Circuit Court for Frederick County
Case No. 10-K-16-058690

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 54

September Term, 2017

ANTONIO L. COTTINGHAM

v.

STATE OF MARYLAND

Woodward, C.J.,
Shaw Geter,
Fader,

JJ.

Opinion by Woodward, C.J.

Filed: June 29, 2018

A jury in the Circuit Court for Frederick County convicted Antonio L. Cottingham, appellant, of first-degree burglary (home invasion) and theft of property valued under $1,000. He was sentenced to twenty-five years, with all but fifteen suspended, for the burglary, a concurrent eighteen months for theft, plus five years of supervised probation.

In this timely appeal, appellant contends that the trial court erred in restricting impeachment cross-examination, by ruling that defense counsel could not ask a prosecution witness whether he was "pending sentencing for distribution" of cocaine. We disagree and therefore affirm appellant's convictions.

FACTUAL BACKGROUND

The State charged appellant and two accomplices in a June 9, 2016, home invasion and theft. Louisa Cabrera ("Louisa") and her son, Jose, lived at the Country Hills apartment complex in Frederick, Maryland. Late that evening, while Louisa was alone in her apartment, she answered a knock on her door. Two African-American men "rushed in," followed by a third African-American man.[1] One intruder held a long knife to Louisa's neck while the other two went straight into the bedroom. The three men left with bags from the apartment, Louisa's cell phone and keys, as well as other "stuff."

Although Louisa could not identify the men, she provided police with physical and clothing descriptions for all three. Police then used a time and location stamped surveillance camera recording to develop suspects. Footage from the front and rear

[1] Although Louisa testified that the two intruders wore "masks," she reported to police on the night of the home invasion that they wore "hoodies." Louisa explained that brain injuries she suffered several years earlier made it difficult for her to recall matters.

entrances of the Cabreras' apartment building showed only one group of three men who entered and left the building together during the time frame when the home invasion occurred. They wore clothing and had physical characteristics matching the descriptions given by Louisa. Although none of the three males carried anything in their hands as they headed upstairs toward the Cabrera apartment, they exited carrying a navy blue duffel bag and a backpack style bag with red and black stripes.

Officer Kyle Jones, assigned to the Frederick Police Department, stated that he received a departmental email on June 10, 2016, asking for assistance in identifying some people from still frames related to the home invasion of Cabreras' apartment on June 9, 2016. Officer Jones recognized two of the individuals as appellant and Anthony Beckwith. Officer Jones stated that he knew both and had seen both the night of the home invasion. He first saw appellant with Beckwith at Carrollton Park, which is on Carrollton Drive, then he saw them at a bus stop on Heather Ridge Drive, which is across the street from the subject apartment complex.

When Officer Jones viewed the still frames from the surveillance video, he noticed that appellant and Beckwith were wearing the same clothing that they were wearing when he saw them on June 9th. At that time, Officer Jones stated that appellant was wearing a dark hoodie with a distinctive North Face emblem and sneakers that had some red on them. In the surveillance video, the individual identified as appellant was also wearing a hoodie with that emblem and sneakers that were red and black.

Detective Matthew Irons of the Frederick Police Department was assigned to the case as the lead investigator. He identified the group in the surveillance video as appellant, Anthony Beckwith, and A.B.[2] When Detective Irons interviewed appellant several days after the home invasion, on June 16, 2016, appellant was wearing shoes and a sweatshirt that looked identical to those worn by one of the intruders in the surveillance video. The State presented photographs and a video recording taken at that interview. When the audio/videotape interview was played for the jury, appellant admitted to being at the apartment complex on the evening of June 9th, accompanied by "a friend," which he refused to identify. According to appellant, he knocked on the door of a friend, who he knew by his nickname, "Cat," seeking a cigarette. Appellant stated that no one answered the door. When appellant was asked "[w]ho were you with when you knocked on the door for a cigarette," appellant responded that he was by himself. Appellant denied any involvement in the Cabrera home invasion. Appellant stated, "I don't know, know nothing about no home invasion."

After appellant was arrested on June 16, 2016, Detective Irons seized and collected appellant's cell phone that he was carrying and obtained a search and seizure warrant that allowed him to download the contents. During trial, the State introduced a photograph of appellant with Beckwith that was extracted from appellant's cell phone during the download. Beckwith was wearing the distinctive top matching the clothing described by

[2] Because A. B. was charged as a minor, we shall not use his name.

Louisa. This article of clothing was visible on one of the three intruders in the surveillance recordings from the apartment.

The State introduced text messages that were downloaded from appellant's cell phone. Text messages sent from appellant's phone to Beckwith linked them to the home invasion. In the hours preceding the crime, exchanges between the two indicated that they were going to the "Hills" and "doing it." After Beckwith was arrested, appellant exchanged text messages with a person who had talked to Beckwith about his arrest; appellant asked, "Did the police say anything about me?"

DNA recovered from the bedroom doorknob of Cabreras' apartment was forensically matched to A. B. On direct examination, Jose recounted that he left the apartment he shared with his mother around 10:30 p.m., in order to take his four-year-old daughter home. Shortly after dropping her off, he received a call from his father, who told him "a few details" about what happened and asked if he "knew anything about it[.]"

On direct examination, Jose testified that he did not anticipate the home invasion, as follows:

[PROSECUTOR]:	When you left the apartment did you see or hear anything out of the ordinary for that particular area that you're used to?
[JOSE]:	No. Not (unclear), you know? I exit the building. You know, I wasn't aware that I was being, you know, targeted, or you know, a victim of any sort.

* * *

[PROSECUTOR]:	Did you have any idea that anyone was going to go – before it happened, that anyone was gonna go in your mother's apartment and take anything from your mother's apartment?
[JOSE]:	Definitely not, you know? I'm not that kind of person. It was completely blindside (sic).

When Jose returned to the apartment building the next day, he confirmed that his travel duffel bag and gym bag were missing. He testified that the items carried out by the three men in the surveillance video were taken from his mother's apartment:

[PROSECUTOR]:	Do they look like the bags that you said were in your apartment but were missing the next day?
[JOSE]:	Correct.
[PROSECUTOR]:	The same color, size, shape? Is that correct?
[JOSE]:	Right.
[PROSECUTOR]:	Now did you give anyone permission to take your personal property that you've just described from your mother's apartment on the night of June the 9th?
[JOSE]:	Definitely not.

On cross-examination, defense counsel sought to impeach the credibility of Jose's testimony that he was "not that kind of person" who would be targeted for home invasion, by establishing that he was awaiting sentencing for cocaine distribution. We excerpt the

following portions of the transcript relevant to appellant's claim that the trial court erred in preventing him from presenting that evidence:

[DEFENSE COUNSEL]:	**Now you're pending sentencing on a distribution –**
[PROSECUTOR]:	**Objection Your Honor.** Can we approach –
THE COURT:	Come.

(Counsel approached the bench and the following occurred:)

(Husher turned on.)

[PROSECUTOR]:	**Where I believe that is, that is going is not proper impeachment because it is not a conviction that, is not a final conviction.**
[DEFENSE COUNSEL]:	(Unclear) –
[PROSECUTOR]:	**Pending sentencing on something.**
[DEFENSE COUNSEL]:	I can (unclear – one word) to ask him.
[PROSECUTOR]:	Because it's –
[DEFENSE COUNSEL]:	**It's a prior bad act.**
[PROSECUTOR]:	It's im, it's improper impeachment.
THE COURT:	How is it impeachment if he, you, your question was your pending charges?
[DEFENSE COUNSEL]:	**I was about to ask are you . . . pending sentencing on the distribution of cocaine case.**
[PROSECUTOR]:	**And his pending sentencing is not a final conviction.** He could, he could appeal, he could win an appeal, he

	could get a probation before judgment, a probation before judgment isn't impeachable. You know.
THE COURT:	What basis do you have that you can ask him before the sentence is imposed to impeach?
[DEFENSE COUNSEL]:	**Your Honor, I'm just asking (unclear) prior bad acts. He can either admit or not. I cannot impeach him because it isn't a[n] official conviction. 'Cause I don't have a certified copy of, of a conviction, but I can ask him about a prior bad act (unclear) credibility.**
THE COURT:	**Counsel?**
[PROSECUTOR]:	**It's, it's the, well, two things. One, it's, it's a prior bad act, but I'm not sure how it's, it's relevant to what** is going on.
[DEFENSE COUNSEL]:	Well, he said he wasn't --
[PROSECUTOR]:	His –
[DEFENSE COUNSEL]:	**His, he's not that kind of person, he wasn't being targeted. Just maybe trying to show perhaps he was targeted**.

