

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BUFFEL WINGFIELD,	§	
	§	No. 189, 2012
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware, in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	Cr. I.D. No. 1107013815
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: September 26, 2012  
Decided: October 15, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

**ORDER**

This 15<sup>th</sup> day of October 2012, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Buffel Wingfield, the defendant-below (“Wingfield”), appeals from his conviction of one count of Possession of Ammunition by a Person Prohibited (“PABPP”) after a Superior Court jury trial. On appeal, Wingfield claims that the trial court abused its discretion by denying his motion for a mistrial, after the State “presented the jury with inadmissible evidence [in] its opening argument [and from the testimony of the State’s] only witness in its case in chief.” We find no error and affirm.

2. In July 2011, the police executed a valid search of a retail store, Golden Fleece Spiritual Supplies (“Golden Fleece”), in Wilmington. Inside the office of the Golden Fleece, Officer Vincent Jordan found five live rounds of ammunition, as well as a business card with the name “Buffel” on it. Police later searched Wingfield’s home and found a single live round of ammunition and a soft handgun case. Officer Jordan was not present when the ammunition and gun case were found in the home. Based on the discoveries at the Golden Fleece and at Wingfield’s home, the police arrested Wingfield and charged him with PABPP.

3. During the April 2012 jury trial, the prosecutor’s opening statement referred to the ammunition found at Wingfield’s home. Moreover, during Officer Jordan’s direct examination, the prosecutor asked Officer Jordan, “[D]o you recall where [the live round] was found?” Wingfield’s counsel objected, on hearsay grounds, that Officer Jordan was not testifying from firsthand knowledge. The trial court sustained the objection, and the State withdrew the question. The State called no other witnesses in connection with the search of Wingfield’s home.

4. Wingfield’s counsel then moved for a mistrial on the ground that the testimony about the evidence taken from Wingfield’s home was inadmissible hearsay. The trial court denied the motion for a mistrial, but agreed that the evidence collected from Wingfield’s home, and Officer Jordan’s testimony relating

to the search of the home, were inadmissible. The court then issued the following curative instruction:

The jury is instructed not to consider any evidence regarding the search warrant or evidence recovered during the execution of the search warrant at [Wingfield's home]. State's Exhibit No. 2[, the evidence collected from the search of Wingfield's home,] is stricken from the record and you are not to consider it for any purposes.

5. During the State's rebuttal case, testimony by its rebuttal witness established that Wingfield was the manager of the Golden Fleece, and that when the witness visited the business, Wingfield was "usually back at the desk" in the office. Wingfield also admitted to possessing the ammunition found in the office, although he claimed that he had taken possession of the ammunition from a child as a precaution.

6. At the conclusion of the trial, the jury convicted Wingfield of PABPP. The Superior Court then sentenced Wingfield to one year of imprisonment at Level V suspended immediately for one year at Level II probation.

7. On appeal, Wingfield argues that the Superior Court's denial of his motion for a mistrial violated the United States and Delaware Constitutions. We review the Superior Court's denial of a motion for a mistrial for abuse of discretion.<sup>1</sup> We review questions of law *de novo*.<sup>2</sup>

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<sup>1</sup> *Ashley v. State*, 798 A.2d 1019, 1022 (Del. 2002).

<sup>2</sup> *Gattis v. State*, 955 A.2d 1276, 1281 (Del. 2008).

8. A trial court should grant a mistrial only if there is “manifest necessity or [if] the ends of public justice would be otherwise defeated.”<sup>3</sup> In most cases, a “trial judge’s prompt curative instructions ‘are presumed to cure error and adequately direct the jury to disregard improper statements.’”<sup>4</sup> “Juries are presumed to follow the trial judge’s instructions.”<sup>5</sup>

9. A trial court considers three factors in deciding whether to grant a mistrial based on a prosecutorial error: “(1) the closeness of the case, (2) the centrality of the issue affected by the error, and (3) the steps taken to mitigate the effects of the error.”<sup>6</sup> These factors “are not conjunctive,” and must be applied “in a contextual, case-by-case, and fact sensitive manner.”<sup>7</sup> Should we find that reversal is not warranted based on those three factors, we may still reverse if “the prosecutor’s statements or misconduct are repetitive errors that require reversal because they cast doubt on the integrity of the judicial process.”<sup>8</sup>

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<sup>3</sup> *Revel v. State*, 956 A.2d 23, 27 (Del. 2008) (citing *Brown v. State*, 897 A.2d 748, 752 (Del. 2006)) (internal quotation marks omitted).

<sup>4</sup> *Id.* (quoting *Pena v. State*, 856 A.2d 548, 551 (Del. 2004)).

<sup>5</sup> *Id.* (citations omitted).

<sup>6</sup> *Baker v. State*, 906 A.2d 139, 149 (Del. 2006) (citing *Hughes v. State*, 437 A.2d 559, 571 (Del. 1981)).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* (citing *Hunter v. State*, 815 A.2d 730, 732 (Del. 2002)).

10. We conclude that the trial court did not abuse its discretion by denying Wingfield's motion for a mistrial. This was not a close case. The police found ammunition and one of Wingfield's business cards in an office that Wingfield regularly, although not exclusively, used. Wingfield also admitted to possessing the ammunition. Although the alleged error was central to the issue of whether Wingfield knowingly possessed the ammunition at his home, it was irrelevant to the separate issue of whether Wingfield knowingly possessed the ammunition found at the Golden Fleece. That evidence was independently obtained from a separate search, and was unrelated to the evidence obtained from Wingfield's home. The Superior Court also issued a clear and prompt curative instruction that effectively cured any error.

11. The claimed error was also not of the kind that would "cast doubt on the integrity of the judicial process."<sup>9</sup> The two discrete references to the ammunition found in Wingfield's home did not taint the entire trial, especially because the trial judge instructed the jury not to consider any evidence from Wingfield's home.

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<sup>9</sup> *See id.*

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice