

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1119

September Term, 2022

MEGAN NICOLE AMBROSE

v.

STATE OF MARYLAND

Berger,
Arthur,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 4, 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Anne Arundel County, Megan Nicole Ambrose, appellant, was convicted of second-degree assault and disorderly conduct. On appeal she contends that the trial court erred in allowing the investigating officer to testify that “the woman depicted on a video surveillance tape was appellant and that what this woman was doing constituted an assault.” For the reasons that follow, we shall affirm.

The victim testified that she spoke with appellant’s husband in Tucker’s Bar in Pasadena, not realizing that he was married. When the victim left the bar, appellant approached her in the parking lot and grabbed her hair, pulling her down to the ground. Corporal Aaron Edwards obtained surveillance video from the parking lot. At trial, the victim was shown that video footage and identified appellant as the woman on the tape who had assaulted her.

During re-direct of Corporal Edwards, the State asked him if he had watched the video at any point, and he indicated that he had. The State then asked Corporal Edwards what determination he made after watching the video and he responded “[T]hat Megan Ambrose was in the video. Could be seen assaulting Ms. Tilman.” Appellant objected, asserting that there was a “[l]ack of foundation and [that his answer] calls for a legal conclusion in saying that you can see Megan Ambrose assaulting.” The court sustained the objection, and asked the State to rephrase the question. The State then asked Corporal Edwards a second time what determination he made after viewing the video. Corporal Edwards again responded: “That Ms. Tilman was assaulted by Ms. Ambrose.” Appellant did not renew his objection or request the court to strike that testimony.

After Corporal Edwards was excused as a witness, appellant indicated that he wanted to renew his objection; however, the court noted that he was “off the stand now[.]” Appellant then requested a mistrial on the grounds that the testimony was a “legal, factual conclusion that should have been up to a jury to draw from the video results.” The court denied the request for a mistrial finding there had been “no manifest injustice.”

On appeal, appellant contends that Corporal Edwards’s testimony regarding the video was improper because it “wrongly express[ed] a lay opinion as to the identity of the woman in the video” and “wrongly express[ed] a lay opinion that what was depicted in the video constituted the crime of assault.” However, Md. Rule 4-323(a) “requires the party opposing the admission of evidence to object each time the evidence is offered by its proponent.” *Klaunberg v. State*, 355 Md. 528, 545 (1999). Such objections must be made “at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent.” Maryland Rule 4-323(a). Critically, even when a party objects to certain evidence, the objection is “waived if, at another point during the trial, evidence on the same point is admitted without objection.” *DeLeon v. State*, 407 Md. 16, 31 (2008).

Here, appellant initially objected when Corporal Edwards testified that the video showed her assaulting the victim. But when Corporal Edwards provided the exact same testimony upon further questioning by the State, appellant did not object or request the court to strike that testimony.¹ Moreover, it is clear that renewing her objection would

¹ Although appellant objected to the testimony after Corporal Edwards concluded his testimony, such an objection does not satisfy the contemporaneous objection rule set forth in Rule 4-323(a). *See Prince v. State*, 216 Md. App. 178, 194 (2014) (“the objection

have been futile as the court had previously sustained her objection to that testimony. Consequently, we hold that appellant has waived her objection and we shall not consider her claim that the testimony was improperly admitted on appeal.²

Finally, we note that although appellant also later moved for a mistrial based on Corporal Edwards’s testimony, she does not specifically contend on appeal that the court erred in denying that motion. Therefore, that claim is not properly before us. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal” (quotation marks and citation omitted)). In any event, having failed to object to the testimony at the time it was given, when the trial court could have taken curative measures, appellant waived any claim that it was so patently prejudicial that the trial court’s failure to exclude it deprived her of a fair trial. *See Walker v. State*, 21 Md. App. 666, 672 (1974) (holding that “[t]he failure to object when one should have objected is not ground for a mistrial”).

**JUDGMENTS OF THE CIRCUIT
COURT FOR ANNE ARUNDEL
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**

must come quickly enough to allow the trial court to prevent mistakes or cure them in real time.”).

² Although appellant does not specifically ask us to do so, we decline to exercise our discretion to engage in “plain error” review of this claim pursuant to Maryland Rule 8-131(a).