COURT OF APPEALS OF VIRGINIA

Record No. 0123-25-2

JONAH LEON ADAMS
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Athey, White and Senior Judge Petty
Argued at Richmond, Virginia

Opinion Issued October 20, 2026*

FROM THE CIRCUIT COURT OF CHESTERFIELD COUNTY
David E. Johnson, Judge

Kelsey Bulger, Deputy Appellate Counsel (Virginia Indigent Defense Commission, on briefs), for appellant.

Virginia B. Theisen, Senior Assistant Attorney General (Jason S. Miyares,[1] Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE WILLIAM G. PETTY

Following a jury trial, the Circuit Court of Chesterfield County convicted Jonah Adams of four counts of aggravated murder, four counts of murder in the commission of breaking and entering, four counts of possession of a sawed-off shotgun, four counts of using a firearm in the commission of a felony, and one count of burglary in the nighttime with a deadly weapon. On appeal, Adams contends that items recovered from his house and cars should have been suppressed because, he maintains, the search warrant was not supported by probable cause; that the trial court erred by failing to disclose its ex parte contact with a juror and denying his resulting motion for a

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

mistrial; and that the trial court erred by denying his continuance motions. Finding no error in the trial court's judgment, we affirm.

BACKGROUND[2]

The crimes

On November 18, 2022, Joanne Cottle called 911 at 4:53 a.m. to report that a man wearing a camouflage mask was trying to break into her home on Laurel Oak Road in Chesterfield County. While Cottle was speaking with the 911 operator, the man went to the back of the house. Cottle then heard a gunshot. The 911 call recorded the sound of shattering glass, loud screaming, and more than 30 muffled gunshots fired in rapid succession, before all went silent.

Chesterfield County Police Sergeant Kyle Easton went to Cottle's home in response to the emergency dispatch. When he arrived at 5:01 a.m., Sergeant Easton went around to the rear of the house and saw that the right pane on the sliding glass door was shattered. He entered the house and discovered the lifeless body of Cottle's thirteen-year-old daughter K.P. lying in the hallway. He also found Cottle and her four-year-old twins, K.C. and J.C., deceased in a back bedroom.[3] All four victims had suffered multiple gunshot wounds. The intruder was already gone.

The investigation

Reketa Fischbach also lived on Laurel Oak Road. Fischbach had a camera attached to the front of her house that captured the front street view and part of her driveway. The camera had a motion sensor and continuously recorded. The camera recorded a black Mazda 6 driving by her

[2] Under settled principles of appellate review, we recite the facts "in the 'light most favorable' to the Commonwealth, the prevailing party in the trial court." *Hammer v. Commonwealth*, 74 Va. App. 225, 231 (2022) (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)). In doing so, we discard any evidence that conflicts with the Commonwealth's evidence, and regard as true all the credible evidence favorable to the Commonwealth and all inferences that can be fairly drawn from that evidence. *Cady*, 300 Va. at 329.

[3] Cottle and Adams were previously in a romantic relationship, which had ended in 2019. Adams fathered the twins.

house toward Cottle's house at 4:26 a.m. At 4:57 a.m., Fischbach's camera captured that same Mazda 6 driving at a high speed away from Cottle's house in the opposite direction.

Chesterfield County Police Detective Jonathan Grollimund identified Adams as a possible suspect after learning that Cottle had obtained a protective order against Adams in 2018 and that their relationship ended badly in 2019. Based on that lead, Chesterfield Police Intelligence Analyst Jennifer Verret obtained DMV information for Adams and learned that he owned a Ford F-150 pickup truck. The registered license plate number for that vehicle was DV-23644. Adams was also the registered owner of a black Mazda 6 sedan. Verret conducted a search of Chesterfield County's automated license plate reader system (Flock) and found that a black Mazda 6 sedan bearing the license plate DV-23644 was photographed by a Flock camera near Hopkins Road Elementary School at 4:11 a.m. on November 18, 2022.[4] That same vehicle was then recorded by a Flock camera at the Route 1 and Marina Drive location, traveling northbound at 5:05 a.m.

At the time of the murders, Adams lived in an apartment on Saint Martha Place in Charles County, Maryland. A neighbor's Ring camera depicted him leaving his apartment at around 1:40 a.m. on November 18, 2022. The same Ring camera recorded Adams returning to his apartment at around 7:34 a.m. At 9:30 a.m., Adams drove to a nearby Wawa and then to a Dunkin Donuts. Meanwhile, Chesterfield County detectives secured an arrest warrant for Adams and sought assistance from the Maryland authorities and the Maryland Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

ATF Special Agent Shannon Day conducted surveillance at Adams's apartment complex later in the morning of November 18. Agent Day saw a black Ford F-150 pickup truck, a black Mazda 6 sedan, as well as a Kia SUV belonging to Adams's wife parked next to each other in the parking lot. Agent Day observed Adams leave his third-floor apartment carrying a white trash bag

[4] Hopkins Road Elementary School was about 3.5 miles from Cottle's house.

that he placed in the trunk of the Kia, and then she watched him walk over to the Ford F-150, which displayed only one license plate, before inspecting the tires on the Mazda. The Mazda did not have any tags displayed on it. Upon learning that arrest warrants had been issued, Agent Day and other ATF agents arrested Adams. They then conducted a "safety sweep" of his apartment "[j]ust enough to clear it," before securing the apartment until they could obtain search warrants.

After a Virginia magistrate issued the arrest warrant, Chesterfield Police Detective Kyle Kirby contacted Charles County Police Detective Jena Smith to relay probable cause information for a search warrant, and Detective Smith prepared the necessary paperwork. The affidavit in support of the search warrant listed Detective Smith's significant experience, training, and qualifications. The affidavit then described the 911 call, the "quick volleys of gunfire" that were heard on the 911 call, and the discovery of the four bodies in Chesterfield County. It stated Adams "is prior military" with firearms experience and that he was the registered owner of an AR-15 in Maryland. The affidavit also noted that Adams had a history of "being abusive" to Cottle and that Cottle had taken out prior protective orders against Adams. The affidavit included the information from the Flock readers, as well as Agent Day's observations during her surveillance, and then stated in extensive detail why and how the places to be searched were relevant and material to the investigation.

Consistent with Maryland procedure, Detective Smith submitted the affidavit to the State's Attorney's Office for approval. Once she received that approval, she sent the application electronically to the judge. Circuit Court Judge Donine Carrington-Martin issued the E-search warrant at 6:38 p.m. on November 18, 2022. The warrant authorized officers to search Adams's apartment, the Mazda 6, the Kia SUV, the Ford F-150, and Adams's person.

Chesterfield County Police Detective Christopher Guice traveled to Maryland to assist with executing the search warrant at Adams's apartment. The officers seized two firearms, a suppressor,

and a laptop computer from the residence. They did not recover any evidence from the Ford F-150. The Kia and Mazda 6 were transported to Virginia and searched in Chesterfield County. The Mazda 6 had no license plates attached, but plates were found in the trunk. One of those plates bore the number DV-23644.

From the Kia, officers recovered (among other items) handguns, magazines, rifles, a suppressor, pieces of glass, loose cartridge casings, a "camo" mask, a Navy ballistics vest, ear plugs, a pair of slacks bearing K.P.'s DNA, and ammunition. A "brass catcher" recovered from the back of the Kia contained 28 spent 9mm cartridge casings.[5] The recovered cartridge casings and bullets had been fired from an AR-15-style rifle seized from the Kia. Scientific testing later revealed that the fragments of glass found in the Kia were consistent with the broken glass from Cottle's home.

Law enforcement agents learned that Adams's cell phone had been locked and plugged into a charger on November 18, 2022, from 1:09 a.m. to 7:35 a.m. The cell phone did not move between 1:39 a.m. and 7:34 a.m. on that date. The phone contained numerous Google searches regarding child support, including, but not limited to, "can child support take title of vehicle," "[h]ow to sell a car with a child support lien," "l[ie]n on car title for child support [V]irginia," "I am homeless how can I pay child support," and "I can[']t afford to live because of child support."

Trial court proceedings

On May 10, 2023, a multi-jurisdictional grand jury returned four indictments for aggravated murder and four indictments for first-degree murder. The indictments for first-degree murder charged premeditated murder "by lying in wait" in the body of the indictments but described the "[c]harge" as "Murder in Commission of B&E" below the listed statutory cite. The grand jury also indicted Adams for burglary in the nighttime with the intent to commit murder while armed with a

[5] A "brass catcher" is a tool that attaches to the side of a firearm to catch cartridge cases that are ejected as a gun is fired.

deadly weapon, four counts of possession of a sawed-off shotgun, four counts of use of a firearm in the commission of a felony, and four counts of wearing body armor in the commission of a felony.

On October 13, 2023, the trial court entered an order scheduling a jury trial for August 19 through August 30, 2024. The court entered a discovery order on February 13, 2024. The discovery order scheduled May 1, 2024, as the deadline for the Commonwealth's disclosure for general evidence but also imposed a continuing duty of disclosure on both parties regarding new information.

On May 21, 2024, Adams filed a written motion to continue the jury trial. The motion alleged that Adams received the first response to discovery on February 1, 2024, which gave him only 6.5 months before the trial date to review more than 2,500 pages of discovery, to "comb through" 1.34 terabytes of electronic data and digital evidence, to locate and interview potential witnesses, and to conduct legal research and file pretrial motions. Given the "voluminous" nature of the discovery response, Adams requested more time to prepare for trial.[6]

The continuance motion was one of several issues addressed at a hearing on May 23, 2024. The Commonwealth explained that of the 2,500-plus pages of discovery, it sent more than 1,900 pages to Adams "before the discovery order was even entered in this case." The Commonwealth also advised the trial court that it had sent its discovery responses on January 25, 2024, and not February 1, 2024, as Adams alleged, and it corrected Adams's assertion that he received lab results on May 1, 2024, when in fact the lab results were sent on March 8, 2024. The Commonwealth pointed out that much of the discovery was the subject of Adams's other motions to be heard that day so, "[p]resumably, the defense has had enough time to process through those materials, at least sufficiently to file motions with the [c]ourt." Finally, the Commonwealth stated that the digital

[6] Adams was represented by four attorneys from the Office of the Public Defender.

evidence was short and is "no more than just a couple of minutes long. Some of [it] just seconds long." By order dated May 28, 2024, the trial court denied Adams's continuance request.

On May 29, 2024, one of Adams's attorneys filed a renewed motion to continue the jury trial based on counsel's "personal conflict the week of August 19th." The court addressed the motion at a hearing on June 11, 2024, and by order dated June 14, 2024, denied the requested continuance. Adams filed a second renewed motion to continue the jury trial on July 19, 2024. The basis for that motion was that he needed more time to review additional items of discovery the Commonwealth had provided under its continuing duty to supplement. Adams's motion also asserted that significant staffing shortages at the public defender's office "strain[ed]" counsel's ability to prepare for trial. The trial court denied that request without a hearing. On July 30, 2024, Adams filed a third renewed motion to continue the jury trial, again because he had received additional discovery responses from the Commonwealth. On August 7, 2024, the trial court held a hearing on Adams's third renewed motion to continue and again denied the request.

On July 15, 2024, the Commonwealth moved to amend the first-degree murder indictments to "correct the language in the narrative portion of the indictments" to reflect that Adams committed the murders "in the commission of or attempted commission of a burglary." At the hearing on the motion to amend, Adams argued that the amendments came as a surprise and requested a continuance on that basis. The prosecutor responded that the amendment did not operate as a surprise because Adams was charged in other indictments with murder and burglary. The court granted the motion to amend the first-degree murder indictments but denied the continuance request.

Motion to suppress

On June 28, 2024, Adams moved to suppress all evidence discovered by state and federal agents on November 18, 2022, during the warrantless search of his home. He also sought

suppression of all the evidence seized from his vehicles, home, and person, under the search warrant issued by the Maryland judge. The Commonwealth filed a written response to the motion on July 11, 2024. The court held a hearing on the motion on July 23, 2024, and denied it.

During jury selection, Adams asked if anyone would "have difficulty looking at" photographs depicting the children's gunshot wounds. Juror #2 responded that because he had grandchildren he would be "uncomfortable" looking at photographs of children with such wounds. He added, "I'd like to be fair. But I'd like to say I could do the job." Adams moved to strike Juror #2 for cause because "[he] equivocated about whether or not he could be fair and impartial." The Commonwealth responded, "Judge, . . . I think everybody is a human being. I'm not saying that it's not going to be difficult to sit and listen to the evidence about children being murdered." The prosecutor reminded the court that Juror #2 said "I would like to think I could be fair" and that was "how he left it."

