COURT OF APPEALS OF VIRGINIA

Record No. 1196-25-4

STEVEN MIKELL BOONE, JR.
v.
COMMONWEALTH OF VIRGINIA

Present: Chief Judge Decker, Judges AtLee and Callins

Argued at Fredericksburg, Virginia

Opinion Issued September 22, 2026*

FROM THE CIRCUIT COURT OF STAFFORD COUNTY
James S. Yoffy, Judge Designate

Corinne J. Magee (The Magee Law Firm, PLLC, on brief), for appellant.

Ken J. Baldassari, Assistant Attorney General (Jason S. Miyares,[1] Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE RICHARD Y. ATLEE, JR.

Following a jury trial, the trial court convicted Steven Mikell Boone, Jr., of rape, in violation of Code § 18.2-61(A), and forcible sodomy, in violation of Code § 18.2-67.1(A)(2). On appeal, Boone raises three issues. First, he argues that the trial court abused its discretion by refusing to strike two jurors for cause. Next, he contends that the trial court erred by sustaining an objection to a question he propounded during voir dire. Finally, he challenges a jury instruction that the trial court gave over his objection. For the following reasons, we affirm.

* 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.

BACKGROUND

"In accordance with familiar principles of appellate review, the facts will be stated in the light most favorable to the Commonwealth, the prevailing party at trial." *Meade v. Commonwealth*, 74 Va. App. 796, 802 (2022) (quoting *Gerald v. Commonwealth*, 295 Va. 469, 472 (2018)).

Boone and M.S.[2] met in 2023, when they were both patients at a psychiatric hospital in Fredericksburg. M.S. saw Boone twice after they left the hospital. On the first occasion, M.S. and her mother met Boone for dinner and showed him various tourist attractions in Fredericksburg. On the second occasion, in October 2023, M.S. went to Boone's home, where he lived with his family. That afternoon, Boone took M.S. to a treehouse in the woods behind the home. On the walk back to the home, Boone physically attacked M.S. and, at one point, pulled her head down and put his penis in her mouth. M.S. attempted to escape, but Boone told her that "the only way that [she] was going to go home" was if she had sexual intercourse with him. Based on this threat, M.S. followed Boone into the basement of his home. He attempted to have sexual intercourse with M.S. and again put his penis in her mouth. He then forced M.S. onto a bed and "shov[ed]" his penis into her vagina. Eventually, M.S. was able to escape the room and seek help from Boone's parents. His father called the police.

A grand jury subsequently indicted Boone on one count of rape and one count of forcible sodomy by engaging in fellatio. During voir dire, Boone moved to strike two prospective jurors for cause. The first was Juror 6, who indicated that she was a victim of sexual assault and that her mother and acquaintances from college were also victims of sexual assault. When asked whether she could remain fair and impartial despite her personal experiences, the juror stated, "I think I can be fair, but I can't help but feel sympathy for what I've been hearing." The

[2] We refer to the victim by her initials to protect her privacy.

Commonwealth then asked her whether she could hear witness testimony and make decisions based on that testimony, and the juror responded, "I believe I can. I would like to believe so."

Boone then asked: "Without knowing any of the facts of this case, do you believe that just by virtue of a person coming forward and making these accusations, that her testimony versus someone else's testimony is more reliable because she is the complaining witness?" The Commonwealth objected to the question, arguing that it lacked context, and the trial court sustained the objection. The trial court then asked the juror whether she could "separate what happened to [her]" and "make a decision based on th[e] evidence," and the juror stated, "I want to believe I can." Boone moved to strike Juror 6 for cause, arguing that "she was very tentative about whether or not she could be fair." The trial court denied his request, finding that the juror was able to remain impartial despite her personal experiences.

The second challenge was to Juror 27, who worked as an agent for the Federal Bureau of Investigations (FBI) and as a police officer for ten years before working for the FBI. The juror indicated that he investigated rape cases and crimes against children as a law enforcement officer. When asked whether his experience made him more sympathetic toward the victim in this case, the juror responded in the negative. The juror then assured the trial court that he could remain fair and impartial. Boone moved to strike Juror 27, arguing that his law enforcement experience prevented him from remaining fair and impartial. The trial court denied his request.

At the conclusion of all of the evidence, when the trial court considered proposed jury instructions, Boone objected to Instruction 18.[3] The instruction stated: "In the context of sexual offenses, an act undertaken against a victim's will and without the victim's consent is an act undertaken with force." Boone argued that the instruction impermissibly created a mandatory

[3] The instruction was proposed as Commonwealth's Instruction 9, but the trial court gave the instruction as Instruction 18. We refer to it as Instruction 18.

presumption equating proof of one element to proof of another element of the offenses for which he was on trial. The trial court gave the instruction over Boone's objection. Ultimately, the jury found him guilty of both offenses. Boone now appeals.

