did not err in denying Mobley's motion to compel *Brady* material and his motion for partial reargument.

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[71] If Corporal Moses's personnel file had contained any disciplinary action as a result of his actions related to the other case, the State would have been required to provide that as *Brady* material. The State, however, did not discover any *Brady* material in that file. *See* A941; A956; A957.

[72] *See* A1061-79.

II. THE SUPERIOR COURT DID NOT ERR BY INFORMING THE JURY, OVER MOBLEY'S OBJECTION, THAT THE CASE WOULD BE TRIED IN TWO PARTS.

Question Presented

Whether the trial judge erred by informing the jury during preliminary instructions that "as in the case of some criminal cases and civil cases, this case will be tried in two parts."[73]

Standard and Scope of Review

This Court "review[s] a trial court's decision to give a jury instruction over the defendant's objection *de novo*."[74] "A trial court's jury charge will not serve as grounds for reversible error if it is reasonably informative and not misleading, judged by common practices and standards of verbal communication."[75] In evaluating the propriety of a jury charge, we view the jury charge as a whole with no individual statement read in a vacuum.[76] "A jury instruction is grounds for

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[73] A997.

[74] *Coles v. State*, 959 A.2d 18, 25 (Del. 2008) (citations omitted).

[75] *Smith v. State*, 913 A.2d 1197, 1241 (Del. 2006) (internal quotations and citations omitted).

[76] *Id.*

reversal only when the "deficiency undermined the ability of the jury 'to intelligently perform its duty in returning a verdict.'"[77]

Merits of the Argument

During a pre-trial teleconference prior to the first trial, the Superior Court proffered its idea regarding a jury instruction about the trial proceeding in two parts.[78] The trial judge was concerned about having a better transition to the severed B case and keeping the jury "in the loop," because he had experienced "some disapproval" from jurors when they were informed after the first verdict that they would be required to remain.[79] The court proposed "something along the lines of, this case will be tried in two parts, so, after you've reached a verdict in the first part, you will not be excused but, then, we will move, after a short delay, into the second part."[80] The State felt "that was innocuous enough."[81] Mobley's counsel did not offer any thoughts at that time.

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[77] *Campbell v. State*, 974 A.2d 156, 163 (Del. 2009) (citing *Floray v. State,* 720 A.2d 1132, 1138 (Del. 1998) (internal citation omitted)).

[78] *See* A492-95.

[79] A492-94.

[80] A493.

[81] A494.

The next day, prior to the start of jury selection, the trial judge sought Mobley's opinion about the proffered instruction. Mobley opposed the instruction on the basis that the jury "may infer a general criminal disposition."[82] His position was that if the jury was voir dired for an extra day, "there shouldn't be any surprise about coming back."[83] The State took no position.[84] The trial judge decided to proceed with the instruction.

After the mistrial, Mobley noted his continuing objection prior to the re-trial.[85] Prior to the start of Mobley's retrial, the trial judge preliminarily instructed the jury: "This case is a criminal case, as distinguished from a civil case. And as in the case of some criminal cases and civil cases, this case will be tried in two parts. I will address that at a more appropriate time."[86] No other reference was made to the two-part procedure until after the jury returned a verdict after trial for the CCDW charge.

"As a general rule, a defendant is not entitled to a particular instruction, but he does have the unqualified right to a correct statement of the substance of the

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[82] A500.

[83] A504.

[84] A505.

[85] A986.

[86] A997.

law."[87] "Indeed, '[t]he trial judge is charged with the responsibility for instructing the jury. This is not controlled by the parties as their function and duty is to bring to the court's attention the instructions they consider applicable and the reasons why they should be given.'"[88]

Here, the Superior Court, in the introductory instructions, informed the jury that the case would be "tried in two parts." Nothing in that statement prevented the jury from "intelligently performing its duty in returning a verdict."[89] The record is devoid of any reference to additional charges or Mobley's criminal record. Mobley asserts that the judge's statement "confirmed to the jury that Mr. Mobley faced additional criminal charges."[90] Not so. But even if the jury believed there would be additional charges, there was no reason for the jurors to believe Mobley had a criminal history. Juries routinely decide cases with multiple charges. The purpose of the severance of person prohibited charges is to prevent the jury from

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[87] *Smith*, 913 A.2d at 1241 (quoting *Bullock v. State*, 775 A.2d 1043, 1047 (Del. 2001) (internal quotations omitted).

[88] *Bullock*, 775 A.2d at 1047 (quoting *United States v. Cooper,* 10th Cir., 812 F.2d 1283, 1286 (1987)).

[89] *Flamer v. State*, 490 A.2d 104, 128 (Del. 1983) (internal quotations omitted).

[90] Op. Brf. at 40.

learning about a defendant's criminal history, not as Mobley asserts on appeal,[91] about limiting the number of criminal charges a defendant is currently facing. Mobley's basis for his motion to sever was he would "suffer significant prejudice if evidence of his prior convictions was admitted at trial."[92] That did not happen here. Mobley's claim lacks merit.

The Superior Court, in announcing that the trial would be in two parts, did not violate Mobley's right to an impartial jury. The instruction provided the jury with a procedural roadmap for the case, and it did not prevent the jury from intelligently performing its duty in reaching a verdict.

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[91] Op. Brf. at 41.

[92] A110.

CONCLUSION

For the foregoing reasons, the judgment of the Superior Court should be affirmed.

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DATE: April 18, 2024

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TERRELL S. MOBLEY,	)	
	)	
Petitioners-Below,	)	
Appellants,	)	**No. 158, 2023**
v.	)	
	)	
STATE OF DELAWARE,	)	
	)	
Respondent-Below,	)	
Appellee.	)	

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENT AND TYPE-VOLUME LIMITATION

1. This brief complies with the typeface requirement of Rule 13(a) because it has been prepared in Times New Roman 14-point typeface using Microsoft Word 2016.

2. This brief complies with the type-volume limitation of Rule 30(d) because it contains 4,449 words, which were counted by Microsoft Word 2016.

Dated: April 18, 2024

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