The trial court denied Adams's motion to strike Juror #2 for cause.[7] Later, during the exercise of peremptory challenges, Juror #2 said something to the bailiff, who then approached the judge with a question. Adams noticed that the judge looked "frustrated" by the question, but Adams did not inquire at that time about what had been said and instead used a peremptory challenge to strike Juror #2 from the venire.

After the jury panel was chosen, sworn, and dismissed for lunch, Adams inquired about the interaction between Juror #2, the bailiff, and the judge. The trial court responded that during peremptory strikes, Juror #2 asked if it was "too late to talk about a video." That question made no sense to the trial court because there had been no mention of any videos during voir dire. Rather than responding to the question, the trial court waited to see if Juror #2 was struck. Had Juror #2 not been struck, the trial court would have brought the matter to counsel's attention. Adams

[7] Adams does not challenge that ruling.

responded that by waiting to address the matter, the trial court had forced him into a situation where he had to use a peremptory strike. Adams therefore requested a mistrial. Finding that Adams did not bring the matter to the court's attention until after the jury was sworn, and because the voir dire process had already ended when Juror #2 inquired about a video, the trial court denied Adams's motion for a mistrial. Adams then alleged juror misconduct on the part of Juror #2 and again asked for a mistrial, which the court denied.

The jury convicted Adams of four counts of aggravated murder, four counts of first-degree murder, four counts of using a firearm in the commission of a felony, four counts of possession of a sawed-off shotgun, and burglary in the nighttime with a deadly weapon.[8] On appeal, Adams challenges the trial court's rulings on his motion to suppress, his motion for a mistrial, and his continuance requests.

ANALYSIS

I. Motion to suppress

An appellant's "claim that evidence was seized in violation of the Fourth Amendment presents a mixed question of law and fact that we review *de novo* on appeal." *Baskerville v. Commonwealth*, 76 Va. App. 673, 684 (2023) (quoting *King v. Commonwealth*, 49 Va. App. 717, 721 (2007)). "This Court is 'bound by the trial court's findings of historical fact unless "plainly wrong" or without evidence to support them and we give due weight to the inferences drawn from those facts by resident judges and local law enforcement officers.'" *Daniels v. Commonwealth*, 69 Va. App. 422, 431 (2018) (quoting *McGee v. Commonwealth*, 25 Va. App. 193, 198 (1997) (en banc)). But we "independently decide whether, under the applicable law, the manner in which the challenged evidence was obtained satisfies constitutional requirements." *Baskerville*, 76 Va. App. at 684 (quoting *Shiflett v. Commonwealth*, 47 Va. App. 141, 145-46 (2005)). Ultimately, the

[8] The trial court dismissed the indictments for wearing body armor at the motion to strike.

appellant "bears the burden to show that the [trial] court committed reversible error by denying [his] motion to suppress." *Keepers v. Commonwealth*, 72 Va. App. 17, 33 (2020).

The Fourth Amendment commands that "no [w]arrants shall issue, but upon probable cause, supported by [o]ath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." *Wolfe v. Commonwealth*, 67 Va. App. 97, 102 (2016) (alterations in original) (quoting U.S. Const. amend. IV). "Probable cause exists when 'there is a fair probability that contraband or evidence of a crime will be found in a particular place.'" *Harvey v. Commonwealth*, 76 Va. App. 436, 462 (2023) (quoting *Jones v. Commonwealth*, 277 Va. 171, 178 (2009)). "[T]he existence of probable cause is determined by examining the totality-of-the-circumstances." *Taylor v. Commonwealth*, 66 Va. App. 619, 635 (2016) (alteration in original) (quoting *Anzualda v. Commonwealth*, 44 Va. App. 764, 774 (2005) (en banc)). A magistrate or judge issuing a warrant is required to "make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Illinois v. Gates*, 462 U.S. 213, 238 (1983).

Given this broad discretion granted to a judge's determination of probable cause, "the duty of a reviewing court is simply to ensure that the [judge] had a 'substantial basis for . . . conclud[ing]' that probable cause existed." *Id.* at 238-39 (second and third alterations in original) (quoting *Jones v. United States*, 362 U.S. 257, 271 (1960)). "When determining whether probable cause exists, the [judge] may draw reasonable inferences from the material supplied" in the affidavit. *Anzualda*, 44 Va. App. at 775. "For a search warrant to be supported by probable cause, 'the crucial element is not whether the target of the search is suspected of a crime, but whether it is reasonable to believe that the items to be seized will be found in the place to be searched.'" *Cunningham v.*

Commonwealth, 49 Va. App. 605, 613 (2007) (quoting *United States v. Lalor*, 996 F.2d 1578, 1582 (4th Cir. 1993)). Thus, the search warrant affidavit must provide "proof of a constitutionally sufficient nexus between the contraband and the place to be searched." *Id.* at 616.

Adams argues that the search warrant lacked probable cause for two reasons: first, he argues that the warrant was not based "upon facts reasonably related in time and date to the issuance of the warrant" because the affidavit "failed to establish any ongoing hostile contact between Adams and Cottle between January of 2018 and November of 2022," the affidavit failed to establish that his "mere presence at the house where two of his children lived would be suspicious," the affidavit failed to prove he was driving the Mazda 6, and the affidavit failed to link Adams's AR-15 to the crime. Second, Adams argues that there was an "insufficient nexus between the contraband sought and the place to be searched" because the affiant relied only on her training and experience to assert "generally" that the "recovery of . . . [the] evidence would further the investigation." We disagree with these contentions. The affidavit provided the issuing judge with sufficient probable cause to issue the warrant.

Adams moved to suppress all evidence obtained in the November 18 search of his residence and vehicles. Thus, the question before this Court is whether there was a sufficient nexus between the items sought in the warrant—firearms, ammunition, firearm accessories, firearms documentation, documents with the suspect's name, cellular telephones, electronic devices, written notes or documents regarding the parties involved, any video surveillance from the residence and vehicles, any clothing with biological material, and any EZ passes—and the places to be searched—Adams's apartment, the Ford F-150, the Mazda 6, and the Kia.

The affidavit presented to the judge noted that Adams was recorded leaving his residence in Maryland at around 1:00 a.m. and returning at around 7:00 a.m., that Adams was the registered owner of a Mazda 6, the same make and model depicted both by Flock cameras and Fischbach's

security footage in the immediate vicinity of Cottle's house between 4:00 and 5:00 a.m., and that the Mazda 6 displayed one of the license plates from Adams's Ford F-150 pickup truck. The affidavit also included information about the quick volleys of gunfire heard on the 911 call, that Adams was the registered owner of an AR-15-style rifle, and that Adams was also prior military and had firearms experience. The affiant stated that Cottle had been awarded a protective order against Adams in 2018 and there was a long history of violence between the two. The affidavit also indicated that Adams was the twins' father. Finally, the affidavit noted that Agent Day saw the specifically identified Ford F-150, the Mazda 6, and a Kia parked outside Adams's apartment and that Agent Day had seen Adams switching and moving items from vehicle to vehicle in a suspicious manner mere hours after the murders.

Contrary to Adams's assertion, these facts, viewed in their totality, created a fair probability that items relevant and material to the murder investigation would be found in Adams's possession and were reasonably related in time and date to the issuance of the warrant. That Cottle's protective order was issued in 2018 did not dissipate probable cause. That information was only one small factor in the overall assessment and cannot be viewed in isolation. Indeed, the affidavit contained a *significant* number of additionally relevant facts and circumstances material to the investigation that support the issuing judge's probable-cause decision.

Adams's second contention is equally unavailing because the facts in the affidavit and Detective Smith's experience in homicide investigations together provided a sufficient nexus between the items to be seized and the places to be searched. Detective Smith averred that, based on her training and experience, when a firearm is used in a homicide "the recovery of firearms, firearm accessories, ammunition, magazines, and documents . . . help further the investigation and the prosecution of the suspect who has been identified in the investigation." She further explained that video footage obtained "from the residence and vehicles can show the movements and

whereabouts of parties involved," that "DNA can be transferred from the human body to items that can be collected as evidence," and that the suspect vehicles were at that moment parked at Adams's residence.