* * *

[PROSECUTOR]: Not that kind of person, I don't, I don't recall the context of that. I don't recall if he said that, but even –

[DEFENSE COUNSEL]: He said he wasn't –

[PROSECUTOR]: Even--

[DEFENSE COUNSEL]: -- did -- wasn't aware he was being targeted or watched or any (unclear) –

[PROSECUTOR]: **Even . . . if he knew, it's a, it's a prior bad act. It has to be relevant to what is going on here and his, I don't, I don't know how much his, his credibility is, is relevant to** (unclear – one word) he, he left (unclear – one word) property.

[DEFENSE COUNSEL]: His credibility is everything based on his testimony as to whether or not he actually had items stolen from him. His mother testified her phone was stolen.

THE COURT: I didn't hear your last sentence.

[DEFENSE COUNSEL]: I'm sorry. **His credibility is absolutely relevant as to whether or not he was, you know, stuff, the items my client is accused of stealing or is, belongs to him. (Unclear) alleging the bags. So the bags he's just identified as his property which the State is using to link my client to**.

* * *

[PROSECUTOR]: When there, there's a rule on, on, on impeachment for --

[DEFENSE COUNSEL]:	Mmm-humm.
[PROSECUTOR]:	For convictions, and this is clearly not a conviction, and it's not, the reason the rule requires it to be, to go final, and even if you have a probation before judgment you can't be impeached with is [sic] because we're talking about –
[DEFENSE COUNSEL]:	But right –
[PROSECUTOR]:	In this, in this world that's, that's how it goes. If, you know, it'd be a different story if they're talking about something like, you know, he said he was a nonviolent person and now we're talking about, you know, have you ever punched somebody. We're --
	* * *
[PROSECUTOR]:	This, this is a, we, we are in the world of convictions and this is not time to –
	* * *
THE COURT:	We're gonna take a break right now and we'll call him back.
[PROSECUTOR]:	Okay.
COURT:	I'll make my decision and then –
	* * *
[DEFENSE COUNSEL]:	If I may just follow up, Your Honor.

[PROSECUTOR][3]:	Yes.
[DEFENSE COUNSEL]:	**And he is actually convicted. He just hasn't been sentenced.**
[PROSECUTOR]:	Right, but –
[DEFENSE COUNSEL]:	'**Cause he was, he either pled guilty or was found guilty.**
[PROSECUTOR]:	But it's, it's not - -
	* * *
[PROSECUTOR]:	It's no, there's no judgment (unclear).
THE COURT:	I'm with you. Okay.

After a brief recess, the trial court invited final arguments before ruling on the State's objection:

THE COURT:	Back on the record in State of Maryland v. Antonio Cottingham, Case 16-058690. Counsel, before we bring out the jury, did anybody wish to say anything else with respect to the pending objection?
[PROSECUTOR]:	No, Your Honor.
[DEFENSE COUNSEL]:	Your Honor, **as I indicated previously, just that I would ask, I would ask the court to, to allow that question to be asked primarily as I said the charge of which he is now, he has pled guilty to --**
	* * *

[3] The State was represented by two Assistant State's Attorneys, whom we refer to in the singular for convenience and clarity.

[DEFENCE COUNSEL]:	**And I, just to follow up, Your Honor, I did verify that the charge of which he is guilty, he has pled guilty to or found guilty of is an impeachable, which is a felony distribution of cocaine.**
THE COURT:	But there is no question that he has not gone to sentencing yet?
[DEFENSE COUNSEL]:	Correct. There is set, [sic] it does appear that sentencing is pending and that of course so therefore he could be testifying to earn favor with the State. We don't know. His testimony here could be a condition of his sentencing. We don't know if there's been any agreements or any type, any other discussions. I . . . wasn't going to explore that any further. I was just merely going to ask him.
[PROSECUTOR]:	Your Honor, I'll just say that [] if there had been any agreement that would have been provided in discovery.
[DEFENSE COUNSEL]:	Correct.
[PROSECUTOR]:	There, there's [] no agreement.
THE COURT:	**Well, under 5-609 the Section A indicates, and I have considered the probative value outweighing danger of unfair prejudice, however I go to C of that section and they use the mandatory term shall. "Evidence of a conviction otherwise admissible under Section A shall be excluded if** [] **an appeal or application for leave to appeal from the judgment of conviction is pending or the time for noting an**

> **appeal or filing an application for leave to appeal has not expired." If he has not gone to sentencing th[e]n the time for noting an appeal hasn't even commenced and I do not believe that the, the language is shall be excluded, it, it doesn't give me the discretion in three – C as it does in A. So I'm gonna sustain the State's objection for those reasons.**

(Emphasis added).

The Court then granted the State's motion to strike defense counsel's "last question." Defense counsel concluded cross-examination without further inquiry about Jose's distribution activity.

DISCUSSION

Appellant contends that the trial court erred in restricting cross-examination when it ruled "that the defense could not impeach Jose [] with the fact that he had been found guilty of drug distribution and was pending sentencing." In appellant's view, "[t]he trial court refused to exercise its discretion" to permit impeachment with the witness's prior bad acts, in accordance with Md. Rule 5-608(b), instead "erroneously stating that under Md. Rule 5-609, it could not allow impeachment with any bad act that has not resulted in a formal conviction." Appellant further argues that "[Jose's] testimony that he was not the 'kind of person' who would be targeted for burglary opened the door for, and justified the curative admission of, evidence that he distributed drugs."

The State responds that appellant "did not preserve this issue because he did not proffer any facts regarding the underlying conduct, just the fact that [Jose] had been

convicted." The State further responds that, in any event, impeaching the witness by establishing that he was a convicted drug dealer "might have helped the State more than it helped [appellant], to the extent that it would provide a motive to rob the victims" and "also imply that [appellant] was aware that [Jose] was a drug dealer because [appellant] and his co-conspirators were part of the criminal milieu." To the extent there was any error, the State maintains that it "was harmless beyond a reasonable doubt in light of the limited testimony that [Jose] gave, because the same facts were established by multiple other forms of evidence, and the [] relevance of [Jose's] testimony to the elements of the charged offenses" was marginal.

For the reasons that follow, we hold that the trial court did not err in restricting appellant's cross-examination of Jose.

Impeachment Cross-Examination Regarding Pending Criminal Proceedings

At issue in this appeal is whether the trial court erred in restricting cross-examination of a witness who had been found guilty of an impeachable offense but was still awaiting sentencing. Md. Rule 5-609 governs impeachment of witnesses with prior convictions, providing in pertinent part:

> (a) **Generally.** For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted if elicited from the witness or established by public record during examination of the witness, but only if (1) the crime was an infamous crime or other crime relevant to the witness's credibility and (2) the court determines that the probative value of admitting this evidence outweighs the danger of unfair prejudice to the witness or the objecting party.
>
> * * *

> (c) **Other limitations**. Evidence of a conviction otherwise admissible under section (a) of this Rule shall be excluded if:
>
> (1) the conviction has been reversed or vacated;
>
> (2) the conviction has been the subject or a pardon; or
>
> (3) an appeal or application for leave to appeal from the judgment of conviction is pending, or the time for noting an appeal or filing an application for leave to appeal has not expired.

Distribution of cocaine qualifies as conduct that is "probative of a character trait of untruthfulness." *See State v. Westpoint*, 404 Md. 455, 473 n.9 (2008); *State v. Giddens*, 335 Md. 205, 217 (1994).

Md. Rule 5-608(b) establishes alternative grounds for impeachment based on "prior bad acts" for which the witness has not been convicted:

> (b) **Impeachment by examination regarding witness's own prior conduct not resulting in convictions.** The court may permit any witness to be examined regarding the witness's own prior conduct that did not result in a conviction but that the court finds probative of a character trait of untruthfulness. Upon objection, however, the court may permit the inquiry only if the questioner, outside the hearing of the jury, establishes a reasonable factual basis for asserting that the conduct of the witness occurred. The conduct may not be proved by extrinsic evidence.

The Court of Appeals recently summarized the legal protections governing the right of criminal defendants to cross-examine prosecution witnesses:

> The Supreme Court of the United States, this Court, and other courts throughout the country have observed that cross-examination is the "greatest legal engine ever invented for the discovery of truth." The right of a defendant in a criminal case to cross-examine a witness for the prosecution is grounded in the Confrontation Clause of the Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights. Compliance with

our federal and state constitutions requires the trial judge to allow the defense a "threshold level of inquiry" that puts before the jury "facts from which jurors, as the sole triers of fact and credibility, could appropriately draw inferences relating to the reliability of the witness." To ensure the right of confrontation, defense counsel must be afforded "wide latitude to cross-examine a witness as to bias or prejudices." Only when the constitutional threshold has been met may trial courts limit the scope of cross-examination "when necessary for witness safety or to prevent harassment, prejudice, confusion of the issues, and inquiry that is repetitive or only marginally relevant."

Maryland Rules 5-616 and 5-611 are relevant to this subject. Rule 5-616 addresses witness impeachment and . . . specifically authorizes an attack upon the credibility of a witness through questions designed to prove that the witness "has a motive to testify falsely":

> (a) **Impeachment by inquiry of the witness.** The credibility of a witness may be attacked through questions asked of the witness, including questions that are directed at:
>
> * * *
>
> (4) Proving that the witness is biased, prejudiced, interested in the outcome of the proceeding, or has a motive to testify falsely[.]

Rule 5–611 authorizes the trial judge to "exercise reasonable control over the mode and order of interrogating witnesses" and provides:

> (a) **Control by court.** The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

Manchame-Guerra v. State, 457 Md. 300, 309-10 (2018) (footnote and citations omitted).

The standard governing our review of a decision to restrict impeachment cross-examination

> takes into account both the defendant's constitutional right of confrontation and the discretionary authority of the trial judge to assert "control over the mode and order of interrogating witnesses and presenting evidence":
>
> > In controlling the course of examination of a witness, a trial court may make a variety of judgment calls under Maryland Rule 5–611 as to whether particular questions are repetitive, probative, harassing, confusing, or the like. The trial court may also restrict cross-examination based on its understanding of the legal rules that may limit particular questions or areas of inquiry. Given that the trial court has its finger on the pulse of the trial while an appellate court does not, decisions of the first type should be reviewed for abuse of discretion. Decisions based on a legal determination should be reviewed under a less deferential standard. Finally, when an appellant alleges a violation of the Confrontation Clause, an appellate court must consider whether the cumulative result of those decisions, some of which are judgment calls and some of which are legal decisions, denied the appellant the opportunity to reach the "threshold level of inquiry" required by the Confrontation Clause.

Id. at 311 (quoting *Peterson v. State*, 444 Md. 105, 124 (2015)).

Appellant's Challenge

As appellant acknowledges, Jose had not yet been sentenced on the drug distribution charge that gave rise to defense counsel's impeachment inquiry and the State's responding objection. "A conviction does not occur in a criminal case until sentence is imposed on a verdict of guilty. That is when judgment is entered." *Chmurny v. State*, 392 Md. 159, 167 (2006). *See State v. Simms*, 456 Md. 551, 564-65 (2017) (stating that "a person is not 'convicted' of an offense until the court enters a judgment upon the verdict of guilty").

Consequently, the trial court correctly ruled that, under Md. Rule 5-609(c)(3), defense counsel could not impeach Jose with the fact that he had been found guilty and was awaiting sentencing for distribution of cocaine.

Conceding that defense counsel was not entitled to cross-examine Jose about a verdict of guilty under Rule 5-609, appellant contends that the trial court erred in also foreclosing prior "bad acts" impeachment. Appellant argues that the trial court could and should have "permitted" the defense to impeach Jose under Md. Rule 5-608(b) and the doctrine of "curative admissibility," because Jose's testimony "open[ed] the door" to impeaching evidence by claiming "that he was not the kind of person who be burglarized when, in fact, drug dealers are especially likely to be robbed."

We disagree. Nothing in either the trial court's ruling or the preceding colloquy among court and counsel indicates that the court foreclosed such prior bad acts impeachment under Rule 5-608(b).