ANALYSIS

A. *Motion to Strike Jurors 6 and 27*

"Every defendant has the right to trial by an impartial jury." *Harvey v. Commonwealth*, 76 Va. App. 436, 454 (2023). "Exclusion may be required if a juror has 'formed any opinion[] or is sensible of any bias or prejudice.'" *Id.* (alteration in original) (quoting *Keepers v. Commonwealth*, 72 Va. App. 17, 42 (2020)). "[A] trial court's denial of a motion to strike a juror for cause 'will not be disturbed on appeal unless there has been manifest error amounting to an abuse of discretion.'" *Townsend v. Commonwealth*, 270 Va. 325, 329-30 (2005) (quoting *Barrett v. Commonwealth*, 262 Va. 823, 826 (2001)). "A manifest error in refusing to strike a juror 'occurs when the record shows that a prospective juror cannot or will not lay aside his or her preconceived opinion.'" *Harvey*, 76 Va. App. at 454 (quoting *Taylor v. Commonwealth*, 67 Va. App. 448, 456 (2017)). "An underlying question of juror impartiality is one of fact, and the trial court's determination on the subject is 'entitled to great deference on appeal' unless 'plainly wrong or unsupported by the record.'" *Id.* (quoting *Huguely v. Commonwealth*, 63 Va. App. 92, 121 (2014)). This deference reflects our recognition that "a trial judge who personally observes a juror, including the juror's tenor, tone, and general demeanor, is in a better position than an appellate court to determine whether a particular juror should be stricken." *Teleguz v. Commonwealth*, 273 Va. 458, 475 (2007).

i. Juror 6

Boone argues that the trial court should have excluded Juror 6 because she expressed uncertainty regarding her ability to remain fair and impartial. We see no manifest error in the trial court's refusal to strike the juror for cause.

Though Juror 6 indicated that she may feel sympathy for what she heard, she repeatedly assured the trial court that she believed she could remain fair and impartial. When asked whether she would be able to make a decision based on the evidence presented despite her personal experiences with sexual assault, she responded, "I believe I can." Based on her answers to these questions, the trial court found that Juror 6 was able to remain fair and impartial. Because the trial court was uniquely positioned to weigh "the inflections, tone, and tenor of the dialogue, and the general demeanor of" Juror 6, we defer to this finding. *LeVasseur v. Commonwealth*, 225 Va. 564, 584 (1983) (quoting *Smith v. Commonwealth*, 219 Va. 455, 464-65 (1978)); *see also Harvey*, 76 Va. App. at 455 ("It [is] within the province of the trial court, the finder of fact on these issues, to determine what significance to give the juror's statements, including her use of the language, 'I think.'").

Further, her assurances are consistent with her answers to the questions asked of the entire venire. *See Harvey*, 76 Va. App. at 454 ("In addressing whether the juror should have been struck for cause, the appellate court must consider the juror's 'entire voir dire, not just isolated portions.'" (quoting *Juniper v. Commonwealth*, 271 Va. 362, 401 (2006))). For instance, Juror 6 responded in the negative when the trial court asked the venire whether any of them had a formed opinion regarding Boone's guilt or innocence. And she responded in the negative when the trial court asked the venire whether any of them held any bias against Boone. In sum, her combined responses indicate that she did not present a formed bias or opinion about Boone based

on her personal experiences with sexual assault. Accordingly, we affirm the trial court's finding that Juror 6 was able to remain fair and impartial.

ii. Juror 27

Boone contends that Juror 27 likely had preconceived notions about rape cases due to his experience investigating sexual crimes as a law enforcement officer. Thus, he argues that the trial court erred by refusing to strike the juror. We disagree.

It is well-settled that "[a] person is not automatically excluded from a jury because of an association with law enforcement personnel, provided he demonstrates that he can be impartial." *Gray v. Commonwealth*, 233 Va. 313, 338 (1987). In other words, "[t]here is no *per se* disqualification rule for . . . an association with a law enforcement officer." *Bay v. Commonwealth*, 60 Va. App. 520, 531 (2012).

Boone fails to argue how Juror 27's responses during voir dire indicate that he was unable to remain impartial due to his experience in law enforcement, nor does the record support this conclusion. In fact, when addressing whether his experience investigating sexual crimes impacted his ability to consider the evidence in this case, Juror 27 confirmed that he "could be fair and impartial." His unequivocal assurance supports the trial court's finding that the juror was able to remain fair and impartial notwithstanding his experience working in law enforcement. Accordingly, the trial court did not err by refusing to strike Juror 27 for cause.

B. *Voir Dire Question to Juror 6*

Boone argues that the trial court erred when it sustained the Commonwealth's objection to the following question that Boone posed to Juror 6: "Without knowing any of the facts of this case, do you believe that just by virtue of a person coming forward and making these

accusations, that her testimony versus someone else's testimony is more reliable because she is the complaining witness?" We disagree.

"It is well-established that the manner of conducting voir dire, including the exclusion of questions to the venire, is committed to the trial court's discretion and we review its rulings only for abuse of that discretion." *Lawlor v. Commonwealth*, 285 Va. 187, 212 (2013). "Trial courts must afford a party a 'full and fair' opportunity to ascertain whether prospective jurors 'stand indifferent in the cause.'" *Hilliard v. Commonwealth*, 86 Va. App. 118, 135 (2025) (quoting *Buchanan v. Commonwealth*, 238 Va. 389, 401 (1989)). "However, it is within the trial court's sound discretion to decide when a defendant has had such an opportunity." *Id.* at 135-36 (quoting *Buchanan*, 238 Va. at 401). Indeed, "[a] defendant has 'no absolute right to have the court ask every question he propounded.'" *Id.* at 135 (quoting *Thomas v. Commonwealth*, 279 Va. 131, 162 (2010)). We typically will not reverse the trial court's decision to limit questions from defense counsel "[w]here a trial court affords ample opportunity to counsel to ask relevant questions and where the questions actually propounded by the trial court were sufficient to preserve a defendant's right to trial by a fair and impartial jury." *Id.* at 136 (quoting *Thomas*, 279 Va. at 163).

The trial court did not abuse its discretion by sustaining the Commonwealth's objection to the propounded question here. Whether a prospective juror found the testimony of a complaining witness to be more reliable "is not an accurate indicator of whether they would be biased in evaluating the facts" of the case. *Id.* Instead, "[t]he permitted prior question[s] amply, and more succinctly, covered the issue of whether [Juror 6] had bias related to" Boone and the offenses with which he was charged. *Id.* For instance, the trial court asked Juror 6 whether she could remain fair and impartial, and she responded affirmatively. And, as detailed above, her answers to questions asked of the entire venire, such as whether any panelist had any formed

opinion regarding Boone's guilt or innocence, served as accurate indicators of a lack of bias. In sum, the trial court afforded Boone ample opportunity to ask Juror 6 questions to ascertain any bias, and the questions actually propounded to Juror 6 were sufficient to elicit and identify any such bias. Accordingly, the trial court did not abuse its discretion by disallowing the challenged question.

C. *Jury Instruction 18*

Boone asserts that the trial court erred in giving Instruction 18. He contends that the instruction created an impermissible mandatory presumption. We disagree.

"Whether to give or deny jury instructions 'rest[s] in the sound discretion of the trial court.'" *Hilton v. Commonwealth*, 293 Va. 293, 302 (2017) (alteration in original) (quoting *Cooper v. Commonwealth*, 277 Va. 377, 381 (2009)). On appeal, "[w]e review jury instructions 'to see that the law has been clearly stated and that the instructions cover all issues which the evidence fairly raises.'" *Lawlor*, 285 Va. at 228 (quoting *Cooper*, 277 Va. at 381). "[W]hether a jury instruction accurately states the relevant law is a question of law that we review de novo." *Payne v. Commonwealth*, 292 Va. 855, 869 (2016) (quoting *Lawlor*, 285 Va. at 228).

Instruction 18 applied to both of Boone's charges, which both require the Commonwealth to prove that he committed certain acts against the victim's will "by force, threat or intimidation." Code §§ 18.2-61(A) (rape), -67.1(A)(2) (forcible sodomy). The instruction states that "an act undertaken against a victim's will and without the victim's consent is an act undertaken with force." Boone contends that this language instructs the jury that proof of one element—lack of consent—also constitutes proof of another element—force. Thus, according to Boone, the instruction impermissibly creates a mandatory presumption.

The Due Process Clause of the Fourteenth Amendment "prohibits the [Commonwealth] from using evidentiary presumptions in a jury charge that have the effect of relieving the

[Commonwealth] of its burden of persuasion beyond a reasonable doubt of every essential element of a crime." *Francis v. Franklin*, 471 U.S. 307, 313 (1985). "A mandatory presumption instructs the jury that it must infer the presumed fact if the [Commonwealth] proves certain predicate facts." *Id.* at 314. "Such presumptions violate the Due Process Clause if they relieve the [Commonwealth] of the burden of persuasion on an element of an offense." *Id.* In determining whether an instruction creates a mandatory presumption, the "question is whether a reasonable juror could have understood the [language] as a mandatory presumption" that relieved the Commonwealth of its burden of proof. *Id.* at 316.

We conclude that Instruction 18 did not create a mandatory presumption. Instead, as the Commonwealth asserts, the instruction is merely an accurate statement of the law regarding what constitutes proof of the element of force. Virginia law has long recognized "the principle that in the context of sexual crimes, an act undertaken against a victim's will and without the victim's consent is an act undertaken with force." *Martin v. Commonwealth*, 272 Va. 31, 35 (2006). Instruction 18 is merely a recitation of the principle that "[p]roof of the absence of legal consent provides 'all the force which the law demands as an element of the crime[s].'" *Id.* (quoting *Bailey v. Commonwealth*, 82 Va. (7 Hans.) 107, 111 (1886)). Because "[t]he purpose of . . . jury instruction[s] is to inform the jury of the law guiding their deliberations and verdict," it was appropriate for the trial court to instruct the venire on this legal principle. *Morgan v. Commonwealth*, 50 Va. App. 120, 132 (2007) (quoting *Keen v. Commonwealth*, 24 Va. App. 795, 807 (1997)). Accordingly, the trial court did not abuse its discretion by giving Instruction 18.

CONCLUSION

For the foregoing reasons, we affirm the judgment of the trial court.

Affirmed.