In other words, Detective Smith, as a trained and experienced law-enforcement officer, believed there was a high likelihood that firearms, ammunition, and other items useful to the murder investigation would be found in Adams's apartment and vehicles. This Court "give[s] deference to the officer's understanding of the situation based on his or her training and experience." *Purdie v. Commonwealth*, 36 Va. App. 178, 186 (2001). Moreover, "[p]robable cause relies on a 'flexible, common-sense standard' . . . that does not 'demand any showing that such a belief be correct or more likely true than false.'" *Slayton v. Commonwealth*, 41 Va. App. 101, 106 (2003) (quoting *Texas v. Brown*, 460 U.S. 730, 742 (1983)). "Probable cause 'is not a high bar.'" *District of Columbia v. Wesby*, 583 U.S. 48, 57 (2018) (quoting *Kaley v. United States*, 571 U.S. 320, 338 (2014)). Detective Smith's avowals surmounted that bar here.[9]

II. Juror #2 and the mistrial motion

It is well-settled that "if a defendant wishes to take advantage on appeal of some incident he regards as objectionable enough to warrant a mistrial, he must make his motion timely or else be deemed to have waived his objection." *Carter v. Commonwealth*, 293 Va. 537, 549 (2017) (quoting *Yeatts v. Commonwealth*, 242 Va. 121, 137 (1991)). "Rule 5A:18 requires a litigant to make timely and specific objections, so that the trial court has 'an opportunity to rule intelligently on the issues presented, thus avoiding unnecessary appeals and reversals.'" *Brown v. Commonwealth*, 279 Va.

[9] Because we conclude that the search warrant contained sufficient probable cause to justify the search, we need not address the appellant's argument that the good faith exception did not apply. Indeed, evidence will not be suppressed as a result of a defective search warrant "as long as there is *some* indicia of probable cause in the underlying affidavit," so that "a reasonable police officer, after assessing the facts set forth in the affidavit, could have believed that the warrant was valid." *Anzualda*, 44 Va. App. at 781.

210, 217 (2010) (quoting *West v. Commonwealth*, 43 Va. App. 327, 337 (2004)). "Not just any objection will do. It must be both *specific* and *timely* — so that the trial judge would know the particular point being made in time to do something about it." *Bethea v. Commonwealth*, 297 Va. 730, 743 (2019) (quoting *Dickerson v. Commonwealth*, 58 Va. App. 351, 356 (2011)).

After voir dire was completed and the attorneys were making peremptory strikes, Juror #2 asked the bailiff if it was "too late to talk about a video." The bailiff then relayed the question to the trial judge. Adams's counsel observed the interaction between Juror #2, the bailiff, and the judge when it occurred and noted that the judge looked frustrated by the question. But rather than asking about it, Adams's counsel continued with jury selection and used a peremptory strike to remove Juror #2. Adams's counsel did not bring her concern to the trial court's attention until after the judge had released the stricken jurors, given preliminary instructions to the chosen jurors, and released the jury panel for lunch. But by then, the time had passed for the trial court to "do something" about the alleged misconduct or to correct the perceived problem. Juror #2 had been excused, and the jury panel was already sworn. Having failed to timely raise his objection to the alleged misconduct on the part of the trial court and Juror #2, Adams is barred from doing so on appeal. *Carter*, 293 Va. at 550; Rule 5A:18.

III. Continuance motions

"A motion for a continuance . . . is addressed to the sound discretion of the trial court whose decision will not be reversed unless the record affirmatively shows an abuse of such discretion." *Smith v. Commonwealth*, 68 Va. App. 399, 420 (alteration in original) (quoting *Smith v. Commonwealth*, 16 Va. App. 630, 634 (1993)), *aff'd*, 296 Va. 450 (2018). "Only when reasonable jurists could not differ can we say an abuse of discretion has occurred." *Bista v. Commonwealth*, 303 Va. 354, 370 (2024) (quoting *Commonwealth v. Swann*, 290 Va. 194, 197 (2015)). "In evaluating whether a trial court abused its discretion, . . . 'we do not substitute our judgment for that

of the trial court. Rather, we consider only whether the record fairly supports the trial court's action.'" *Carter*, 293 Va. at 543 (alteration in original) (quoting *Grattan v. Commonwealth*, 278 Va. 602, 620 (2009)).

"The circuit court's ruling on a motion for a continuance will be rejected on appeal only upon a showing of abuse of discretion *and* resulting prejudice to the movant." *Cornell v. Commonwealth*, 76 Va. App. 17, 32 (2022) (quoting *Haugen v. Shenandoah Valley Dep't of Soc. Servs.*, 274 Va. 27, 34 (2007)). The absence of one factor "renders inconsequential the presence of the other." *Bolden v. Commonwealth*, 49 Va. App. 285, 290 (2007), *aff'd on other grounds*, 275 Va. 144 (2008). "[M]ere reference to a need for more time to prepare is insufficient to show that a continuance was improperly denied." *Cornell*, 76 Va. App. at 33 (quoting *Ortiz v. Commonwealth*, 276 Va. 705, 723 (2008)). Indeed, "[t]rial judges necessarily require a great deal of latitude in scheduling trials. Not the least of their problems is that of assembling the witnesses, lawyers, and jurors at the same place at the same time, and this burden counsels against continuances except for compelling reasons." *Huguely v. Commonwealth*, 63 Va. App. 92, 107 (2014) (quoting *Morris v. Slappy*, 461 U.S. 1, 11 (1983)).

Adams has not established either that the trial court abused its discretion by denying his continuance requests or that he was prejudiced by the denials. The murders occurred on November 18, 2022, and Adams was arrested that same day. The grand jury returned the indictments on May 10, 2023, but the jury trial was not scheduled to begin until August 19, 2024. The trial court entered a discovery order on February 13, 2024, requiring the Commonwealth to provide discovery by May 1, 2024, and imposing a continuing duty of disclosure on both parties. By then, the Commonwealth had already provided more than 1,900 pages of discovery to Adams and continued to supplement its responses, as required by the discovery order.

During the hearing on his first continuance motion, the Commonwealth explained that other items of discovery sent after May 1 were either cumulative, "inconsequential to the case and [only] disclosed out of an abundance of caution," or they were of short duration and easy to review. Thus, the Commonwealth complied with the trial court's order to provide all necessary discovery in time for trial. The trial court did not abuse its discretion in denying Adams's first request for continuance.

Adams's second and third motions for a continuance were based on a personal conflict one of Adams's four attorneys had during the week of August 19, 2024, and an apparent shortage of attorneys in the public defender's office. Adams also complained that the Commonwealth continued to provide additional discovery materials after May 1. Still, counsel did not disclose the nature of the personal conflict and ultimately appeared for trial. And despite the shortage in the public defender's office, Adams's additional attorneys were present at trial as well. Moreover, while Adams continued to receive items of discovery from the Commonwealth, he failed to show to the court's satisfaction that he could not properly review those items or adequately prepare for trial.

The record shows that the trial court held three hearings on Adams's continuance motions; each time the court considered the proffers and arguments from both sides. Yet, the trial court was not persuaded that continuing the trial was prudent. We find no abuse of discretion in that decision. The case had been pending for nearly 2 years, the Commonwealth had subpoenaed more than 70 witnesses, the Commonwealth represented repeatedly that it had turned over all necessary discovery in accordance with the discovery order, and any supplements could be reviewed quickly and effectively.

The record also shows that counsel appeared in court and argued voluminous pretrial motions and was prepared at all times. In fact, although Adams asserts that the trial court's denial of his continuance motions deprived him of the ability to prepare for trial and call for favorable

evidence, his brief fails to allege any specific defenses, tactics, or favorable evidence he was unable to use. Thus, in essence, Adams's continuance requests were no more than a desire for more time to prepare.

We also find unavailing Adams's assertion that he was surprised by the Commonwealth's amendments to the indictments. While the first-degree murder indictments alleged that he murdered each of his victims by "lying in wait," the charge was described as "Murder in Commission of B&E." In addition, Adams was indicted for burglary in the nighttime with a deadly weapon and four counts of use of a firearm in the commission of a murder. Thus, he was aware that the Commonwealth intended to prosecute him for entering Cottle's home in the nighttime specifically with the intent to murder one or more of the occupants. Thus, the amendments to the indictments could not have surprised Adams and the trial court did not abuse its discretion by denying his continuance motion on that basis.

We cannot conclude on this record that the trial court abused its discretion in denying Adams's various continuance motions and by allowing the matter to proceed to trial on the scheduled date.

CONCLUSION

Finding no error in the trial court's rulings on Adams's suppression motion, his mistrial motion, or his continuance motions, we affirm Adams's convictions.[10]

Affirmed and remanded.

[10] We note that the trial court's jury trial order dated August 28, 2024, contains a typographical error on the first page of the order. The order states that the court "GRANTED the motion to strike for the four possession of sawed-off shotgun charges," when in actuality, the trial court granted the motion to strike as to the four counts of wearing body armor in the commission of a felony. Thus, we remand this case for correction of the typographical error contained in the order.