The court made only one decision, which was to sustain the State's objection to defense counsel's attempt to impeach Jose with the fact that he was "pending sentencing on a distribution" charge. During the bench conferences following the State's objection, defense counsel raised the prior bad act provisions of Rule 5-608(b) as an alternative basis for that line of inquiry. The prosecutor responded that "even if . . . it's a prior bad act[,] [i]t has to be relevant to what is going on here[.]" Defense counsel countered that prior bad acts were relevant to Jose's credibility because he testified that he "wasn't aware he was being targeted or watched" and that "he actually had items stolen from him."

After the recess, the court asked for further argument "with respect to the pending objection[.]" Defense counsel again asked the court to "allow that question to be asked[.]" Underscoring that she was still seeking to impeach the witness based on his guilty verdict, rather than the conduct giving rise to that verdict, defense counsel specifically referred to "the charge of which he is guilty, he has pled guilty to or found guilty of . . . which is a felony distribution of cocaine." When defense counsel then questioned whether Jose's sentence in that case might be reduced as a result of his testimony in this case, the prosecutor proffered that there was no agreement raising such an expected benefit.

Based on that argument, the trial court sustained the State's objection to defense counsel's attempt to impeach Jose with his "pending sentencing on a distribution" charge. After noting that it had considered, in accordance with Rule 5-609(a), whether such impeachment would be more prejudicial than probative, the court concluded that under subsection 5-609(c), it had no discretion to allow impeachment based on Jose's pending sentencing on a guilty plea for distribution of cocaine.

The trial court's ruling complied with Rule 5-609, but went no further. In particular, the court did not rule on whether appellant could ask Jose about his drug activity, because defense counsel did not pursue that alternative ground for impeachment.

Notwithstanding her argument that appellant was entitled to impeach the witness with his prior bad acts, defense counsel, both before and after the recess, focused solely on establishing that Jose was awaiting sentencing on a drug distribution charge. After the court sustained the State's objection to that question, defense counsel did not ask Jose about

the underlying factual basis for the distribution charge. Instead, counsel initiated a different line of questioning regarding Jose's return to the breached apartment.

In sum, defense counsel never attempted to elicit evidence of Jose's criminal conduct. It was not the trial court's responsibility to advise counsel that, even if she could not question Jose about his guilty verdict, she could ask about his drug dealing. Deciding whether to do so was a matter of trial strategy for defense counsel and her client. Indeed, as the State points out, there were significant risks in focusing the jury on Jose's drug distribution activities, because even though that evidence supplied a likely motive for the home invasion, it also undermined appellant's claim that his presence at Jose's apartment building minutes after his departure was merely an innocent coincidence. Given that Jose's drug distribution activity was a proverbial "double-edged sword," defense counsel, after failing in her attempt to impeach Jose solely on the basis of his guilty verdict, may have elected not to elicit the details of his criminal conduct.

The Court of Appeals resolved an analogous claim of error in *Peterson v. State*, 444 Md. 105 (2015), explaining:

> The ruling of the trial judge that "pending charges are not admissible" was, strictly speaking, correct. But that was not what defense counsel was attempting to do. Rather, what the defense apparently sought to ask—and the answer that might have been admissible—was whether [the prosecution witness] had an expectation of benefit with respect to charges pending against him at the time of his testimony. However, the proffer that made defense counsel's intention clear emerged in pieces and spurts, some of it in the context of a legal argument about a different question *before* any witness had taken the stand and much of it *after* the witness was long gone. An appellate court has the leisure to stitch together different pieces of transcript and see where the defense wished to go. It is not

> surprising that the trial court did not. On this record, we cannot say that the defense adequately preserved the issue that it has raised on appeal as to the questioning of [the witness] about his expectation of a benefit.

Id. at 141 (italics in original).

Here, as in *Peterson*, defense counsel did not ask any of the impeachment questions that appellant now maintains the trial court should have allowed. As appellant tacitly concedes, the trial court correctly sustained the State's objection to questions about the guilty verdict on which Jose had yet to be sentenced. *See* Md. Rule 5-609. Because defense counsel did not attempt to cross-examine Jose about the drug dealing activity underlying that guilty verdict, the trial court was not called upon to decide whether to allow such impeachment under Rule 5-608(b). Under these circumstances, the trial court did not err in restricting defense counsel's impeachment of a prosecution witness.

JUDGMENTS AFFIRMED. COSTS TO BE PAID BY APPELLANT.