

September Term, 2021
No. 45

IN THE
COURT OF APPEALS OF MARYLAND

DAWNTA HARRIS,
Petitioner,

v.

STATE OF MARYLAND,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF SPECIAL APPEALS OF MARYLAND

RECORD EXTRACT
VOLUME 1 OF 3
(E. 1 - 164)

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Counsel for Petitioner

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CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

401 Bosley Avenue, P.O. Box 6754
Towson, MD 21285-6754
Main: 410-887-2601 Fax: 410-887-3062

Case Number: 03-K-18-002254
Tracking Number: 170001071461
Other Reference Number(s): 03-K-18-002251; 2C00462975;
CSA-REG-1515-2019

STATE OF MARYLAND VS DAWNTA HARRIS

CERTIFICATION OF TRUE COPY

I HEREBY CERTIFY that I am authorized to make this certification, and that the attached is a true copy of:
Case Summary
taken from the records of above court in the above entitled case.

IN TESTIMONY WHEREOF I hereto set my hand and affix the seal
of the Circuit Court of Maryland for Baltimore County on this
4/29/2020.

A handwritten signature in cursive script that reads "Julie L. Ensor".

Julie L. Ensor
Clerk of the Circuit Court

CASE SUMMARY

CASE NO. 03-K-18-002254

State of Maryland vs Dawnta Harris

§
§
§
§
§Location: **Baltimore County Circuit Court**Judicial Officer: **Alexander, Jan Marshall**Filed on: **05/30/2018**Central Complaint Number: **181411196**Tracking Number: **17-0001-07146-1**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Criminal Indictment
Jurisdiction: Baltimore County					
1. Murder - First Degree TN: 170001071461	CR.2.201	FC	05/21/2018	Case Status:	09/04/2019 Appealed
2. Burglary-First Degree TN: 170001071461	CR.6.202(a)	FC	05/21/2018		
3. Conspiracy/Burglary-First Degree TN: 170001071461	CL	M	05/21/2018		
4. Burglary-Third Degree TN: 170001071461	CR.6.204	FC	05/21/2018		
5. Burglary-Fourth Degree-Dwelling TN: 170001071461	CR.6.205.(a)	M	05/21/2018		
6. Theft: \$1,500 To Under \$25,000 TN: 170001071461	CR.7.104	FC	05/21/2018		
7. Burglary-First Degree TN: 170001071461	CR.6.202(a)	FC	05/21/2018		
8. Conspiracy/Burglary-First Degree TN: 170001071461	CL	M	05/21/2018		
9. Burglary-Third Degree TN: 170001071461	CR.6.204	FC	05/21/2018		
10. Burglary-Fourth Degree-Dwelling TN: 170001071461	CR.6.205.(a)	M	05/21/2018		
11. Theft: \$100 To Under \$1,500 TN: 170001071461	CR.7.104	M	05/21/2018		
12. Burglary-Fourth Degree Theft TN: 170001071461	CR.6.205.(c)	M	05/21/2018		
13. Theft Less Than \$100.00 TN: 170001071461	CR.7.104.(g)(3)	M	05/21/2018		
14. Theft: \$1,500 To Under \$25,000 TN: 170001071461	CR.7.104	FC	05/21/2018		
15. Theft Less Than \$100.00 TN: 170001071461	CR.7.104.(g)(3)	M	05/21/2018		
16. Regulated Firearm Stolen - Possess/Sell/Transfer/Dispose Of TN: 170001071461	PS.5.138	M	05/21/2018		
17. Possess Regulated Firearm Being Under 21 TN: 170001071461	PS.5.133.(d)	M	05/21/2018		
18. Regulated Firearm:Illegal Possession TN: 170001071461	PS.5.133.(b)	M	05/21/2018		
19. Wear, Carry And Transport Handgun Upon Their Person TN: 170001071461	CR.4.203	M	05/21/2018		

Related Cases**Lead**

03-K-18-002251 (Traveling With)

Other Cases

2C00462975 (Related Case)

CSA-REG-1515-2019 (Case Appealed)

DATE

CASE ASSIGNMENT

| **Current Case Assignment**

CASE SUMMARY
CASE NO. 03-K-18-002254

Case Number
 Court
 Date Assigned
 Judicial Officer

03-K-18-002254
 Baltimore County Circuit Court
 06/12/2018
 Alexander, Jan Marshall

PARTY INFORMATION

Plaintiff **State of Maryland**

Attorneys

COFFIN, ROBIN S

410-638-3500(W)

Sita, Zarena

410-887-6600(W)

**State's Attorney, Baltimore
 County**

410-887-6600(W)

Defendant



Harris, Dawnta

1625 Vincent Court

Baltimore, MD 21217

DOB: 01/08/2002 Age: 16

BROWN, WARREN

ANTHONY

Retained

410-685-4900(W)

GORDON, JON WYNDAL

Retained

410-332-4121(W)

SACCENTI, BRIAN

MATTHEW

Retained

410-767-8556(W)

DATE

EVENTS & ORDERS OF THE COURT

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04/23/2020



Order Received from Court of Special Appeals

04/05/2020



Transcript

State vs Harris - Vol 9 8/21/19

04/05/2020



Transcript

State vs Harris - Vol 8 5/1/19

04/05/2020



Transcript

State vs Harris - Vol 7 4/30/19

04/05/2020



Transcript

State vs Harris - Vol 6 4/29/19

04/05/2020



Transcript

Harris vs State - Vol 5 4/26/19

04/05/2020



Transcript

State vs Harris - Vol 4 4/25/19

04/05/2020



Transcript

State vs. Harris - Vol 3 4/24/19

04/05/2020



Transcript

State vs. Harris - Vol 2 4/23/19

CASE SUMMARY
CASE NO. 03-K-18-002254

04/05/2020  Transcript
State v. Harris - Vol 1 4/22/19

02/03/2020  Order Received from Court of Special Appeals
Extension of Time to Transmit the Record

11/25/2019  Copy of MD Sentencing Guidelines filed (Judicial Officer: Alexander, Jan Marshall)

11/25/2019  Copy of MD Sentencing Guidelines filed (Judicial Officer: Alexander, Jan Marshall)

11/25/2019  Copy of MD Sentencing Guidelines filed (Judicial Officer: Alexander, Jan Marshall)

11/20/2019  Order (Judicial Officer: Alexander, Jan Marshall)
to Unseal Exhibits 2A and 2B for the Sole Purpose of Preparing an Appellate Transcript

10/28/2019  Order Received from Court of Special Appeals
Extension of Time to Transmit the Record

10/17/2019  Transcript or Audio Recording Requested

10/15/2019  Defense Attorney Appearance Filed
Entry of Appearance
Counsel: Public Defender SACCENTI, BRIAN MATTHEW
For: Defendant Harris, Dawnta
Amount: 0.00

09/19/2019  Held Sub Curia (Judicial Officer: Alexander, Jan Marshall)
Party: Defendant Harris, Dawnta

09/09/2019  State's Answer/Motion/Petition
State's Answer to Defendant's Motion (Duplicate)
Filed by: Attorney COFFIN, ROBIN S

09/05/2019  State's Answer/Motion/Petition
State's Response to Motion for Modification
Filed by: Attorney COFFIN, ROBIN S

09/04/2019  Notice of Appeal to COSA
Due date updates per order dated 10/23/19 and 1/29/20
Filed by: Defendant Harris, Dawnta

08/28/2019  Motion to Modify
Filed by: Attorney BROWN, WARREN ANTHONY

08/22/2019 Case Closed

08/21/2019  Commitment Record Issued (Judicial Officer: Alexander, Jan Marshall)

08/21/2019  Correspondence
on behalf of Defendant

08/21/2019  Miscellaneous Document

CASE SUMMARY
CASE NO. 03-K-18-002254

Jail Sheet

08/21/2019  Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)

08/21/2019  **Hearing - Disposition** (9:30 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)
Concluded / Held

08/21/2019 **Disposition** (Judicial Officer: Alexander, Jan Marshall)

3. Conspiracy/Burglary-First Degree
Nolle Prosequi
TN: 170001071461 :
4. Burglary-Third Degree
Nolle Prosequi
TN: 170001071461 :
5. Burglary-Fourth Degree-Dwelling
Nolle Prosequi
TN: 170001071461 :
6. Theft: \$1,500 To Under \$25,000
Nolle Prosequi
TN: 170001071461 :
8. Conspiracy/Burglary-First Degree
Nolle Prosequi
TN: 170001071461 :
9. Burglary-Third Degree
Nolle Prosequi
TN: 170001071461 :
10. Burglary-Fourth Degree-Dwelling
Nolle Prosequi
TN: 170001071461 :
11. Theft: \$100 To Under \$1,500
Nolle Prosequi
TN: 170001071461 :
13. Theft Less Than \$100.00
Nolle Prosequi
TN: 170001071461 :
15. Theft Less Than \$100.00
Nolle Prosequi
TN: 170001071461 :
16. Regulated Firearm Stolen - Possess/Sell/Transfer/Dispose Of
Nolle Prosequi
TN: 170001071461 :
17. Possess Regulated Firearm Being Under 21
Nolle Prosequi
TN: 170001071461 :
18. Regulated Firearm:Illegal Possession
Nolle Prosequi
TN: 170001071461 :

CASE SUMMARY
CASE NO. 03-K-18-002254

19. Wear, Carry And Transport Handgun Upon Their Person
Nolle Prosequi
TN: 170001071461 :

08/21/2019

Sentence (Judicial Officer: Alexander, Jan Marshall)

1. Murder - First Degree
05/21/2018 (FC) CR.2.201 (1-0990)
TN: 170001071461 :

2. Burglary-First Degree
05/21/2018 (FC) CR.6.202(a) (2-3000)
TN: 170001071461 :

14. Theft: \$1,500 To Under \$25,000
05/21/2018 (FC) CR.7.104 (1-1136)
TN: 170001071461 :

Confinement by Count

Division of Corrections

Start: 05/22/2018

Confinement by Count

Count: 1. MURDER - FIRST DEGREE CR.2.201

Life

Comments: Court recommends Patuxent Youth Offender Program.

Count: 2. BURGLARY-FIRST DEGREE CR.6.202(a)

Term: 20Y

Concurrent With Counts: MURDER - FIRST DEGREE

Count: 14. Theft: \$1,500 To Under \$25,000 CR.7.104

Term: 5Y

Concurrent With Counts: BURGLARY-FIRST DEGREE

Total Time to Serve: 20Y

Total Time with life: 1 Count of Life + 20 Years

Concurrent with any other outstanding sentence(s)

Credit for Time Served

Credit Term: 456D

Attachments:

Comment (All court costs and fines waived.)

08/21/2019

 Victim Impact Statement

08/21/2019

 Victim Impact Statement

07/23/2019

 **CANCELED Hearing - Disposition** (9:30 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)
Canceled/Vacated

07/19/2019

 Pre-Sentence Investigation Received
(sealed)

07/10/2019

Writ - Habeas Corpus
8/21/19 Disposition
Service for: Defendant Harris, Dawnta

06/12/2019

 Order - Motion for New Trial
To be heard at Sentencing on 7/23/19
Filed by: Attorney BROWN, WARREN ANTHONY; Attorney GORDON, JON WYNDAL

05/21/2019

 Notice of Deficiency - Rule 20-203(d)
Correction filed 5/21

CASE SUMMARY
CASE NO. 03-K-18-002254

- 05/21/2019  State's Answer/Motion/Petition
State's Response to Motion for New Trial
- 05/20/2019  Deficient Filing
State's Response to Defendant's Motion for New Trial
- 05/14/2019  Order - Motion/Request/Petition Granted (Judicial Officer: Alexander, Jan Marshall)
- 05/13/2019  Motion / Request - To Set Hearing / Trial
Request for Hearing
- 05/13/2019  Motion / Request - For New Trial
Motion for New Trial
Filed by: Attorney GORDON, JON WYNDAL
- 05/03/2019  Motion to Produce Tangible Evidence Prior to Trial
Motion for Tangible Evidence
Party: State's Attorney State's Attorney, Baltimore County
- 05/02/2019  Voir Dire (Judicial Officer: Alexander, Jan Marshall)
and witness list
Party: Defendant Harris, Dawnta
- 05/01/2019  Property Received as Evidence
- 05/01/2019  Writ - Habeas Corpus
Service for: Defendant Harris, Dawnta
- 05/01/2019  Miscellaneous Document
Exhibit lists
- 05/01/2019  Verdict Sheet-Criminal
- 05/01/2019  Pre-Sentence Investigation Ordered (Judicial Officer: Alexander, Jan Marshall)
- 05/01/2019  Miscellaneous Document
- 05/01/2019  Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)
- 05/01/2019 **Trial - Jury** (9:30 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)
Day 8 of 8
Concluded / Held
- 05/01/2019 **Disposition** (Judicial Officer: Alexander, Jan Marshall)
1. Murder - First Degree
Guilty
TN: 170001071461 :
2. Burglary-First Degree
Guilty
TN: 170001071461 :

CASE SUMMARY
CASE NO. 03-K-18-002254

- 7. Burglary-First Degree
Not Guilty
TN: 170001071461 :
- 12. Burglary-Fourth Degree Theft
Not Guilty
TN: 170001071461 :
- 14. Theft: \$1,500 To Under \$25,000
Guilty
TN: 170001071461 :

05/01/2019

Plea (Judicial Officer: Alexander, Jan Marshall)

- 1. Murder - First Degree
Not Guilty
TN: 170001071461 :
- 2. Burglary-First Degree
Not Guilty
TN: 170001071461 :
- 3. Conspiracy/Burglary-First Degree
Not Guilty
TN: 170001071461 :
- 4. Burglary-Third Degree
Not Guilty
TN: 170001071461 :
- 5. Burglary-Fourth Degree-Dwelling
Not Guilty
TN: 170001071461 :
- 6. Theft: \$1,500 To Under \$25,000
Not Guilty
TN: 170001071461 :
- 7. Burglary-First Degree
Not Guilty
TN: 170001071461 :
- 8. Conspiracy/Burglary-First Degree
Not Guilty
TN: 170001071461 :
- 9. Burglary-Third Degree
Not Guilty
TN: 170001071461 :
- 10. Burglary-Fourth Degree-Dwelling
Not Guilty
TN: 170001071461 :
- 11. Theft: \$100 To Under \$1,500
Not Guilty
TN: 170001071461 :
- 12. Burglary-Fourth Degree Theft
Not Guilty
TN: 170001071461 :

CASE SUMMARY
CASE NO. 03-K-18-002254

- 13. Theft Less Than \$100.00
Not Guilty
TN: 170001071461 :
- 14. Theft: \$1,500 To Under \$25,000
Not Guilty
TN: 170001071461 :
- 15. Theft Less Than \$100.00
Not Guilty
TN: 170001071461 :
- 16. Regulated Firearm Stolen - Possess/Sell/Transfer/Dispose Of
Not Guilty
TN: 170001071461 :
- 17. Possess Regulated Firearm Being Under 21
Not Guilty
TN: 170001071461 :
- 18. Regulated Firearm:Illegal Possession
Not Guilty
TN: 170001071461 :
- 19. Wear, Carry And Transport Handgun Upon Their Person
Not Guilty
TN: 170001071461 :

04/30/2019



Miscellaneous Document
Jail sheet

04/30/2019



Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)

04/30/2019



Jury Instructions (Judicial Officer: Alexander, Jan Marshall)
Party: Plaintiff State of Maryland; Defendant Harris, Dawnta

04/30/2019

Trial - Jury (9:30 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)

Day 7 of 7
Concluded / Held

04/29/2019



Miscellaneous Document
Jail sheet

04/29/2019



Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)

04/29/2019

Trial - Jury (9:30 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)

Day 6 of 7
Concluded / Held

04/26/2019



Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)

04/26/2019

Trial - Court (9:00 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)

Day 5 of 5 ;

CASE SUMMARY
CASE NO. 03-K-18-002254*Concluded / Held*

- 04/26/2019  Miscellaneous Document
Jail Sheet
- 04/25/2019  Miscellaneous Document
Jail sheet
- 04/25/2019  Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)
- 04/25/2019 **Trial - Jury** (9:00 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)
Day 4 of 5 ;
Concluded / Held
- 04/24/2019  Miscellaneous Document
Jail sheet
- 04/24/2019  Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)
- 04/24/2019 **Trial - Jury** (9:00 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)
Day 3 of 5 ;
Concluded / Held
- 04/23/2019  Miscellaneous Document
Jail sheet
- 04/23/2019  Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)
- 04/23/2019 **Trial - Court** (9:00 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)
Day 2 of 5 ;
Concluded / Held
- 04/22/2019  Motion - Limine
to preclude admission of conjecture or speculation evidence of victim. DENIED
Filed by: Defendant Harris, Dawnta
- 04/22/2019  Motion - Limine
to preclude admission of defendant's use of force evidence
DENIED
Filed by: Defendant Harris, Dawnta
- 04/22/2019  Motion - Limine
to prevent admission of prior bad acts
WITHDRAWN AS MOOT
Filed by: Defendant Harris, Dawnta
- 04/22/2019  Miscellaneous Document
- 04/22/2019  Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)
- 04/22/2019 **Trial - Jury** (9:00 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)

CASE SUMMARY
CASE NO. 03-K-18-002254

Day 1 of 5 ;
Concluded / Held

- 04/22/2019  Deficient Filing
Voir Dire and Witness List
Moot. No notice sent. Accepted 5/1, trial concluded
- 04/22/2019  Motion - Limine
Motion In Limine To Preclude Admission Of Conjecture or Speculation Evidence Of Victim
Moot - accepted 5/1, trial concluded
- 04/22/2019  Motion - Limine
Motion In Limine To Preclude Admission Of Defendant's Use of Force Evidence
Moot - accepted 5/1, trial concluded
- 04/22/2019  Motion - Limine
Motion In Limine To Prevent Admission Of Prior Bad Facts
Moot - accepted 5/1, trial concluded
- 04/18/2019  Requested Voir Dire
Filed by: Plaintiff State of Maryland
- 04/18/2019  Request - Jury Instructions
Filed by: Plaintiff State of Maryland
- 04/18/2019  Miscellaneous Document
Verdict Sheet
- 04/17/2019  Supporting Document
supporting Documents
- 04/17/2019  Motion - Postponement/Continuance
*Motion for Continuance **MOOT, WAS ACCEPTED AFTER TRIAL HAD ALREADY STARTED***
- 04/16/2019  Return of Served Subpoena
4/22/19
Service For:: Plaintiff State of Maryland
- 04/12/2019  Return of Served Subpoena
4/22/2019
Service For:: Plaintiff State of Maryland
- 04/10/2019  Discovery Pursuant to Rule 4-263
Supplemental Discovery
- 03/14/2019  Discovery Pursuant to Rule 4-263
Supplemental Discovery
- 03/11/2019  Discovery Pursuant to Rule 4-263
Supplemental Discovery
- 02/26/2019  Discovery Pursuant to Rule 4-263

CASE SUMMARY
CASE NO. 03-K-18-002254

Supplemental Discovery

- 02/22/2019  Discovery Pursuant to Rule 4-263
Supplemental Discovery
- 02/05/2019  Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)
Motion: 47
Sequence: 0
Create Initials: BSP
Create Date: 02/13/2019
*KSUP - Supplemental Discovery Pursuant To Maryland Rule 4-263(d)**
Filed: 02/05/2019
Party: PLT
PartyNum: 1
State Of Maryland
- 01/31/2019  Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)
Motion: 46
Sequence: 0
Create Initials: CGN
Create Date: 02/09/2019
*KSUP - State's Supplemental Discovery**
- Filed: 01/31/2019*
Party: PLT
PartyNum: 1
State Of Maryland
- 01/30/2019  Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)
Motion: 45
Sequence: 0
Create Initials: KMF
Create Date: 02/09/2019
*KSUP - Supplemental Discovery**
- Filed: 01/30/2019*
Party: PLT
PartyNum: 1
State Of Maryland
- 01/10/2019  Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)
Motion: 44
Sequence: 0
Create Initials: ES
Create Date: 01/15/2019
*KSUP - Supplemental Discovery**
- Filed: 01/10/2019*
Party: PLT
PartyNum: 1
State Of Maryland
- 01/03/2019  Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)
Motion: 43
Sequence: 0
Create Initials: ES
Create Date: 01/10/2019
Update Initials: ES
Update Date: 01/10/2019
*KSUP - Supplemental Discovery**

CASE SUMMARY
CASE NO. 03-K-18-002254

Filed: 01/03/2019

12/22/2018

 Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)

Motion: 42
Sequence: 0
Create Initials: CGN
Create Date: 01/02/2019
*KSUP - State's Supplemental Discovery**

Filed: 12/22/2018
Party: PLT
PartyNum: 1
State Of Maryland

12/04/2018

Hearing - Motion (9:00 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)

Day 2 of 2 ;
Events: 12/03/2018 Result Reason: Scheduled in Error
Cancelled / Vacated

12/03/2018

Hearing - Motion (9:00 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)

Day 1 of 2 ;
Court Reporter: Smart, Court
Events: 12/03/2018 Result Reason: Trial/Hearing Concluded
Concluded / Held

12/03/2018

Result Reason: Trial/Hearing Concluded (Judicial Officer: Alexander, Jan Marshall)

12/03/2018

Result Reason: Scheduled in Error (Judicial Officer: Alexander, Jan Marshall)

12/03/2018

Supporting Exhibit (Judicial Officer: To Be Assigned, Judge)

Motion: 41
Sequence: 0
Create Initials: CNS
Create Date: 12/03/2018
DEXF - Exhibits Filed

Filed: 12/03/2018
Routing: 12/03/2018

12/03/2018

 Miscellaneous Document (Judicial Officer: To Be Assigned, Judge)

Motion: 40
Sequence: 0
Create Initials: CNS
Create Date: 12/03/2018
KMIS - Motions Exhibit List

Filed: 12/03/2018

12/03/2018

 Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)

Motion: 39
Sequence: 0
Create Initials: CNS
Create Date: 12/03/2018
KOCP - Open Court Proceedings
December 3, 2018. Hon. Jan Marshall Alexander. Hearing had in re: Criminal motions. State motion for gag order to ban extrajudicial statements-Granted and Denied in part. No discovery shall be disclosed. Defense withdraws opposition. Joint motion to seal statements-Granted. Defendant remanded to the Baltimore County Bureau of Corrections. (R. Coffin&S.Zita/W. Brown)
Filed: 12/03/2018

CASE SUMMARY
CASE NO. 03-K-18-002254

10/31/2018

 Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)

Motion: 38
Sequence: 0
Create Initials: NMS
Create Date: 11/05/2018
*KSUP - State's Supplemental Discovery**

Filed: 10/31/2018
Party: PLT
PartyNum: 1
State Of Maryland

10/19/2018

 Answer (Judicial Officer: To Be Assigned, Judge)

Motion: 36
Sequence: 1
Create Initials: ES
Create Date: 10/19/2018
*KANS - Opposition to Motion to Prevent Extrajudicial Statements**
Filed by Attorney: J Wyndal Gordon Esq
Filed: 10/19/2018

Party: DEF
PartyNum: 1
PartyName: Dawnta Harris
Filed by: Defendant Harris, Dawnta

10/11/2018

 Motion (Judicial Officer: To Be Assigned, Judge)

Motion: 36
Sequence: 0
Create Initials: ES
Create Date: 10/11/2018
*KMOT - Motion to Prevent Extrajudicial Statements**

Filed: 10/11/2018
Party: PLT
PartyNum: 1
State Of Maryland

10/10/2018

 Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)

Motion: 37
Sequence: 0
Create Initials: ES
Create Date: 10/22/2018
*KSUP - Supplemental Discovery**

Filed: 10/10/2018
Party: PLT
PartyNum: 1
State Of Maryland

09/28/2018

 Crime Victim Notification Request Form (Judicial Officer: To Be Assigned, Judge)

Motion: 35
Sequence: 0
Create Initials: KMF
Create Date: 09/28/2018
KCVN - Crime Victim Notification Request Form

Filed: 09/28/2018
Party: PLT
PartyNum: 1
State Of Maryland

CASE SUMMARY
CASE NO. 03-K-18-002254

- 09/28/2018  Crime Victim Notification Request Form (Judicial Officer: To Be Assigned, Judge)
Motion: 34
Sequence: 0
Create Initials: KMF
Create Date: 09/28/2018
KCVN - Crime Victim Notification Request Form
- Filed: 09/28/2018*
Party: PLT
PartyNum: 1
State Of Maryland
- 09/28/2018  Crime Victim Notification Request Form (Judicial Officer: To Be Assigned, Judge)
Motion: 33
Sequence: 0
Create Initials: KMF
Create Date: 09/28/2018
KCVN - Crime Victim Notification Request Form
- Filed: 09/28/2018*
Party: PLT
PartyNum: 1
State Of Maryland
- 09/28/2018  Crime Victim Notification Request Form (Judicial Officer: To Be Assigned, Judge)
Motion: 32
Sequence: 0
Create Initials: KMF
Create Date: 09/28/2018
KCVN - Crime Victim Notification Request Form
- Filed: 09/28/2018*
Party: PLT
PartyNum: 1
State Of Maryland
- 09/28/2018  Crime Victim Notification Request Form (Judicial Officer: To Be Assigned, Judge)
Motion: 31
Sequence: 0
Create Initials: KMF
Create Date: 09/28/2018
KCVN - Crime Victim Notification Request Form
- Filed: 09/28/2018*
Party: PLT
PartyNum: 1
State Of Maryland
- 09/05/2018  Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)
Motion: 30
Sequence: 0
Create Initials: ES
Create Date: 09/14/2018
*KSUP - Supplemental Discovery**
- Filed: 09/05/2018*
Party: PLT
PartyNum: 1
State Of Maryland
- 08/30/2018  Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)
Motion: 29

CASE SUMMARY
CASE NO. 03-K-18-002254

Sequence: 0
Create Initials: NMS
Create Date: 09/10/2018
*KSUP - State's Supplemental Discovery**

Filed: 08/30/2018
Party: PLT
PartyNum: 1
State Of Maryland

08/30/2018  Certificate of Compliance (Judicial Officer: To Be Assigned, Judge)

Motion: 28
Sequence: 0
Create Initials: TS2
Create Date: 08/30/2018
*KCOM - Certificate of Compliance**

Filed: 08/30/2018
Party: PLT
PartyNum: 1
State Of Maryland

08/24/2018 **Subpoena Issuance**
Harris, Dawnta
Unserved
FormName: CR-Summons for Motio ServiceAgency: Baltimore County Bureau of Corrections

08/24/2018 **Subpoena Issuance**
Harris, Dawnta
Unserved
FormName: CR-Summons for Motio

08/24/2018 Service Issued
ServiceAgency: Baltimore County Bureau of Corrections

Party Name: Dawnta Harris

08/24/2018 Service Issued
Party Name: Dawnta Harris

08/23/2018  Criminal Order (Judicial Officer: Jakubowski, Ruth A.)

Motion: 22
Sequence: 1
Create Initials: NMS
Create Date: 08/23/2018
Update Initials: NMS
Update Date: 08/23/2018
KORD - Criminal Order (Motion to Compel Discovery)

Filed: 08/23/2018
Decision: Granted - 08/23/2018

08/20/2018 **Subpoena Issuance**
Harris, Dawnta
Unserved
FormName: CR-Summons for Motio ServiceAgency: Baltimore County Bureau of Corrections

08/20/2018  Service Issued
ServiceAgency: Baltimore County Bureau of Corrections

CASE SUMMARY
CASE NO. 03-K-18-002254

Party Name: Dawnta Harris

- 08/20/2018  Criminal Hearing Notice (Judicial Officer: To Be Assigned, Judge)
Motion: 27
Sequence: 0
Create Initials: LCS
Create Date: 08/20/2018
KHRG - Criminal Hearing Notice (4/22-29/2019 trial)

Filed: 08/20/2018
- 08/17/2018 **Subpoena Issuance**
Harris, Dawnta
Unserved
FormName: CR-Summons for Motio ServiceAgency: Baltimore County Bureau of Corrections
- 08/17/2018  Service Issued
ServiceAgency: Baltimore County Bureau of Corrections

Party Name: Dawnta Harris
- 08/17/2018  Criminal Hearing Notice (Judicial Officer: To Be Assigned, Judge)
Motion: 26
Sequence: 0
Create Initials: NAH
Create Date: 08/17/2018
KHRG - Criminal Hearing Notice

Filed: 08/17/2018
- 08/16/2018 **Hearing - Waiver** (9:30 AM) (Judicial Officer: Alexander, Jan Marshall ;Location: Courtroom 16 - 4th Floor)
Court Reporter: Smart, Court
Events: 08/16/2018 Result Reason: Trial/Hearing Concluded
Concluded / Held
- 08/16/2018 Result Reason: Trial/Hearing Concluded (Judicial Officer: Alexander, Jan Marshall)
- 08/16/2018  Waiver of Hick's Rule (Judicial Officer: Alexander, Jan Marshall)
Motion: 25
Sequence: 0
Create Initials: JMS
Create Date: 08/16/2018
Update Initials: JMS
Update Date: 08/16/2018
KWOH - Waiver of Hick's Rule

Filed: 08/16/2018
- 08/16/2018  Hearing Sheet / Open Court Proceedings (Judicial Officer: Alexander, Jan Marshall)
Motion: 24
Sequence: 0
Create Initials: JMS
Create Date: 08/16/2018
Update Initials: JMS
Update Date: 08/16/2018
KOCP - Open Court Proceedings
August 16, 2018. Hon Jan M Alexander. Hearing had in re: Waiver of Hicks. Defendant remanded to the Baltimore County Bureau of Corrections. Coffin/Brown.

CASE SUMMARY
CASE NO. 03-K-18-002254

Filed: 08/16/2018

08/08/2018

 Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)

Motion: 23
Sequence: 0
Create Initials: ES
Create Date: 08/15/2018
KSUP - State's Supplemental Discovery*

Filed: 08/08/2018
Party: PLT
PartyNum: 1
State Of Maryland

07/26/2018

 Motion - Compel (Judicial Officer: To Be Assigned, Judge)

Motion: 22
Sequence: 0
Create Initials: ES
Create Date: 07/31/2018
Update Initials: NMS
Update Date: 08/23/2018
KMCM - Motion to Compel Discovery of the Defendants Persons MD Rule 4-263(f)(A)*

Filed: 07/26/2018
Party: PLT
PartyNum: 1
State Of Maryland
Decision: Granted - 08/23/2018

07/26/2018

 Motion for Protective Order (Judicial Officer: To Be Assigned, Judge)

Motion: 20
Sequence: 0
Create Initials: TS2
Create Date: 07/26/2018
KMPO - Motion for Protective Order*

Filed: 07/26/2018
Party: PLT
PartyNum: 1
State Of Maryland

07/24/2018

 Supplemental Discovery (Judicial Officer: To Be Assigned, Judge)

Motion: 21
Sequence: 0
Create Initials: ES
Create Date: 07/28/2018
KSUP - State's Supplemental Discovery*

Filed: 07/24/2018
Party: PLT
PartyNum: 1
State Of Maryland

07/05/2018

 Criminal Order (Judicial Officer: Alexander, Jan Marshall)

Motion: 19
Sequence: 1
Create Initials: NMS
Create Date: 07/05/2018
Update Initials: NMS
Update Date: 07/05/2018
KORD - Criminal Order (Motion Protective Order)

CASE SUMMARY
CASE NO. 03-K-18-002254

Filed: 07/05/2018
Decision: Granted - 07/05/2018

06/30/2018

 Criminal Order (Judicial Officer: Bailey, Sherrie R.)

Motion: 18
Sequence: 1
Create Initials: ES
Create Date: 06/30/2018
Update Initials: ES
Update Date: 06/30/2018
KORD - Criminal Order (Motion for Joint Trial of Defendants)

Filed: 06/30/2018
Decision: Granted - 06/30/2018

06/29/2018

 Motion for Protective Order (Judicial Officer: To Be Assigned, Judge)

Motion: 19
Sequence: 0
Create Initials: JM
Create Date: 07/02/2018
Update Initials: NMS
Update Date: 07/05/2018
KMPO - Motion for Protective Order*

Filed: 06/29/2018
Party: PLT
PartyNum: 1
State Of Maryland
Decision: Granted - 07/05/2018

06/22/2018

 State's Answer/Motion/Petition (Judicial Officer: To Be Assigned, Judge)

Motion: 12
Sequence: 1
Create Initials: ES
Create Date: 06/26/2018
KSRM - State's Response to the Defendant's Demand for Bill of Particulars

Filed: 06/22/2018
Party: PLT
PartyNum: 1
State Of Maryland

06/15/2018

 Motion - Joint Trial (Judicial Officer: To Be Assigned, Judge)

Motion: 18
Sequence: 0
Create Initials: NMS
Create Date: 06/21/2018
Update Initials: ES
Update Date: 06/30/2018
KJTT - Motion for Joint Trial of Defendants*

Filed: 06/15/2018
Party: PLT
PartyNum: 1
State Of Maryland

06/13/2018

 Motion / Request / Demand for Discovery (Judicial Officer: To Be Assigned, Judge)

Motion: 17
Sequence: 0
Create Initials: ES
Create Date: 06/20/2018
KKRD - Demand for Discovery

CASE SUMMARY
CASE NO. 03-K-18-002254

Filed by Attorney: Warren Brown
Filed: 06/13/2018
Party: DEF
PartyNum: 1
PartyName: Dawnta Harris
Filed by: Defendant Harris, Dawnta

06/13/2018  Motion - MD Rule 4-252 (Motions) (Judicial Officer: To Be Assigned, Judge)
Motion: 16
Sequence: 0
Create Initials: ES
Create Date: 06/20/2018
KKRF - Omnibus Motion Pursuant to MD rule 4-252
Filed by Attorney: Warren Brown
Filed: 06/13/2018
Party: DEF
PartyNum: 1
PartyName: Dawnta Harris
Filed by: Defendant Harris, Dawnta

06/13/2018  Crime Victim Notification Request Form (Judicial Officer: To Be Assigned, Judge)
Motion: 14
Sequence: 0
Create Initials: KMF
Create Date: 06/13/2018
KCVN - Crime Victim Notification Request Form

Filed: 06/13/2018

06/13/2018  Crime Victim Notification Request Form (Judicial Officer: To Be Assigned, Judge)
Motion: 13
Sequence: 0
Create Initials: KMF
Create Date: 06/13/2018
KCVN - Crime Victim Notification Request Form

Filed: 06/13/2018

06/12/2018  Demand / Request for Bill of Particulars (Judicial Officer: To Be Assigned, Judge)
Motion: 12
Sequence: 0
Create Initials: LCS
Create Date: 06/13/2018
KPAR - Demand for Bill of Particulars
Filed by Attorney: J Wyndal Gordon Esq
Filed: 06/12/2018

06/12/2018  Motion - Suppress (Judicial Officer: To Be Assigned, Judge)
Motion: 11
Sequence: 0
Create Initials: LCS
Create Date: 06/13/2018
*KMSE - Motion to Suppress Unduly Suggestive Identification **
Filed by Attorney: J Wyndal Gordon Esq
Filed: 06/12/2018

06/12/2018  Motion to Suppress Statements (Judicial Officer: To Be Assigned, Judge)
Motion: 10
Sequence: 0
Create Initials: LCS
Create Date: 06/13/2018

CASE SUMMARY
CASE NO. 03-K-18-002254

*KMSS - Motion to Suppress Illegally Obtained Statement **
Filed by Attorney: J Wyndal Gordon Esq
Filed: 06/12/2018

06/12/2018

 Motion - Suppress (Judicial Officer: To Be Assigned, Judge)

Motion: 9
Sequence: 0
Create Initials: LCS
Create Date: 06/13/2018
*KMSE - Motion to Suppress Illegally Obtained Evidence **
Filed by Attorney: J Wyndal Gordon Esq
Filed: 06/12/2018

06/12/2018

 Motion / Request / Demand for Discovery (Judicial Officer: To Be Assigned, Judge)

Motion: 8
Sequence: 0
Create Initials: LCS
Create Date: 06/13/2018
*KKRD - Demand for Discovery **
Filed by Attorney: J Wyndal Gordon Esq
Filed: 06/12/2018

06/12/2018

 Motion - MD Rule 4-252 (Motions) (Judicial Officer: To Be Assigned, Judge)

Motion: 7
Sequence: 0
Create Initials: LCS
Create Date: 06/13/2018
KOMP - Omnibus Motion Pursuant to MD Rule 4-252
Filed by Attorney: J Wyndal Gordon Esq
Filed: 06/12/2018

06/12/2018

 Defense Attorney Appearance Filed (Judicial Officer: To Be Assigned, Judge)

Motion: 6
Sequence: 0
Create Initials: LCS
Create Date: 06/13/2018
KAAP - Defense Attorney Appearance Filed
J W Gordon
Filed: 06/12/2018
Party: DEF
PartyNum: 1
PartyName: Dawnta Harris
Counsel: Defendant Harris, Dawnta

06/12/2018

 Case Specially Assigned (Judicial Officer: To Be Assigned, Judge)

Motion: 5
Sequence: 0
Create Initials: CGN
Create Date: 06/12/2018
Update Initials: CGN
Update Date: 06/12/2018
KSAS - Case Specially Assigned to Judge Alexander

Filed: 06/12/2018

06/08/2018

Attorney Appearance Filed (Judicial Officer: To Be Assigned, Judge)

Motion: 4
Sequence: 0
Create Initials: SKC
Create Date: 06/08/2018
KAAF - Attorney Appearance
Zarena Sita

CASE SUMMARY
CASE NO. 03-K-18-002254

Filed: 06/08/2018
 Party: PLT
 PartyNum: 1
 State Of Maryland

06/08/2018 Attorney Appearance Filed (Judicial Officer: To Be Assigned, Judge)
 Motion: 3
 Sequence: 0
 Create Initials: SKC
 Create Date: 06/08/2018
 KAAF - Attorney Appearance
 Robin S Coffin
 Filed: 06/08/2018
 Party: PLT
 PartyNum: 1
 State Of Maryland

06/01/2018  Defense Attorney Appearance Filed (Judicial Officer: To Be Assigned, Judge)
 Motion: 2
 Sequence: 0
 Create Initials: NA
 Create Date: 06/04/2018
 Update Initials: NA
 Update Date: 06/04/2018
 KAAP - Defense Attorney Appearance Filed*
 Warren Brown
 Filed: 06/01/2018
 Party: DEF
 PartyNum: 1
 PartyName: Dawnta Harris
 Counsel: Defendant Harris, Dawnta

05/30/2018  Criminal Indictment (Judicial Officer: To Be Assigned, Judge)
 Motion: 1
 Sequence: 0
 Create Initials: JAM
 Create Date: 05/30/2018
 Update Initials: JAM
 Update Date: 05/30/2018
 KRIN - Criminal Indictment
 Filed: 05/30/2018

05/22/2018  Public Defender Eligibility Certificate (Judicial Officer: To Be Assigned, Judge)
 Motion: 15
 Sequence: 0
 Create Initials: JM
 Create Date: 06/14/2018
 KPDE - Public Defender Eligibility Determination
 Filed: 05/22/2018

TARGET DATE

TIME STANDARDS

Statutory Deadlines
Time to Disposition Deadlines

05/30/2018
 Overdue
 06/01/2018
 Overdue
 06/08/2018
 Overdue

Set List for Trial
 Set List Information List
 Set List Information List

05/30/2018
 Complete
 06/04/2018
 Complete
 06/08/2018
 Complete

CASE SUMMARY
CASE NO. 03-K-18-002254

06/08/2018 ***Overdue***	Set List Information List	06/08/2018 ***Complete***
06/12/2018 ***Overdue***	Set List Information List	06/12/2018 ***Complete***
06/12/2018 ***Overdue***	Set List Information List	06/13/2018 ***Complete***
06/30/2018 ***Overdue***	Set List for Trial	06/30/2018 ***Complete***
07/05/2018 ***Overdue***	Set List for Trial	07/05/2018 ***Complete***
08/16/2018 ***Overdue***	Set List Information List	08/16/2018 ***Complete***
08/23/2018 ***Overdue***	Set List for Trial	08/23/2018 ***Complete***
11/28/2018 ***Overdue***	Hicks Date Reminder	06/04/2018 ***Complete***

DATE	FINANCIAL INFORMATION
	Defendant Harris, Dawnta
	Total Charges 276.00
	Total Payments and Credits 155.00
	Balance Due as of 04/29/2020 121.00

Dawnta Harris v. State, No. 1515, September Term, 2019, Opinion by Graeff, J.

**CRIMINAL LAW — FELONY MURDER — MANSLAUGHTER BY VEHICLE —
PREEMPTION**

Relying on *State v. Gibson*, 4 Md. App. 236 (1969), and *Blackwell v. State*, 34 Md. App. 547 (1977), appellant argues that the manslaughter by vehicle statute, now codified as Md. Code Ann., Criminal Law Article § 2-209 (2012 Repl. Vol.), preempts a charge of common law felony murder when a motor vehicle is involved. *Gibson* and *Blackwell* found preemption in situations involving “unintended homicides resulting from the operation of a motor vehicle.”

Felony murder, however, is not an unintended homicide. To be sure, intent to kill is not a required element of felony murder. For a homicide to constitute murder, however, the homicide must be committed with malice, a mental state that includes an intent to do the “death-producing act in the course of the commission, or attempted commission, of a felony.” Under the felony-murder rule, “the malice involved in the underlying felony is permitted to stand in the place of the malice that would otherwise be required with respect to the killing.” Felony murder is not, therefore, within the scope of an unintended homicide. Accordingly, felony murder is not preempted by the manslaughter by automobile statute when the homicide involves a motor vehicle.

**CRIMINAL LAW — JUVENILE LIFE SENTENCING — FELONY MURDER —
INDIVIDUALIZED CONSIDERATION — CRUEL AND UNUSUAL
PUNISHMENT**

Pursuant to this Court’s decision in *Hartless v. State*, 241 Md. App. 77 (2019), a sentencing court is not required to conduct an individualized hearing to consider a defendant’s “youth and all of its attendant circumstances” before imposing a sentence of life imprisonment with the possibility of parole on a juvenile convicted of felony murder.

Appellant’s sentence of life with parole was not grossly disproportionate and did not constitute cruel and unusual punishment where his conduct, in driving over a person while fleeing the scene of a burglary, caused the person to lose her life.

Circuit Court for Baltimore County
Case No. 03-K-18-002254

REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1515

September Term, 2019

DAWNTA HARRIS

v.

STATE OF MARYLAND

Graeff,
Kehoe,
Zic,

JJ.

Opinion by Graeff, J.

Filed: July 28, 2021

On May 1, 2019, Dawnta Harris, appellant, was convicted by a jury in the Circuit Court for Baltimore County of first-degree felony murder, first-degree burglary, and theft less than \$25,000. These convictions were based on his actions on May 21, 2018, when he struck and killed a Baltimore County Police officer with a stolen car during the commission of a burglary with three other individuals. Appellant, who was 16 years old at the time of the crime, was sentenced to life in prison with the possibility of parole.

On appeal, appellant presents the following questions for this Court's review, which we have rephrased slightly, as follows:

1. Has an unintentional, common law felony murder that was perpetrated by the operation of a motor vehicle been preempted by statute, thus precluding the common law offense from serving as a basis for a crime in Maryland?
2. Did the circuit court abuse its discretion and commit a constitutional violation by declining to instruct the jury that, in determining the voluntariness of appellant's statement to the police, it may consider as a factor whether there was denial of a parent at the juvenile's interrogation?
3. Is an automatic life sentence for a juvenile convicted of felony murder, without consideration of the juvenile's youth and attendant circumstances and penological justifications, unconstitutional under the Eighth Amendment's prohibition against cruel and unusual punishment?
4. Is the felony murder rule, as applied to juveniles, constitutional under the Fifth and Fourteenth Amendments' Due Process Clauses and Article 24 of the Maryland Declaration of Rights?

For the reasons set forth below, we shall affirm the judgments of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

I.

Factual History

On May 18, 2018, Kirk Thomas arrived at his home on Linwood Avenue in Baltimore City to discover that it had been burglarized, and the spare key to his 2016 Jeep Wrangler was missing. He called the police, but just before they responded, another officer arrived at his door to investigate a hit-and-run involving that vehicle. He reported the vehicle as stolen, but he had no personal knowledge of who took it.

Three days later, on May 21, 2018, appellant, Darrell Ward, Derrick Matthews, and Eugene Genius skipped school and drove Mr. Thomas' black Jeep Wrangler from Baltimore City to the Parkville area in Baltimore County.¹ Several burglaries connected to a black Jeep occurred that afternoon.

The first, at approximately 12:30 p.m., occurred on Ardmore Avenue. Home surveillance video captured Mr. Genius stealing a package from a porch.² A neighbor observed a black Jeep at the residence and saw a person take the package. Although the windows of the Jeep were "heavily tinted," the neighbor could distinguish the silhouettes of four people in the Jeep as it drove by his home.

¹ All four of the young men were juveniles at the time. Evidence adduced at trial showed that the license plates on the Jeep had been switched. The tags belonged to a van registered in East Baltimore, but the Jeep was registered with the MVA to Mr. Thomas.

² Because appellant was not convicted of the theft at Ardmore Avenue or the burglary at Northwind Road, *see infra*, we need not recite those events in detail.

An hour later, at approximately 1:30 p.m., a black Jeep was observed outside a residence on Northwind Road. The homeowner was not present at the time, but she called the police after she returned home at approximately 4:00 p.m. and found her home “ransacked.” She reported several stolen items, including an “old gaming system,” a candlestick holder, jewelry, coins, a bottle of wine, and some snacks.³

At approximately 1:50 p.m., Kristin Roller observed a black Jeep Wrangler parked on Linwen Way, and she saw a male individual that she did not recognize looking into one of the houses on the street. She took a picture of the Jeep with her cell phone and texted it to the homeowners, who were not home at the time, to ask if they were expecting any visitors. They immediately called her back, and she called 911 when she observed two additional individuals exit the rear of the Jeep.⁴

The three individuals proceeded to walk around the sides of the house looking into windows, while a fourth individual remained in the Jeep. Ms. Roller described them to the 911 dispatcher as “African American kids.” While she was waiting inside for the police to

³ A shattered wall clock in the foyer was frozen at 1:35 p.m., suggesting that this was the time when the burglary occurred. A neighbor testified that he observed someone wearing an orange shirt standing outside the home by a “dark colored” Jeep in the driveway.

⁴ Ms. Roller testified that one of the individuals was wearing a bright, orange sweatshirt, another was wearing a white T-shirt, and the third was wearing a black T-shirt. Police subsequently extracted from her cell phone pictures that she had taken of the three individuals and the Jeep. The State introduced some of these photos at trial.

arrive, she could see that they had entered the home. Ms. Roller called 911 again and witnessed the events described below from her window.⁵

At approximately 2:10 p.m., Officer Amy Caprio of the Baltimore County Police Department responded to Linwen Way. As she approached the Jeep, it drove away, but it soon returned to Linwen Way, which ended in a cul-de-sac. Officer Caprio positioned her squad car so it was partially blocking the exit to the cul-de-sac, and she got out of the car.

The Jeep turned around at the end of the cul-de-sac and drove toward her. As discussed in further detail, *infra*, Officer Caprio drew her service weapon as the car continued to approach, pointed it at the driver, and instructed him to stop and get out of the car. The Jeep stopped inches in front of her, and she again yelled at the driver to get out. The driver's door opened, and Officer Caprio stepped in front of the Jeep. The door to the Jeep closed slightly, and then the Jeep accelerated, struck Officer Caprio, and drove away. Officer Caprio fired one gunshot, which struck the front windshield of the Jeep.⁶

⁵ Ms. Roller called 911 three times; first to report the individuals out front, second to report that they were going around the sides of the house, and a third time to inform police that the individuals were inside the house.

⁶ The timing of Officer Caprio's gunshot is somewhat unclear from the evidence presented at trial. Detective Barton testified that stills from the body-worn camera footage showed gunpowder and smoke coming out of the gun after the Jeep accelerated towards her the second time but before she fell to the ground. Ms. Roller initially testified that she heard the gunshot and then saw the Jeep drive off, but she then testified that the two events occurred "simultaneously." On appeal, the State asserts that the body-worn camera footage showed that appellant accelerated and struck her before she discharged her firearm. Appellant, however, contends that the gunshot was fired prior to accelerating. The resolution of this factual dispute does not affect the issues presented to us on appeal.

Bystanders, including Ms. Roller, rushed to the scene and attempted to administer first aid. Paramedics transported Officer Caprio to the hospital, where she was pronounced dead.

Christopher Squires was sitting on his patio a short distance from Linwen Way when he observed a Jeep traveling quickly down his quiet street. He saw the Jeep park behind a neighbor's car, and he observed the driver, a thin African American male wearing a black sweatshirt, exit the vehicle and quickly walk away. Although he was unaware of the events that had just taken place on Linwen Way, Mr. Squires notified the police because he could see that the back window of the Jeep was damaged, and he thought it was suspicious that someone would leave their car there without going into a house. He subsequently observed a bullet hole in the windshield on the driver's side.

Officer Michael Deremiek was en route to the scene at Linwen Way when he observed "a teenaged black male casually walking down the sidewalk." After arriving on the scene and hearing a description of the suspect from the neighbors, he suspected that the young man he passed on the street might have been involved. He went to look for the young man and saw him walking towards Belair Road and talking on a cell phone. Officer Deremiek got out of the car and began to approach him. He heard the young man, appellant, saying: "Where are you? Where are you?"

After some brief questioning, Officer Deremiek took appellant into custody. Officer Deremiek seized a "small black grocery bag" of loose change from appellant's person.

Police then brought Mr. Squires to appellant's location for a show-up, and Mr. Squires identified appellant as the young man he had seen leave the Jeep on his street.⁷

The police took appellant to headquarters, and at 3:30 p.m., they placed him in an interview room. The police seized two cell phones, which contained calls and messages from the other young men. One of the phones was registered to Mr. Ward, and appellant stated that he bought it from Mr. Ward because his phone was broken.

At approximately 6:30 p.m., appellant was read his rights and signed the *Miranda* waiver form. Detective Alvin Barton, a member of the County Homicide Unit, interviewed appellant. He did not attempt to contact appellant's parents prior to the interview. Appellant did ask to make a phone call, but he did not request the presence of a parent or an attorney, and he indicated that he understood each item on the *Miranda* waiver form as they were read to him.

⁷ James Kolb, a neighbor on a nearby street, was sitting on his front porch when he saw three young men, subsequently identified as Mr. Matthews, Mr. Ward, and Mr. Genius, peering into empty houses shortly after 2:00 p.m. The young men ultimately left his street without entering the homes, but Mr. Kolb proceeded to follow them in his car because he thought that they were suspicious. As he was driving, Mr. Kolb also observed appellant walking down the road, but he did not make a connection between the three young men and appellant at the time. The young men subsequently were seen on surveillance cameras from various businesses at the Perry Hall Square shopping center off Belair Road. Detective Barton identified the young men on the surveillance videos as Mr. Matthews, Mr. Ward, and Mr. Genius.

The video showed the three individuals entering a taxicab. Police located the taxi driver, who testified that he picked up three young men at a Chinese restaurant in the shopping center and transported them to Frederick Douglas High School in Baltimore City. The driver further testified that one of the young men repeatedly attempted to call someone and told the others: "He's not answering the phone." One of the individuals threw what appeared to be a gun magazine out the window at some point during the ride.

Appellant told Detective Barton that he was 16 years old, he lived with his mother and sister in Baltimore City, and he was in ninth grade at Francis M. Wood High School. He said that he had spent the previous night at Mr. Ward's house in East Baltimore and went to Baltimore County at approximately 8:30 a.m. that morning to visit his girlfriend. He remained at her house for "an hour or two," and he was walking down the street toward the 7-11 to call his cousin for a ride home when he was picked up by the police.

Appellant initially claimed that he did not know anything about the Jeep. He then stated that, while he was walking, he saw the Jeep parked near where he was stopped by police. It was running, so he briefly got into the car, but he then noticed that the back windshield was broken, and realizing it may have been stolen, he got out of the vehicle.

Appellant then changed his story. He told Detective Barton that he was with Mr. Ward and a mutual friend named Ke'andre at Mr. Ward's house that morning. Mr. Ward left and came back with the Jeep and called for them to get in. Appellant declined and instead took the city bus with Ke'andre to Patterson High School.

After Ke'andre went into the school, appellant took the bus to a gas station on Orleans Street, where he was approached again by Mr. Ward, who was in the Jeep with his friend, Mr. Genius. Mr. Ward again asked appellant if he wanted to get into the car. Appellant stated that he was skeptical at first, but Mr. Ward said that "his people's had gave it to him," so appellant did not question it further and got in the car. When they

stopped at another station for gas, Mr. Ward's friend Derrick Matthews joined them in the Jeep, and the four young men drove north to Baltimore County.⁸

The young men eventually pulled up to a house. The others got out, but appellant remained in the car. The other individuals were gone for 10 to 15 minutes, and appellant was unsure what they were doing, but he knew they were doing something that they were not "suppose[d] to be doing." When they returned to the Jeep, Mr. Genius was carrying a brown cardboard box containing alcohol bottles, and Mr. Matthews had a "little green bag." The young men also had taken a "little black bag" containing loose change.

Appellant stated that Mr. Matthews then drove the Jeep to another gas station approximately 10 minutes away and put gas in the car. The young men, with Mr. Genius driving, then went to a second house on Linwen Way. Mr. Genius and Mr. Matthews got out, and Mr. Ward and appellant remained in the car.⁹ The Jeep's engine was turned off, but the key was in the ignition and the battery was on so he and Mr. Ward could listen to the radio. Appellant told Detective Barton that he then told Mr. Ward: "Let's go back this time, because I don't feel safe around here. . . . I don't even know what ya'll doing. Ya'll just getting out and getting back in." He stated: "If anything happened, we all could get

⁸ Appellant stated that he had only met Mr. Genius and Mr. Matthews once prior to these events, and they were friends of Mr. Ward. Appellant provided a description and photo identification of all three of these individuals during his interview with Detective Barton.

⁹ Appellant stated that he stayed in the car when they stopped at both houses and did not go inside either house. The forensic evidence supported appellant's statement that he did not physically enter either burglarized home.

locked up for something.” Mr. Ward responded that he was not going to do anything “dumb” to get himself “locked up.”

Mr. Genius eventually came back to the car and got Mr. Ward, leaving appellant alone in the Jeep. While the other individuals were in the house, appellant got out of the Jeep to stretch his legs, and when he got back inside on the front passenger side, he hopped over the center console into the driver’s seat and reclined the seat backwards so that he could not be seen.

At some point while he was waiting, appellant stuck his head up and saw a Baltimore County Police car approaching him. When the police car pulled up alongside him, he started the Jeep and drove off. The police car followed him while he did a U-turn and returned to Linwen Way. He then observed a female police officer get out of the car and point a gun at him. Appellant described the following:

[APPELLANT:] [T]hat’s when I had put my head down and closed my eyes.

DETECTIVE: She’s saying something to you, right?

[APPELLANT:] Yeah.

DETECTIVE: What is she telling you?

[APPELLANT:] I couldn’t really hear her. I did hear, “Get out of the car.”

DETECTIVE: Okay. All right. Did you get out of the car at any point?

[APPELLANT:] No, I was too scared to get out.

DETECTIVE: Did you start to get out [of] the car?

[APPELLANT:] Yes, I did open the door.

DETECTIVE: All right. Then what happened?

[APPELLANT:] I was just too scared. I was paranoid, too paranoid, I didn't know what to do. I just did whatever came to my head, which to – at least, try to pull off.

DETECTIVE: Okay. But she's she's [sic] blocking the road though.

[APPELLANT:] Yeah, but not really blocked it, but kind of is.

DETECTIVE: Like, explain it to me, I'm trying to understand.

[APPELLANT:] When I went this way, the car is like this and I stop here so I had to go around and back.

DETECTIVE: You were gonna go around it?

[APPELLANT:] Yeah.

DETECTIVE: Okay. All right.

[APPELLANT:] The only reason I didn't hear what she was saying because it was music playing a little bit –

DETECTIVE: Okay. All right.

[APPELLANT:] – and all the windows was rolled up.

DETECTIVE: You heard her say, "Get out of the car." You heard part of what she said. She's got the road blocked, and had to maneuver to the right and then back around again to fit in the spot that she had left open?

[APPELLANT:] Yeah, but when I put my head down and closed my eyes, I didn't – I didn't move the wheel. Like, I just –

DETECTIVE: Well, you didn't do that in the beginning. I mean you would have driven around in the car at first with your eyes open, or you would have never made it.

[APPELLANT:] Correct, yeah.

DETECTIVE: Okay.

[APPELLANT:] All I did was –

DETECTIVE: Then she's in the way.

[APPELLANT:] All I did was – the car never got put back in park, it stayed in drive. So all I did was just put my head down because I had seen a gun that was pointed directly at me.

DETECTIVE: Okay.

[APPELLANT:] So, I had put my head down and I was just gripping the wheel – the steering wheel, but I didn't want to pull off or anything. I was just – I don't know, I was getting even scarer [sic], and I ain't know what to do at all.

DETECTIVE: Okay.

[APPELLANT:] So, I had pulled straight off.

DETECTIVE: Well, did you stop when you hit her?

[APPELLANT:] No, I didn't even know I hit her.

DETECTIVE: Well, you knew she was standing when you put your head down.

[APPELLANT:] Yeah, I knew she was standing there, but I didn't know I hit her.

DETECTIVE: That's when you hit the gas, you just put your head down and didn't look?

[APPELLANT:] No, I didn't look at anything. I was too scared to look, because I didn't know if I was gonna crash, hit the police car or hit the police, I didn't know if I was gonna get shot or not.

Appellant stated that, while the gun was pointed at him and the officer was instructing him to get out, he “didn't want anything bad to happen,” and he “just wanted to go home.” He further stated that, after he hit the gas pedal, he heard the gun go off and thought he had been shot. When he “hit the corner,” he did not know where to go, but he

did not feel safe there, so he kept driving and abandoned the Jeep on a nearby street and continued on foot.¹⁰ Appellant stated that he did not see the other three individuals again that day.¹¹

II.

Procedural History

On May 30, 2018, appellant was charged in the Circuit Court for Baltimore County with first-degree murder (count 1); with respect to Linwen Way, first-, third-, and fourth-degree burglary, conspiracy to commit first-degree burglary, and theft of at least \$1,500 but less than \$25,000 (counts 2 through 6); with respect to Northwind Road, first-, third-, and fourth-degree burglary, conspiracy to commit first-degree burglary, and theft of at least \$100 but less than \$1,500 (counts 7 through 11); with respect to Ardmore Avenue, fourth-degree burglary and theft under \$100 (counts 12 and 13); theft of at least \$1,500 but less than \$25,000 for the stolen Jeep Wrangler (count 14); theft under \$100 for a stolen license plate (count 15); and related firearms charges (counts 16 through 19).

A jury trial commenced on April 22, 2019, and it continued for eight days. In addition to witness testimony discussed *supra*, a crime scene technician for the State testified that the following items were recovered from the abandoned Jeep: clothing, a

¹⁰ The key to the Jeep was discovered on appellant's person during the interview with Detective Barton.

¹¹ Mr. Ward, Mr. Genius, and Mr. Matthews were taken into custody the following day. The record on appeal does not reflect their charges, but appellant proffered in his brief that those three young men pled guilty to felony murder and were given life sentences with all but 30 years suspended.

cardboard box of electronics (including a Nintendo game system and 12 games), coins, a school folder labeled “Eugene Genius,” alcohol bottles, and a package addressed to the home on Ardmore Avenue.¹²

The owner of the home on Linwen Way testified that a brick had been thrown through the glass door in the rear of his home. Approximately \$3,370 worth of items were stolen, including an X-box, an Amazon Echo Dot, an Amazon Firestick, a laptop, two iPads, an Apple Watch, a backpack, and a handgun and two magazines.

Denise Wallace, a fingerprint examiner, testified that she collected fingerprint samples from all four young men and compared them to the prints lifted from various locations and items relevant to the burglaries. Fingerprints from Mr. Matthews, Mr. Ward, and Mr. Genius were found inside the Linwen Way house. Appellant’s prints were not found inside the home. Appellant’s prints were present, however, inside the Jeep on the front driver’s side door and on one of the Nintendo games taken from Northwind Road. The prints from the other young men also were found in the Jeep.

Mr. Ward was wearing a GPS bracelet monitored by the Department of Juvenile Services on the day in question. An expert testified that, based on the GPS data, Mr. Ward was present at Ardmore Avenue, Northwind Road, and Linwen Way around the time of the burglaries on May 21, 2018. Cell phone location data from the phones of Mr. Ward, Mr. Genius, and Mr. Matthews corroborated their presence at these locations.

¹² The recovered clothing included a distinctive striped jacket that matched the one worn by Mr. Genius in surveillance video from the gas station and the door camera at Ardmore Avenue.

The video captured by Officer Caprio's body-worn camera at the time of the incident was played for the jury and entered into evidence as State's Exhibit 27A. The video showed that, at 2:11 p.m., Officer Caprio's body-worn camera was activated as she turned onto Linwen Way. She followed the Jeep, and just before the circle at the end of the cul-de-sac, she stopped her car and got out. Officer Caprio positioned herself in the road adjacent to the left side of her squad car and in the direct path of the Jeep.

As the Jeep turned around at the end of the cul-de-sac and continued to drive toward her, Officer Caprio drew her service weapon and pointed it toward the driver and repeatedly yelled "stop." As the Jeep approached, she took a few steps backwards, and the Jeep stopped an arm's length in front of her. In the video, Officer Caprio is heard yelling: "Stop, stop. Get out of the car. 10-3. Get out of the car. Get out of the car right now. Get out of the fucking car. Get out of the car. Get out[.]" As she gave this instruction, she moved laterally toward the back end of her squad car so that she was no longer squarely in front of the Jeep. The driver's side door to the Jeep then opened, but no one got out. As the door opened, she moved back toward the center of Jeep.¹³

The video then shows the car advancing toward her, the body-worn camera falling to the pavement, and voices of bystanders calling for help and attempting to render aid. One bystander said: "That guy just ran her over." The video shows the Jeep leaving the

¹³ Detective Barton testified that Officer Caprio likely stepped back in front of the Jeep to provide herself cover from the individual that appeared to be exiting the vehicle as the door opened.

scene with the driver's side door still open. The driver of the vehicle is not visible at any point during the video.

The medical examiner testified that Officer Caprio's cause of death was multiple injuries, including numerous fractured ribs, extensive lacerations of the liver, and hemorrhaging in various locations. These injuries were consistent with "being run over by a vehicle." The manner of death was ruled a homicide.

Detective Barton testified regarding the investigation and his interview with appellant on the evening of the arrest. The video of that interview, which included appellant's confession, discussed *supra*, was entered into evidence as State's Exhibit 67 and played for the jury. On cross-examination, Detective Barton acknowledged that there was no indication from his investigation that appellant planned the two burglaries or the package theft, or that appellant drove the Jeep prior to his encounter with Officer Caprio. Additionally, there was no evidence that appellant had stolen the Jeep from Mr. Thomas.

In closing argument, the State argued that the case against appellant on the burglary charges was based on his knowledge, complicity, and aid of the actions of the other young men, either as a primary actor or, at the very least, as an accomplice. In that regard, the prosecutor highlighted that appellant's fingerprints were found on some of the stolen items, and he was arrested with stolen change in his pockets.

With respect to the first-degree felony murder charge, the State noted that it did not have to prove an intent to kill. Rather, it had to prove only that Officer Caprio was killed during the course of the burglary.

Addressing the theft charge for the Jeep, the State argued that appellant “willfully and knowingly obtained and exerted unauthorize[d] control” over stolen property by “driving [the Jeep] from location to location.” In support of its arguments, the State re-played numerous portions of the interview video.

On May 1, 2019, the jury found appellant guilty of first-degree felony murder, first-degree burglary of the home on Linwen Way, and theft of the Jeep. On August 21, 2019, the court sentenced appellant to life in prison with the possibility of parole on the conviction of first-degree felony murder, 20 years (concurrent) on the conviction for first-degree burglary, and five years (concurrent) for theft.¹⁴

This appeal followed.

DISCUSSION

I.

Preemption

Appellant contends that his conviction for felony murder should be vacated because the “misdemeanor manslaughter by automobile statute,” Md. Code Ann., Criminal Law Article (“CR”) § 2-209 (2012 Repl. Vol.), “preempts all unintended homicides committed by motor vehicle.” In support, appellant cites *State v. Gibson*, 4 Md. App. 236, *aff’d*, 254 Md. 399 (1969), where this Court held that the manslaughter by vehicle statute preempted the common law offense of misdemeanor manslaughter by operation of a motor vehicle, and *all* unintended homicides resulting from the use of a vehicle, and *Blackwell v. State*,

¹⁴ The court noted that it would recommend that appellant be allowed to participate in the “Youthful Offender’s Program” at the Patuxent Institute.

34 Md. App. 547, *cert. denied*, 280 Md. 728 (1977), in which we held that the manslaughter by vehicle statute preempted second-degree murder when the killing was the unintended result of the operation of a motor vehicle. Appellant urges this Court to “extend the holdings of *Gibson* and *Blackwell* to the common law offense of felony murder by continuing to find that the statutory preemption applies to *all* unintended homicides resulting from the operation of a motor vehicle.”

Appellant did not argue below that he could not be convicted of felony murder because he could be prosecuted only for a violation of the misdemeanor manslaughter statute. He argues, however, that the issue is preserved for appellate review because it involves a challenge to the court’s subject matter jurisdiction, which may be raised for the first time on appeal. Alternatively, he requests this Court to review the issue under the doctrine of plain error.

The State makes several arguments in support of its contention that appellant’s conviction of felony murder should be affirmed. Initially, it argues that, because the issue was not raised below, it is not preserved for this Court’s review. Moreover, it argues that the common law felony murder doctrine was not preempted by the enactment of the manslaughter by vehicle statute for three reasons.

First, it asserts that the statute deals with the subject of “unintentional homicides” by motor vehicle. It argues that, because felony murder can occur whether death was intended or not, “felony murder does not fall within the ‘subject matter’ of ‘unintended homicides’” contemplated by the statute.

Second, the State argues that the rationale for this Court’s decision in *Gibson*, 4 Md. App. at 246–47, interpreting the manslaughter by vehicle statute as preempting common law manslaughter was to prevent a “nonsensical incongruity” where a prosecutor could choose to charge a person with the common law felony of manslaughter, with a ten-year penalty, or the statutory misdemeanor, with a three-year penalty, even where the proof to justify conviction was the same. It contends that there is no such incongruity with felony murder, which is intended to deter individuals from engaging in a felony, and the manslaughter by vehicle statute, which “contemplates punishment only for the act of dangerous driving.”

Third, the State asserts that this Court must presume that the General Assembly did not intend to preempt the common law felony murder doctrine absent a clear legislative intent to do so, and there was no evidence of such intent here. Moreover, the State notes the illogical result that would occur in this case if appellant’s position was accepted. Where the three co-defendants pled guilty to felony murder, it would not make sense that appellant, the one who directly caused the victim’s death, would avoid a murder conviction.

Finally, the State contends that, even if this Court accepts appellant’s argument that the manslaughter by vehicle statute preempted the common law felony murder doctrine where the killing was unintentional, there was no preemption here because there was evidence that appellant intended to run over Officer Caprio. Accordingly, the State argues that it could prosecute and convict appellant of felony murder.

We first address the State’s argument that the issue of preemption is not preserved for appellate review because it was not raised in the circuit court. Generally, an appellate

court will not address an issue not raised in or decided by the trial court. *Lane v. State*, 348 Md. 272, 278 (1997). *Accord* Md. Rule 8-131(a). One exception to this general rule of preservation, however, applies where the challenge is to the circuit court’s subject matter jurisdiction. Such a challenge may be brought at any time, even if it was not raised at trial, because “where no cognizable crime is charged, the court lacks fundamental subject matter jurisdiction to render a judgment of conviction, i.e., it is powerless in such circumstances to inquire into the facts, to apply the law, and to declare the punishment for an offense.” *Williams v. State*, 302 Md. 787, 791–92 (1985). *Accord Lane*, 348 Md. at 278 (reviewing question of whether second-degree rape of a spouse was a crime because “a court may not validly enter a conviction on a charge that does not constitute a crime and . . . the deficiency in any such judgment is jurisdictional in nature”).

In this case, appellant does not argue that first-degree felony murder is not a cognizable crime. It clearly is a cognizable crime, and appellant’s reliance on subject matter jurisdiction as a basis to excuse his failure to raise the issue below is misplaced.

We conclude, however, that the issue is properly before this Court for a different reason. If appellant’s contention is correct, and the manslaughter by automobile statute preempted a charge of felony murder when the homicide was committed by motor vehicle, then appellant’s argument that he should not have been charged, convicted, or sentenced for the conviction of felony murder could be construed as an argument that he was given an illegal sentence. *See Roary v. State*, 385 Md. 217, 225–26 (2005), *overruled on other grounds by State v. Jones*, 451 Md. 680, 704 (2017) (A “sentence imposed under an entirely inapplicable statute is an illegal sentence which may be challenged at any time.”). *Accord*

Fisher v. State, 367 Md. 218, 239–40 (2011) (reviewing claim that felony murder doctrine is inapplicable to a homicide resulting from child abuse because, if true, the sentence imposed on the felony murder conviction would be an illegal sentence); *Moosavi v. State*, 355 Md. 651, 662 (1999) (“[W]here a defendant has been charged and convicted under an entirely inapplicable statute, but has not raised the issue on appeal, this Court has reviewed the issue on the theory that the resulting sentence under the inapplicable statute is an illegal sentence which may be challenged at any time.”). Accordingly, we will consider this issue, even though it was not raised below.

Appellant argues that the manslaughter by vehicle statute, now codified as CR § 2-209, preempts a charge of felony murder when a motor vehicle is involved.¹⁵ In support, he relies on *Gibson* and *Blackwell*, *supra*.

In *Gibson*, 4 Md. App. at 238–40, this Court addressed whether the manslaughter by automobile statute (codified at the time as § 388 of Article 27 of the Maryland Code (1967 Repl. Vol.)) preempted the common law manslaughter offenses with which the

¹⁵ CR § 2-209 provides, in pertinent part:

(a) In this section, “vehicle” includes a motor vehicle, streetcar, locomotive, engine, and train.

(b) A person may not cause the death of another as a result of the person’s driving, operating, or controlling a vehicle or vessel in a grossly negligent manner.

(c) A violation of this section is manslaughter by vehicle or vessel.

(d)(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

defendant was charged after he killed a woman while drunk driving. We answered that question in the affirmative, explaining as follows:

We believe that the Legislature in enacting Section 388 to punish persons who cause the death of another ‘as the result of the driving, operation or control of an automobile [. . .] in a grossly negligent manner,’ **intended to treat all unintended homicides thereby resulting in the same way**, without regard to whether the homicide occurred in the course of doing a lawful or an unlawful act, or whether such act was malum in se or merely malum prohibitum. To otherwise conclude would be to attribute an intention to the Legislature to permit the prosecution of offenders either for the felony of common law manslaughter, with its ten-year penalty, or for the statutory misdemeanor of manslaughter by automobile, with its three-year penalty, even though, where the prosecution is based upon gross negligence, the proof necessary to justify a conviction in either case would be precisely the same (a wanton or reckless disregard to human life). . . . We conclude, therefore, that in enacting Section 388, **the Legislature intended to deal with an entire subject matter[—]unintended homicides resulting from the operation of a motor vehicle[—]**and that the common law crime of involuntary manslaughter, when based on homicides so occurring, is in conflict with the statute and must yield to it to the extent of the inconsistency.

Id. at 246–47 (emphasis added). The Court went on to state, however, that the manslaughter by automobile statute did not “abrogate the crime of manslaughter in those cases where the killing was accomplished by intentionally running over the victim in an automobile.” *Id.* at 248 n.5.

In *Blackwell*, 34 Md. App. at 555, this Court extended *Gibson*’s preemption principle to apply to second-degree murder involving a motor vehicle. In that case, Blackwell killed a cyclist while driving drunk, and he was convicted of second-degree murder. *Id.* at 549. On appeal, this Court noted its prior holding in *Gibson* that, “in enacting the manslaughter by automobile statute, the legislature intended to preempt the

subject matter of unintended homicides resulting from the operation of a motor vehicle.”

Id. at 554 (citation omitted). We then stated:

In the absence of evidence of intentional homicide, we hold that the statutory preemption applies as well to second degree murder as it did in [*Gibson*] to manslaughter. We hasten to add on the other hand, that under proper circumstances where the resultant death was intended, a conviction for murder may result, notwithstanding the use of an automobile as the instrumentality of death.

Id. at 555.

Appellant urges this Court to extend the preemption principle to felony murder when it is committed using a motor vehicle. As noted, the cases to which appellant cites found preemption in situations involving “unintended homicides resulting from the operation of a motor vehicle.” *Blackwell*, 34 Md. App. at 554; *Gibson*, 4 Md. App. at 247. Felony murder, however, is not an unintended homicide.

To be sure, intent to kill is not a required element of felony murder. *See State v. Allen*, 387 Md. 389, 398 (2005) (“[T]he State need not prove that the defendant intended to commit murder, it must establish that the defendant intended to commit the predicate felony.”); *Whittlesey v. State*, 326 Md. 502, 520–21 (“[A]n intent to kill is not a necessary element” of felony murder.), *cert. denied*, 506 U.S. 894 (1992); *Newton v. State*, 280 Md. 260, 272 (1977) (“Once the State proves a killing during an enumerated felony, the offense of first degree murder is necessarily established, regardless of any evidence relative to wilfulness, deliberation and premeditation.”). For a homicide to constitute murder, however, the homicide must be committed with malice, a mental state that includes an intent to do the “death-producing act in the course of the commission, or attempted

commission, of a felony.” *Selby v. State*, 76 Md. App. 201, 210 (1988), *aff’d*, 319 Md. 174 (1990). A person acting with this intent is guilty of felony murder. *Id.*

The Court of Appeals has explained that, under the felony-murder rule, “the malice involved in the underlying felony is permitted to stand in the place of the malice that would otherwise be required with respect to the killing.” *Allen*, 387 Md. at 402. *Accord* Charles E. Moylan, Jr., *Criminal Homicide Law* § 5.1 (2002). Felony murder is not, therefore, within the scope of unintended homicides. Accordingly, felony murder is not preempted by the manslaughter by automobile statute when the homicide involves a motor vehicle.

Moreover, we note that, although appellant argues that the killing here was unintentional, the jury in this case was not asked to, and it did not specify, whether it found an unintentional homicide. The State argued, and the facts would have permitted a finding, that appellant intended to run over Officer Caprio when he hit the gas while she was standing in front of the car. Accordingly, we reject appellant’s argument that his felony murder conviction should be vacated because the manslaughter by vehicle statute (CR § 2-209) preempted his felony murder conviction.

II.

Jury Instruction

Appellant’s next contention pertains to a requested jury instruction regarding parental notification when juveniles are in police custody. At trial, Detective Barton testified that he did not attempt to contact appellant’s parents after appellant was taken into custody and prior to the interview. At the conclusion of all evidence, appellant’s trial counsel requested a jury instruction tracking language in Md. Code Ann., Courts & Judicial

Proceedings Article (“CJ”) § 3-8A-14(b) (2013 Repl. Vol), which provides that, “[i]f a law enforcement officer takes a child into custody, the officer shall immediately notify, or cause to be notified, the child’s parents, guardian, or custodian of the action.” Counsel argued that an instruction tracking this statute was necessary because it went to the voluntariness of appellant’s statements to Detective Barton during the interview.¹⁶

The State argued that the instruction was not necessary because Maryland Pattern Jury Instruction (“MPJI-CR”) 3:18 discussed all the factors the jury needed to consider to determine whether a statement was voluntary. It asserted that the statute cited by appellant “merely says the police should contact the parent,” and “it has nothing to do with state of mind of [appellant] or coercion.”

The circuit court denied appellant’s request for an additional instruction. It stated that MPJI-CR 3:18 “sufficiently quantified the issues in this case” with regard to appellant’s statements to police. It then instructed the jury consistent with that pattern instruction, as follows:

You’ve heard evidence that the defendant made a statement to the police about the crime charged.

The State must prove beyond a reasonable doubt that the statement was voluntarily made. A voluntary statement is one that under all circumstances was given freely. To be voluntary, a statement must not have been compelled or obtained as a result of any force, promise, threat, inducement or offer of reward. If you decide that the police used force, a threat, promise or inducement in obtaining Defendant’s statement, then you must find that the statement was involuntary and disregard it, unless the State has proven beyond a reasonable doubt that the force, threat, promise or

¹⁶ Appellant’s trial counsel proffered that he had suggested language for the requested special instruction, but he could not immediately locate it. He then stated that he wanted the language from CJ § 3-814.

inducement did not in any way cause the Defendant to make the statement. If you do not exclude the statement for one of these reasons, you then must decide whether it was voluntary under the circumstances.

In deciding whether the statement was voluntary, consider all of the circumstances surrounding the statement, including the conversations, if any, between the police and the Defendant; whether the Defendant was advised of his rights; the length of time that the Defendant was questioned; who was present; the mental and physical condition of the Defendant; whether the Defendant was subjected to force or threat of force by the police; age, background, experience, education, character, and intelligence of the Defendant; and any other circumstances surrounding the taking of the statement.

If you find beyond a reasonable doubt that the statement was voluntary, then you must give it such weight as you believe it deserves. If you do not find beyond a reasonable doubt that the statement was voluntary, you must disregard it.

See MPJI-CR 3:18.

On appeal, appellant contends that the circuit court “abused its discretion by failing to instruct the jury that it may consider whether there was a denial of a parent at the juvenile’s interrogation in determining whether [appellant’s] statement to the police was voluntary.” He asserts that the failure to so instruct deprived him “of due process and protection against self-incrimination pursuant to the Fifth and Fourteenth Amendments of the United States Constitution and Articles 22 and 24 of the Maryland Declaration of Rights.” He argues that the requested instruction was a correct statement of law, and it was not properly covered by the instruction provided because, although it instructed the jury to consider who was present in the interrogation, it did not inform the jury that it may consider “who was *not* present.” Appellant further contends that the requested instruction was

“factually generated by ‘some evidence’” because Detective Barton testified that he did not inform appellant of his right to contact a parent.

The State contends that this issue is not preserved for review. In any event, it argues that the circuit court properly denied appellant’s request for the special instruction.

We begin with the State’s preservation argument. Initially, the State notes that CJ § 3-814, the statute cited below and on appeal, does not contain language regarding notification of parents, and it is inapplicable here because it refers solely to Child in Need of Assistance (“CINA”) cases, not criminal cases. It asserts that the statute to which appellant seems to be referring is an older version of CJ § 3-814, which was renumbered to CJ § 3-8A-14 in 2001. *See* 2001 Md. Laws, Ch. 415. Because appellant cited, both at trial and in his brief on appeal, the wrong statute, the State asserts that appellant’s argument is technically unpreserved for review. *See In re Kaleb K.*, 390 Md. 502, 512 (2006) (Argument unpreserved because defense cited the wrong statute.).

We are not persuaded. Appellant’s counsel merely miscited the statutory provision number. Because the substantive issue was raised and considered by the circuit court, we will not treat this misstatement as a failure to preserve the issue.

The State further argues, however, that the issue is not preserved for review because the argument advanced on appeal, that the court erred in failing to give an instruction that the jury could consider that appellant was denied access to a parent, was not made below. We agree.

“Ordinarily, the appellate court will not decide any . . . issue unless it plainly appears by the record to have been raised in or decided by the trial court.” Md. Rule 8-131(a).

Accord Alston v. State, 414 Md. 92, 110–12 (2010) (Argument regarding jury instructions was waived because it was not requested below.); *Pitts v. State*, 250 Md. App. 496, 528 (2021) (Appellant who never requested jury instruction could not argue on appeal that the court should have given the instruction.).

Here, appellant argued in the circuit court that the court should instruct the jury that the police are required to notify parents when a juvenile is taken into custody. That is different from an instruction advising that the jury could consider, in assessing voluntariness of a statement, that a juvenile was *denied* access to a parent prior to making the statement. Accordingly, this issue is not preserved for review.

Even if the issue was preserved for review, we would conclude that it was without merit. A trial court’s decision whether to give a jury instruction “will not be disturbed except on a clear showing of an abuse of discretion, that is, discretion manifestly unreasonable or exercised on untenable grounds, or for untenable reasons.” *State v. Sayles*, 472 Md. 207, 230 (2021). Appellant has not made such a showing here.

A trial court is required to give a specific instruction when “(1) the instruction is a correct statement of law; (2) the requested instruction is applicable under the facts of the case; and (3) the content of the requested instruction was not fairly covered elsewhere in jury instructions actually given.” *Wright v. State*, __ Md. __, No. 40, Sept. Term 2020, slip op. at 14 (filed July 13, 2021) (quoting *Thompson v. State*, 393 Md. 291, 302 (2006)). An instruction regarding the duty to contact a parent set forth in CJ § 3-8A-14(b) did not meet those requirements because it is not applicable under the facts of this case.

CJ § 3-8A-14(b), which addresses children who are not CINAs, provides as follows:

If a law enforcement officer takes a child into custody, the officer shall immediately notify, or cause to be notified, the child's parents, guardian, or custodian of the action. After making every reasonable effort to give notice, the law enforcement officer shall with all reasonable speed:

(1) Release the child to the child's parents, guardian, or custodian or to any other person designated by the court, upon their written promise to bring the child before the court when requested by the court, and such security for the child's appearance as the court may reasonably require, unless the child's placement in detention or shelter care is permitted and appears required by § 3-8A-15 of this subtitle; or

(2) Deliver the child to the court or a place of detention or shelter care designated by the court.

In *Jones v. State*, 311 Md. 398, 400 (1988), the Court of Appeals addressed whether CJ § 3-8A-14(b)'s parental notification requirement (codified at the time at CJ § 3-814(b)) applied to a juvenile arrested and charged with first-degree murder.¹⁷ Mr. Jones argued that the plain language and legislative intent of the provision was applied to all juveniles taken into custody. *Id.* at 403–04. In rejecting this argument, the Court stated as follows:

Jones's reading of [§ 3-8A-14] simply cannot be harmonized with its immediate context, for it creates a strained and illogical transition from the first sentence of [§ 3-8A-14(b)] to the second. The second sentence provides for the release of the child to its "parents, guardian, or custodian or to any other person designated by the court" or, alternatively, for delivery of the child "to the court or a place of detention or shelter care designated by the court." We think it plain that the legislature, in enacting [§ 3-8A-14], did not intend to require the release of a juvenile to the child's parent or guardian when, as here, the crimes charged—first degree murder and armed robbery—were both beyond the jurisdiction of the juvenile court. There can be no doubt that the statutory reference to "the court" means the juvenile court; the "court" is so defined in [CJ § 3-8A-01(j)] and is consistently used with this meaning throughout [§ 3-8A-14]. . . .

¹⁷ As indicated, in 2001, CJ § 3-814 was recodified as CJ § 3-8A-14 without substantive change. 2001 Md. Laws, Ch. 415.

Nor can Jones’s interpretation of [§ 3-8A-14(b)] be harmonized with the purposes of the Juvenile Causes Act as a whole. Although the special protections thereby afforded to children are not in express terms limited to children within the jurisdiction of the juvenile court, it is clear the legislature did not intend to extend these protections to all children. [CJ § 3-8A-02(a)] states: “The purposes of this subtitle are: [(4)] To provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this subtitle. . . .” Manifestly, therefore, some children were excluded from the protective ambit of the Act. Who these children would be, if not those expressly removed from juvenile court jurisdiction . . . , is opaque at best. We think a more natural interpretation of [§ 3-8A-02(a)(4)] would find in it a recognition by the legislature that some children are not in a position to benefit from the Act’s special treatment, and that among these children are those, as here, expressly removed from juvenile court jurisdiction. Thus, to extend the parental notification requirements of [§ 3-8A-14(b)] to an individual charged with offenses beyond the juvenile court’s jurisdiction would be inconsistent with the stated purposes of the Juvenile Causes Act.

* * *

As [§ 3-8A-14(b)] has no application in this case, noncompliance with its provisions had no direct bearing on the validity of Jones’s *Miranda* waiver or the traditional voluntariness of his ensuing confession. The purpose of [§ 3-8A-14(b)] is to protect the child from unnecessary separation from a parent or guardian.

Id. at 405–07.

Here, as in *Jones*, CJ § 3-8A-14(b) did not apply because appellant was charged with offenses beyond the juvenile court’s jurisdiction. Appellant, who was 16 years old at the time of the crime, was charged with felony murder, which carries a sentence of life imprisonment. *See* CR § 2-201(b)(1). CJ § 3-8A-03(d)(1) provides that a juvenile court does not have jurisdiction over “[a] child at least 14 years old alleged to have done an act that, if committed by an adult, would be a crime punishable by life imprisonment, as well as all other charges against the child arising out of the same incident[.]” The court did not

abuse its discretion in declining to provide a jury instruction on this inapplicable statutory provision.¹⁸

III.

Life Sentences for Juveniles

Appellant next contends that the circuit court erred in automatically sentencing him to a life sentence “without proper consideration of his youth and all of its attendant circumstances and the penological justification for imposing such a sentence” on a juvenile convicted of felony murder. Appellant points to the developmental and cognitive differences between juveniles and adults, which he asserts establishes the “diminished culpability of a juvenile offender,” and he argues that a life sentence, imposed without considering those factors, is “unconstitutionally cruel and unusual punishment,” in violation of the Eighth Amendment of the U.S. Constitution and Articles 16 and 25 of the Maryland Declaration of Rights.

¹⁸ Moreover, MPJI-CR 3:18, the instruction provided to the jury, “fairly covered” appellant’s concern about the lack of parental notification and involvement in the interview on the voluntariness of his confession. *See* Md. Rule 4-325(c). That instruction directed the jury to consider “who was present” when the statement was made, “the mental and physical condition of the defendant,” the “age, background, experience, education, character, and intelligence of the defendant,” and “any other circumstances surrounding the taking of the statement.” MPJI-CR 3:18. Accordingly, the instruction “provided ample guidance for the jury” to consider the presence, or lack thereof, of a parent when determining the voluntariness of appellant’s interview statements. *See Dickey v. State*, 404 Md. 187, 203–04 (2008) (Defendant was not entitled to jury instruction that testimony by a witness who uses drugs must be examined with greater scrutiny than other witnesses because the provided instructions on the consideration of the witness’ perception, memory, and state of mind, coupled with his testimony regarding his drug use, “provided ample guidance for the jury to make credibility assessments.”).

Appellant further contends that a life sentence is particularly unjust for a juvenile convicted of felony murder because the crime relies on transferred intent and is premised on the idea that someone committing a dangerous felony should understand the risk that someone could be killed, but juveniles lack the ability to fully consider the consequences of their actions. As a result, he argues that an automatic life sentence is “grossly disproportionate” for a juvenile convicted of felony murder, and he urges this Court to join the “national shift in the applicability of the felony murder rule” with respect to juveniles.

The State contends that the sentencing court did not err in imposing a life sentence with the possibility of parole for felony murder. It acknowledges that the Supreme Court has held that the imposition of a mandatory sentence of life *without* parole, without consideration of the characteristics of juveniles, violates the Eighth Amendment’s prohibition on “cruel and unusual punishments.” Appellant, however, did not receive a sentence of life *without* parole, but rather, he received a sentence of life *with* the possibility of parole.

The State argues that this Court, in *Hartless v. State*, 241 Md. App. 77, 87–92, *cert. granted*, 465 Md. 644 (2019), and *appeal dismissed*, __Md.__ (2021), rejected the argument that an individualized sentencing process was required if the life sentence included the possibility of parole. In any event, the State argues that the sentencing court in this case considered appellant’s youth and its attendant circumstances before imposing sentence.

The State further argues that Harris’s life sentence for felony murder is “not grossly disproportionate, either generally or as applied to him.” It notes that a significant factor in

the proportionality analysis is the seriousness of the conduct involved, and appellant's actions here, driving over a police officer standing in front of his vehicle to flee the scene of a burglary, was "extremely serious." The State further challenges appellant's assertion that there is a "national consensus" against convicting juveniles of felony murder and imposing life sentences, and it contends that changes to the felony murder doctrine are best left to the legislature.

The Eighth Amendment to the United States Constitution prohibits the imposition of "cruel and unusual punishments." U.S. Const. amend. VIII. Similarly, Article 25 of the Maryland Declaration of Rights prohibits the courts from imposing "cruel or unusual punishment," and Article 16 of the Maryland Declaration of Rights provides "[t]hat sanguinary Laws ought to be avoided as far as it is consistent with the safety of the State; and no Law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time, hereafter."¹⁹

The issue of what constitutes cruel and unusual punishment in the context of juvenile offenders has been the subject of much litigation. Before addressing appellant's specific claims, we will discuss that precedent.

¹⁹ Article 16 and 25 generally are given the same interpretation as the Eighth Amendment, *Miles v. State*, 435 Md. 540, 552–55 (2013) (regarding Art. 16); and *Thomas v. State*, 333 Md. 84, 103 n.5 (1993) (regarding Art. 25), but appellant has not offered any argument that the protections afforded by the Maryland Declaration of Rights are different or greater, so we analyze solely on the basis of the Eighth Amendment.

A.

United States Supreme Court Precedent

In the past two decades, “the [United States] Supreme Court has issued a series of decisions in which it held that the Eighth Amendment to the federal Constitution places limits on the sentencing of juvenile offenders that do not apply to the sentencing of adult offenders.” *Carter v. State*, 461 Md. 295, 308 (2018). These cases, although distinguishable from this case, form the basis for the issues presented by appellant.

In *Roper v. Simmons*, 543 U.S. 551, 572–73 (2005), the Supreme Court held that the Eighth Amendment’s cruel and unusual punishments clause prohibits the imposition of the death penalty to an offender who committed a crime while he or she was a juvenile. The Court noted, as appellant does here, various characteristics that distinguish juvenile offenders from adult offenders, such as a “lack of maturity and an underdeveloped sense of responsibility” resulting in “impetuous and ill-considered actions and decisions,” that juveniles are “more vulnerable or susceptible to negative influences and outside pressures” due, in part, to juveniles having less control over their own environments, and the “character of a juvenile is not as well formed as that of an adult,” in that “[t]he personality traits of juveniles are more transitory, less fixed.” *Id.* at 569–70. *Accord Carter*, 461 Md. at 309. As a result, the Court concluded that the differences between juveniles and adults “are too marked and well understood to risk allowing a youthful person to receive the death penalty despite insufficient culpability.” *Roper*, 543 U.S. at 572–73.

In *Graham v. Florida*, 560 U.S. 48, 75 (2010), the Supreme Court held that the “Eighth Amendment prohibits a State from imposing a life without parole sentence on a

juvenile nonhomicide offender.” As the Court of Appeals summarized in *Carter*, 461 Md. at 310–11:

The [Supreme] Court [in *Graham*] first considered whether there were “indicia of a national consensus” on the subject. After reviewing various statistics on state laws concerning juvenile sentencing and actual practice, the Court concluded that “life without parole sentences for juveniles convicted of nonhomicide crimes is as rare as other sentencing practices found to be cruel and unusual.” 560 U.S. at 66, 130 S.Ct. 2011. The Court then considered whether the challenged practice serves legitimate penological goals. The Court reiterated its analysis in *Roper* that juveniles have “lessened culpability” in comparison to adults. It also distinguished between homicide and non-homicide offenders, recognizing that “defendants who do not kill, intend to kill, or foresee that life will be taken are categorically less deserving of the most serious form of punishment than are murderers.” *Id.* at 69, 130 S.Ct. 2011. Accordingly, “when compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability.” *Id.* The Court also noted that life without parole is an “especially harsh” sentence for a juvenile defendant as it condemns the juvenile to a larger percentage of the individual’s life in prison than a much older individual who receives the same sentence. *Id.* at 70, 130 S.Ct. 2011.

The Court concluded that, although legislatures are not required to adopt any particular penological theory, no theory could justify a sentence of life without parole for a juvenile offender who had not committed murder. 560 U.S. at 71, 130 S.Ct. 2011. The Court considered the common purposes of sentencing schemes: retribution, deterrence, incapacitation, and rehabilitation. Retribution was insufficient because “the heart of the retribution rationale is that a criminal sentence must be directly related to the personal culpability of the criminal offender[.]” and that “the case for retribution is not as strong with a minor as with an adult.” *Id.* (internal citations and quotation marks omitted). Deterrence could not justify the sentence because the characteristics that make juveniles more likely to make bad decisions also make them less likely to consider the possibility of punishment, which is a prerequisite to a deterrent effect. *Id.* at 72, 130 S.Ct. 2011. Incapacitation could not support the sentence because of the difficulty in determining whether a juvenile defendant is incorrigible at the time of sentencing – *i.e.*, “to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.” *Id.* at 72–73, 130 S.Ct. 2011 (quoting *Roper*). Finally, rehabilitation could not justify the sentence because

it denies the prisoner the right to “reenter the community [based on] an irrevocable judgment about that person’s value and place in society.” *Id.* at 74, 130 S.Ct. 2011.

Importantly, the Court stressed that “[a] State is not required to guarantee eventual freedom” because some “who commit truly horrifying crimes as juveniles may turn out to be irredeemable, and thus deserving of incarceration for the duration of their lives.” 560 U.S. at 75, 130 S.Ct. 2011. However, a State must “give [juvenile] defendants . . . some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Id.* The Court did not purport to dictate how a [S]tate must provide that opportunity, stating that “[i]t is for the State, in the first instance, to explore the means and mechanisms for compliance.” *Id.*

Two years later, in *Miller v. Alabama*, 567 U.S. 460, 465 (2012), the Court expanded its reasoning to juveniles convicted of a homicide. It held that a “mandatory life without parole [sentence] for those under the age of 18 at the time of their crimes violates the Eighth Amendment’s prohibition on ‘cruel and unusual punishments.’” The Court did not categorically bar life sentences without parole for juveniles, but it held that “the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders.” *Id.* at 479. It held that a court was required to take “into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” *Id.* at 480.²⁰

²⁰ As the Court of Appeals explained in *Carter v. State*, 461 Md. 295, 312 (2018):

Miller was not simply an extension of *Graham*, but rather a synthesis of two distinct principles. The first principle is that “children are constitutionally different from adults for purposes of sentencing.” 567 U.S. at 471, 132 S.Ct. 2455. The second principle is that individualized sentencing is required before imposing harsh and immutable sentences. *Id.* at 475, 132 S.Ct. 2455. “[T]he confluence of these two lines of precedent leads to the conclusion that mandatory life-without-parole sentences for juveniles violate the Eighth Amendment.” *Id.* at 470, 132 S.Ct. 2455.

In *Montgomery v. Louisiana*, 577 U.S. 190, 208–09 (2016), the Supreme Court held that *Miller*'s limitations on life without parole for juvenile offenders applied retroactively. The Court noted that “[a] hearing where ‘youth and its attendant characteristics’ are considered as sentencing factors is necessary to separate those juveniles who may be sentenced to life without parole from those who may not.” *Id.* at 210. Trial courts were not, however, required “to make a finding of fact regarding a child’s incorrigibility.” *Id.* at 211.

Recently, in *Jones v. Mississippi*, 141 S.Ct. 1307, 1316, 1318 (2021), the Supreme Court explained that *Miller* “required a discretionary sentencing procedure” and

mandated “only that a sentencer follow a certain process—considering an offender’s youth and attendant characteristics—before imposing” a life-without-parole sentence. *Id.*, at 483, 132 S.Ct. 2455. In that process, the sentencer will consider the murderer’s “diminished culpability and heightened capacity for change.” *Id.*, at 479, 132 S.Ct. 2455. That sentencing procedure ensures that the sentencer affords individualized “consideration” to, among other things, the defendant’s “chronological age and its hallmark features.” *Id.*, at 477, 132 S.Ct. 2455.

The Court held that “an on-the-record sentencing explanation is not necessary to ensure that a sentencer considers a defendant’s youth” before imposing a sentence of life without parole on a juvenile. *Id.* at 1319.

Appellant relies on these cases in discussing the differences between juveniles and adults. These cases however, involved sentences of death or life *without* parole, whereas appellant received a sentence of life *with* the possibility of parole. The Supreme Court has never indicated that such a sentence in a homicide case would constitute cruel and unusual punishment. Indeed, it has said: “[I]n a case involving an individual who was under 18

when he or she committed a homicide, a State’s discretionary sentencing system is both constitutionally necessary and constitutionally sufficient.” *Id.* at 1313.

B.

Maryland Precedent

Maryland law provides that “[a] person who commits a murder in the first degree is guilty of a felony and on conviction shall be sentenced to imprisonment for life without the possibility of parole; or imprisonment for life.” CR § 2-201(b)(1). Accordingly, a first-degree murder conviction carries a mandatory life sentence. *State v. Crawley*, 455 Md. 52, 54 (2017) (“All forms of first degree murder carry a statutorily-mandated life sentence.”). The sentencing court, however, has the discretion to suspend any portion of the sentence if the suspended portion includes a period of probation. Md. Code Ann., Crim. Proc. Article (“CP”), § 6-222(a) (2018 Repl. Vol.).

In *Carter*, 461 Md. at 306–07, the Court of Appeals addressed three consolidated cases in which the juvenile defendants argued that, although their sentences technically were not life without the possibility of parole, they were “effectively serving a sentence of life without parole, because the laws governing parole in Maryland do not provide [them] with a ‘meaningful opportunity to obtain release.’” *Id.* at 307. As relevant to this appeal, the Court rejected that contention with respect to the two defendants who received life sentences with the possibility of parole. It held that the State’s parole system, “including the statute, regulations, and [the Governor’s 2018] executive order, provides a juvenile offender serving a life sentence with a ‘meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.’” *Id.* at 365. Accordingly, it held that the life

sentences “do not inherently violate the Eighth Amendment and are not illegal for that reason.” *Id.*²¹

In *Hartless*, 241 Md. App. at 85, this Court considered appellant’s argument that his life sentence was illegal because he was entitled to an “individualized sentencing process,” at which the circuit court must “expressly consider his youth and attendant circumstances,” regardless of whether he was given an opportunity for parole. We noted that Hartless did not rely on *Miller* for this argument, stating: “Indeed, if a *Miller* violation can be remedied simply by permitting a juvenile offender to be considered for parole, it is illogical to suggest that *Montgomery* and *Miller* somehow require an individualized sentencing process for *all juveniles* convicted of homicide, regardless of whether they are sentenced to life with or without parole.” *Id.* at 87.

This Court then rejected Hartless’ reliance on *Carter* for this argument, explaining as follows:

We find no support in *Carter* for Hartless’ proposition that all juvenile offenders convicted of homicide have the right to an individualized sentencing process that takes account of the offender’s youth. In our view, the identification of Hartless’ proposed right is unsupported by the context of the various examples of quoted language, as well as inconsistent with Supreme Court authority. *Carter* held that a sentence of life imprisonment with the possibility of parole for juvenile homicide offenders does not violate

²¹ Appellant’s argument on appeal addresses the sentence imposed, not whether he has a subsequent meaningful opportunity for release. Nevertheless, we note that, in addition to established opportunities for parole, recently enacted legislation provides that appellant may file a motion to reduce the duration of his sentence after 20 years of incarceration. *See* 2021 Md. Laws, Ch. 61 (CR §§ 6-235; 8-110, effective October 1, 2021) (An individual that was convicted as an adult for an offense committed when the individual was a minor, was sentenced for the offense before October 1, 2021, and has been imprisoned for at least 20 years for the offense may file a motion to reduce the duration of the sentence and receive a hearing.).

the Eighth Amendment. This is the sentence Hartless received. We, therefore, reject Hartless' contention that his sentence is unconstitutional because he did not receive an individualized sentencing hearing at which the circuit court expressly considered his youth and attendant circumstances.

Id. at 91–92 (footnote omitted).²²

In *Holly v. State*, 241 Md. App. 349, 352 (2019), this Court addressed Holly's argument that his life sentence with parole was unconstitutional because the parole system did "not provide a right to state-furnished counsel at parole hearings, public funds for experts, or judicial review of parole decisions." In rejecting this argument, this Court noted that the Court of Appeals had held that the "juvenile homicide offenders' life sentences with parole were legal because 'the laws governing parole of inmates serving life sentences in Maryland . . . allow a juvenile offender serving a life sentence a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.'" *Id.* at 355 (quoting *Carter*, 461 Md. at 307).

With that background, we address appellant's argument on appeal.

²² On August 26, 2019, the Court of Appeals granted *certiorari* in *Hartless*. *Hartless v. State*, 465 Md. 664 (2019). That appeal was stayed on March 11, 2020, pending the Supreme Court's decision in *Jones v. Mississippi*, 141 S.Ct. 1307 (2021). The Supreme Court issued its decision in *Jones* on April 22, 2021. The Court held, as indicated, that a judge must consider the defendant's youth before sentencing a defendant to life without the possibility of parole, but no on-the-record sentencing explanation is required. *Jones*, 141 S.Ct. at 1318–19. On May 27, 2021, the Court of Appeals issued an order lifting the stay in *Hartless* and dismissing the appeal. We note that the parties' briefs in this case were filed, and oral argument occurred, while the appeal in *Hartless* was stayed in the Court of Appeals and prior to the Supreme Court's decision in *Jones*.

C.

Individualized Sentencing

Appellant initially contends that his life sentence for felony murder is an illegal sentence because the court failed to conduct an individualized hearing to consider his “youth and all of its attendant circumstances and the penological justification for imposing such a sentence.” As appellant acknowledges, this Court rejected a similar argument in *Hartless*, 241 Md. App. at 92, holding that the constitutional requirement of “individualized sentencing” where the defendant’s youth and its attendant circumstances are considered is limited to the context of a sentence of life without parole. *Accord Bowling v. Director, Va. Dep’t of Corr.*, 920 F.3d 192, 199 (4th Cir. 2019) (“*Miller* and its lineage gives rise to a constitutionally protected liberty in juvenile-specific Eighth Amendment protections,” but those “juvenile-specific Eighth Amendment protections do not apply” to juveniles sentenced to life with parole.), *cert. denied*, 140 S.Ct. 2519 (2020); *State v. Seam*, 823 S.E.2d 605, 610 (N.C. Ct. App. 2018) (“*Miller* specifically requires such an individualized consideration of . . . mitigating factors only in cases where a juvenile defendant has been sentenced to life imprisonment *without* the possibility of parole.”), *aff’d*, 837 S.E.2d 870 (N.C. 2020).

In his brief, appellant stated that he was “hopeful” that *Hartless* would be reversed by the Court of Appeals. As indicated, however, the Court subsequently dismissed the petition for a writ of certiorari in that case, and our decision in *Hartless* controls.

We further note that appellant’s youth was presented to the court for consideration in the presentence investigation report (“PSI”) and by defense counsel.²³ Counsel for appellant acknowledged at oral argument that defense counsel’s argument below was not limited in this regard, and the circuit court said that it had considered all the evidence and all factors. Appellant’s contention that his sentence is unconstitutional because he did not receive an individualized sentencing hearing is without merit.

D.

Disproportionate Sentence

Appellant next contends that “an automatic life sentence for a juvenile convicted of felony murder is “grossly disproportionate” and unconstitutional. The State disagrees.

The Eighth Amendment encompasses a narrow proportionality principle prohibiting “grossly disproportionate” sentences. *State v. Stewart*, 368 Md. 26, 31 (2002) (quoting *Harmelin v. Michigan*, 501 U.S. 957, 997 (1991) (Kennedy, J., concurring)). Successful challenges on this ground are “exceedingly rare.” *Id.*

Appellant did not argue below that his life sentence constituted cruel and unusual punishment. He argues, however, that his sentence was illegal pursuant to the Eighth Amendment, and therefore, the issue may be raised at any time. We agree that the issue is properly before the Court even though it was not raised below. *See Randall Book Corp. v. State*, 316 Md. 315, 322 (1989) (Appellant’s argument that the imposed sentences “constitute[d] cruel and unusual punishment prohibited by the Eighth Amendment is

²³ Because PSI reports are confidential, we will not discuss the details of this report. Md. Code Ann., Corr. Servs. Article § 6-112(a)(2) (2017).

cognizable under a claim of an illegal sentence.”). *Accord Hartless*, 241 Md. App. at 84–85 (motion to correct illegal sentence may be raised at any time). We review the constitutional issue *de novo*. *Bishop v. State*, 218 Md. App. 472, 504 (2014) (An illegal sentence, which may be corrected at any time, is reviewed by this Court *de novo*.), *cert. denied*, 441 Md. 218 (2015).

This Court has set forth a two-step process for reviewing a proportionality challenge:

[A] reviewing court must first determine whether the sentence appears to be grossly disproportionate. In so doing, the court should look to the seriousness of the conduct involved, the seriousness of any relevant past conduct as in the recidivist cases, any articulated purpose supporting the sentence, and the importance of deferring to the legislature and to the sentencing court. *See [State v.] Davis*, 310 Md. [611,] 631–32, 530 A.2d 1223 [(1987)] and *Minor [v. State]*, 313 Md. [573,] 583–84, 546 A.2d 1028, [(1988)].

If these considerations do not lead to a suggestion of gross disproportionality, the review is at an end. If the sentence does appear to be grossly disproportionate, the court should engage in a more detailed . . . analysis. It may conduct an intra- and inter-jurisdictional analysis as a vehicle for comparison and as a source of objective standards; it must, however, remember that under principles of federalism, a state legislature may choose to impose a more severe penalty than other states consider appropriate. In order to be unconstitutional, a punishment must be more than very harsh; it must be grossly disproportionate.

Howard v. State, 232 Md. App. 125, 175–76 (quoting *Thomas v. State*, 333 Md. 84, 95–96 (1993)), *cert. denied*, 453 Md. 366 (2017).

Pursuant to this analysis, “we look first to the seriousness of the defendant’s conduct.” *Stewart*, 368 Md. at 34. Here, appellant’s particular conduct was extremely serious. While fleeing the scene of a felony burglary, he drove over and killed a police

officer who was standing in front of his vehicle. Under such circumstances, a life sentence was not “extreme,” and it did not raise an inference of gross disproportionality. *See Stewart*, 368 Md. at 32. Indeed, the General Assembly’s determination that felony murder committed during a burglary constitutes first-degree murder indicates the seriousness of this offense. *See Solem*, 463 U.S. at 290 n.16 (“In view of the substantial deference that must be accorded legislatures and sentencing courts, a reviewing court rarely will be required to engage in extended analysis to determine that a sentence is not constitutionally disproportionate.”).

Appellant’s life sentence does not pass the first step in the proportionality analysis. Given that his conduct caused another person to lose her life, the life sentence does not appear grossly disproportionate.

Accordingly, we need not engage in further proportionality review. *See Stewart*, 368 Md. at 38. We do note briefly, however, that the Supreme Court of Iowa recently rejected an argument similar to that made by appellant, i.e., that there was a “national consensus” against sentencing juvenile offenders convicted of felony murder to life with parole. *State v. Harrison*, 914 N.W.2d 178, 198, 205 (Iowa 2018).

We hold that appellant’s sentence of life with the possibility of parole was not grossly disproportionate, and it did not constitute cruel and unusual punishment.

IV.

Plain Error Review

Appellant’s final contention is that the felony murder doctrine, as applied to juveniles, is unconstitutional because it violates the due process clauses of the Fifth and

Fourteenth Amendments and Article 24 of the Maryland Declaration of Rights. Recognizing that the issue was not raised below, and therefore, that it is not preserved for appellate review, appellant asks this Court to review the issue under the doctrine of plain error.²⁴

We decline to exercise our discretion to conduct plain error review. Although this Court has discretion to review unpreserved errors, the Court of Appeals has explained that “appellate courts should rarely exercise” their discretion under Md. Rule 8-131(a). *Chaney v. State*, 397 Md. 460, 468 (2007). This is because considerations of both

fairness and judicial efficiency ordinarily require that all challenges that a party desires to make to a trial court’s ruling, action, or conduct be presented in the first instance to the trial court so that (1) a proper record can be made with respect to the challenge, and (2) the other parties and the trial judge are given an opportunity to consider and respond to the challenge.

Id. Accord *Kelly v. State*, 195 Md. App. 403, 431 (2010), *cert. denied*, 417 Md. 502 (2011), *cert. denied*, 563 U.S. 947 (2011).

We reserve our exercise of plain error review for instances when the “unobjected to error [is] ‘compelling, extraordinary, exceptional or fundamental to assure the defendant a fair trial.’” *State v. Brady*, 393 Md. 502, 507 (2006) (quoting *State v. Hutchinson*, 287 Md. 198, 202 (1980)). Accord *Steward v. State*, 218 Md. App. 550, 566–67, *cert. denied*, 441 Md. 63 (2014). Appellate review based on plain error is “a rare, rare, phenomenon.”

²⁴ In his brief, which was filed in this Court prior to the most recent legislative session, appellant stated that he “raises this issue to preserve what may soon be a modification in Maryland’s law if a bill is re-introduced seeking abolition of traditional first-degree felony murder convictions for juveniles.” This bill was reintroduced during the 2021 session (S.B. 395/H.B. 385), but it did not pass.

Morris v. State, 153 Md. App. 480, 507 (2003), *cert. denied*, 380 Md. 618 (2004). We are not persuaded that this contention of error warrants the exercise of plain error review. Accordingly, we shall not address it.

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

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

Dawnta Harris,
Appellant
v.
State of Maryland,
Appellee

*
* No. 1515, September Term 2019
* CSA-REG-1515-2019
* Circuit Court No. 03-K-18-002254
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MANDATE

On the 28th day of July, 2021, it was ordered and adjudged by the Court of Special Appeals:

Judgments of the Circuit Court for Baltimore County affirmed. Costs to be paid by appellant.

STATE OF MARYLAND, Sct.:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this 30th day of August, 2021.



Gregory Hilton

Gregory Hilton, Clerk
Court of Special Appeals

STATE OF MARYLAND VS. DAWNTA HARRIS

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

The Jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018 in Baltimore County, against the peace, government and dignity of the State, did feloniously, willfully and of deliberately premeditated malice aforethought kill and murder Amy S Caprio. (Murder-First Degree, CR.2.201, 1 0990)

This Charge Is Classified As A Felony And Is A Jailable Offense With A Maximum Penalty Of Life Without The Possibility Of Parole.

SECOND COUNT **K 18 2254**

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did break and enter the dwelling house of Matthew Clifford, located at 3 Linwen Way, Baltimore, MD 21236, with the intent to commit theft in violation of CR 6.202 of the Annotated Code of Maryland. (Burglary-First Degree, CR.6.202(a), 2 3000)

This Charge Is Classified As A Felony And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 20 Years.

THIRD COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did conspire with Eugene Robert Genius 4th, Darrell Jaymar Ward and Derrick Eugene Matthews to break and enter the dwelling house of Matthew Clifford, located at 3 Linwen Way, Baltimore, MD 21236 with the intent to commit theft in violation of the Annotated Code of Maryland. (Conspiracy/Burglary-First Degree, CL, 2C3000)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 20 Years.

FOURTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did break and enter the dwelling of Matthew Clifford, located at 3 Linwen Way, Baltimore, MD 21236 to commit a crime, to wit: theft, in violation of CR 6-204 of the Annotated Code of Maryland. (Burglary-Third Degree, CR.6.204, 2 3020)

This Charge Is Classified As A Felony And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 10 Years.

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FIFTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did break and enter the dwelling of Matthew Clifford, located at 3 Linwen Way, Baltimore, MD 21236.
(Burglary-Fourth Degree-Dwelling, CR.6.205.(a), 2 3030)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 3 Years.

SIXTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did steal an Apple watch, Xbox, Heckler Koch 9mm handgun and two 15 round magazines, HP laptop, Alexa speaker, and a black and green backpack of Matthew Clifford having a value of approximately \$3000, at least \$1,500 but less than \$25,000, in the violation of CR 7-104 of the Annotated Code of Maryland.
(Theft: \$1,500 To Under \$25,000, CR.7.104, 1 1136)

This Charge Is Classified As A Felony And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 5 Years And Fines Of Up To \$10000.00.

SEVENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did break and enter the dwelling house of James and Patricia Smith located at 9610 Northwind Road, Baltimore, MD 21234; with the intent to commit theft in violation of CR 6.202 of the Annotated Code of Maryland.
(Burglary-First Degree, CR.6.202(a), 2 3000)

This Charge Is Classified As A Felony And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 20 Years.

EIGHTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did conspire with Eugene Robert Genius 4th, Darrell Jaymar Ward and Derrick Eugene Matthews to break and enter the dwelling house of James and Patricia Smith, located at 9610 Northwind Road, Baltimore, MD 21234, with the intent to commit theft in violation of the Annotated Code of Maryland.
(Conspiracy/Burglary-First Degree, CL, 2C3000)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 20 Years.

NINTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did break and enter the dwelling of James and Patricia Smith located at 9610 Northwind Road, Baltimore, MD 21234, to commit a crime, to wit: theft, in violation of CR 6-204 of the Annotated Code of Maryland. (Burglary-Third Degree, CR.6.204, 2 3020)

This Charge Is Classified As A Felony And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 10 Years.

TENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did break and enter the dwelling of James and Patricia Smith, located at 9610 Northwind Road, Baltimore, MD 21234. (Burglary-Fourth Degree-Dwelling, CR.6.205.(a), 2 3030)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 3 Years.

ELEVENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did steal a Kindle Fire, three bottles of alcohol, a brass candlestick holder, Cool Ranch Doritos and Cheetos of James and Patricia Smith having a value of approximately \$250, at least \$100 but less than \$1,500, in the violation of CR 7-104 of the Annotated Code of Maryland. (Theft: \$100 To Under \$1,500, CR.7.104, 1 1137)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 6 Months And Fines Of Up To \$500.00.

TWELFTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, was on the porch of Trudy Edwards's home located at 7909 Ardmore Avenue, Baltimore, MD 21234, with the intent to commit theft in violation of CR 6-205(c) of the Annotated Code of Maryland. (Burglary- Fourth Degree Theft, CR.6.205.(c), 2 3040)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 3 Years.

THIRTEENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did steal a box of dishes of Trudy Edwards having a value of less than \$100.00.

(Theft Less Than \$100.00, CR.7.104.(g)(3), 1 0521)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 90 Days And Fines Of Up To \$500.00.

FOURTEENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did steal a 2016 Jeep Wrangler Sport of Kirk Thomas having a value of \$24000, at least \$1,500 but less than \$25,000, in the violation of CR 7-104 of the Annotated Code of Maryland.

(Theft: \$1,500 To Under \$25,000, CR.7.104, 1F1136)

This Charge Is Classified As A Felony And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 5 Years And Fines Of Up To \$10000.00.

FIFTEENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did steal a Maryland license plate 7DE8160 of Eric Johnson having a value of less than \$100.00.

(Theft Less Than \$100.00, CR.7.104.(g)(3), 1 0521)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 90 Days And Fines Of Up To \$500.00.

SIXTEENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did possess a regulated firearm, to wit: a Heckler Koch 9mm handgun, knowing the same to have been stolen.

(Regulated Firearm Stolen - Possess/Sell/Transfer/Dispose Of, PS.5.138, 1 2801)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 5 Years And Fines Of Up To \$10000.00.

SEVENTEENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did, being under 21 years of age, possess a regulated firearm, to wit: a Heckler Koch 9mm handgun.

(Possess Regulated Firearm Being Under 21, PS.5.133.(d), 1 5285)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 5 Years And Fines Of Up To \$10000.00.

EIGHTEENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did knowingly possess a regulated firearm being a person who is a respondent who is under the age of 30 years at the time of possession and has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

(Regulated Firearm:Illegal Possession, PS.5.133.(b), 1 1106)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 5 Years And Fines Of Up To \$10000.00.

NINETEENTH COUNT

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that DAWNTA HARRIS, on or about May 21, 2018, in Baltimore County, against the peace, government and dignity of the State, did wear, carry and transport a handgun upon and about their person.

(Wear, Carry And Transport Handgun Upon Their Person, CR.4.203, 1 5212)

This Charge Is Classified As A Misdemeanor And Is A Jailable Offense With A Maximum Penalty Of Incarceration Up To 3 Years And Fines Of Up To \$2500.00.

TO THE PERSON CHARGED:

1. This paper charges you with committing a crime.
2. If you have been arrested and remain in custody, you have the right to have a judicial officer decide whether you should be released from jail until your trial.
3. If you have been served with a citation or summons directing you to appear before a judicial officer for a preliminary inquiry at a date and time designated or within five days of service if no time is designated, a judicial officer will advise you of your rights, the charges against you, and penalties. The preliminary inquiry will be cancelled if a lawyer has entered an appearance to represent you.
4. You have the right to have a lawyer.
5. A lawyer can be helpful to you by:
 - (A) explaining the charges in this paper;
 - (B) telling you the possible penalties;
 - (C) Explaining any potential collateral consequences of a conviction, including immigration consequences;
 - (D) helping you at trial;
 - (E) helping you protect your constitutional rights; and
 - (F) helping you to get a fair penalty if convicted.
6. Even if you plan to plead guilty, a lawyer can be helpful.
7. If you are eligible, the Public Defender or a court-appointed attorney will represent you at any initial appearance before a judicial officer and at any proceeding under Rule 4-216.2 to review an order of a District Court commissioner regarding pretrial release. If you want a lawyer for any further proceeding, including trial, but do not have the money to hire one, the Public Defender may provide a lawyer for you. To apply for Public Defender representation, contact a District Court Commissioner.
8. If you want a lawyer but you cannot get one and the Public Defender will not provide one for you, contact the Court Clerk as soon as possible.
9. **DO NOT WAIT UNTIL THE DATE OF YOUR TRIAL TO GET A LAWYER.** If you do not have a lawyer before the trial date, you may have to go to trial without one.

 by

Scott D. Shellenberger
State's Attorney for Baltimore County



Garret P. Glennon
Assistant State's Attorney for
Baltimore County

STATE OF MARYLAND VS. DAWNTA HARRIS

UID#: 458-084

D.O.B.: 01/08/2002

DESCRIPTION: Gender: Male
Height: 5'07 ✓
Weight: 120 lbs ✓
Hair Color: Black
Eye Color: Brown
Race: Black/African American
Other:

Address: 1625 Vincent Court
Baltimore, MD 21217

District Court Case No.: 2C00462975

State Tracking No.: 170001071461

Police Report No.: 181411196

Citations Charged:

Bail Status: Baltimore County Detention Center ✓

INDICTMENT
TRUE BILL



_____ Foreperson

Filed on 07-30 (2018)

CO-DEFENDANTS: Darrell Jaymar Ward, and Derrick Matthews, and Eugene Robert Genius

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND,	*	
	*	
Plaintiff;	*	
	*	
-vs-	*	
	*	Case No. 03-K-18-002254
DAWN TA HARRIS,	*	
	*	(Volume 2)
Defendant.	*	
	*	
* * * * *	*	

OFFICIAL TRANSCRIPT OF PROCEEDINGS

(JURY TRIAL)

April 23, 2019

BEFORE:

THE HONORABLE JAN M. ALEXANDER

APPEARANCES:

ROBIN COFFIN, ESQ.
ZARENA SITA, ESQ.

On behalf of the State

WARREN BROWN, ESQ.
J. WYNDAL GORDON, ESQ.

On behalf of the Defendant

TRANSCRIBED BY:

CONSTANCE A.S. WILSON, RPR
Digital Recording Department
401 Bosley Avenue - Room 403
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I N D E X

<u>OPENING STATEMENT</u>	<u>PAGE</u>
By Ms. Sita	23
By Mr. Gordon	33

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Kirsten Roller	53	78	---	---
Officer Cattell	92	96	---	---
Lieutenant Chemelli	100	---	---	---
Christopher Squires	104	122	129	130
Officer Deremeik	133	149	---	---
Officer Acosta	157	168	182	--

DIRECT EXAMINATION

BY MS. COFFIN:

Q Ms. Roller, will you tell the ladies and gentlemen of the jury where you lived May 21, 2018?

A Yeah, May 21st I lived at 8 Linwen Way.

Q Directly across the street from you, what would be the address there?

A 3 Linwen Way.

Q Do you know the folks who live at that address?

A Very well, they're our very good friends, Matt and Erin Clifford.

Q Okay. I'm gonna ask you to tell us a little bit about yourself. Are you married?

A I am married, I have two children, two young girls.

Q How long have you lived in the neighborhood by the 21st of May.

A We lived there 11 years.

Q I'm gonna ask you if you're employed?

A I am employed.

Q Where do you work?

A I work for the Baltimore County Public School System.

Q Were you working on the 21st of May, 2018?

A Yes, I was.

1 Q Tell the folks about your day.

2 A In the beginning of the day I had went to a local
3 middle school to observe two teachers teaching a health
4 education lesson. After that I left and I was meeting with
5 two Towson University professors to talk about a joint
6 collaboration between Baltimore County Public Schools and
7 there current health education students.

8 After the meeting with the Towson professors, I
9 had a webinar for our new learning management system for the
10 county school system. The meeting, the lunch meeting had
11 went over and there wasn't enough time for me to get back
12 in the office, so I went home for webinar which started at
13 12:30 p.m.

14 Q What kind of webinar was it?

15 A It was a webinar for IV Assessments for Schoology
16 on online management system.

17 Q Where in your home did you do that webinar?

18 A In my home office.

19 Q Where is that located?

20 A The home office is on our second floor, which
21 is directly across from Matt and Erin Clifford's house,
22 Number 3.

23 Q Okay. Did you know or are you familiar with the
24 cars that are normally in your neighborhood?

25 A Yes, we're a very, very close neighborhood.

1 Q Okay. I'm gonna ask you if there came a time when
2 you saw something that caught your attention?

3 A Yes. So as I'm looking out the window from the
4 webinar, it was -- and I'll never forget the day, it was a
5 gorgeous sunny day. It was one of the first sunny days in a
6 long time that may, you know, a lot of rain. So the windows
7 were open and my blinds were open, and I was looking out the
8 window, and I noticed a person standing in front of Matt and
9 Erin's house in front of their door.

10 Q Okay. Did you recognize that person as being in
11 the neighborhood?

12 A No, I did not.

13 Q When you saw the person, what did you do?

14 A When I saw the person, it was odd maybe because
15 they were in a black T-shirt and jeans, and they were just
16 looking up and down -- Matt and Erin have a front door, and
17 then next to the front door is a long glass window, and they
18 were looking up and down in the window. So it looked odd to
19 me, so I went outside. I was actually still on the webinar
20 at that time, but I just wanted to kinda check to see what
21 was going on. We live on a cul-de-sac so it's not uncommon,
22 we have a lot of solicitors come through our neighborhood.
23 In the history of having solicitors in the neighborhood,
24 they're generally wearing uniforms and usually are carrying
25 a clipboard, and it's usually a van with multiple people.

1 So when I walked outside to the side of my house,
2 I noticed there was a black jeep that was parked between 3
3 and 5 Linwen Way, and when I went out, there were no other
4 people on the street and no soliciting was going on. When I
5 walked out of the house, I looked in the car and the car
6 started to move forward. Then I got very nervous, so I went
7 in front of my house and I came around the back door. After
8 I looked, I had taken pictures of the car.

9 Q Okay. So tell me about that, how had you taken
10 pictures?

11 A So, I was on the webinar so I had my cell phone
12 with me -- on the webinar, and I kind of took pictures of
13 the car, and when I went back inside the house, I sent the
14 pictures of the car -- and previously when I was in webinar,
15 I took a picture through the screen window, and I sent those
16 pictures to Matt and Erin.

17 Q Did you send some sort of communication to Matt
18 and Erin?

19 A So I sent them the pictures, and I was gonna see
20 if they knew that someone was in -- if there were expecting
21 maintenance or somebody coming to their house that day.

22 Q Okay. Did you get a response from them?

23 A Erin immediately called me right back, and at that
24 point the jeep had moved up between 1 and 3, and they had
25 popped the trunk of the car.

1 I said, "Erin, something's not right," and I
2 started calling 911 when I hung up on her. Then I called
3 911 as I saw two people jump out of the truck -- the jeep.

4 Q Okay. Trunk or hatch?

5 A It is the hatch.

6 Q Okay. What did you see them do when they jumped
7 out of the car?

8 A I saw one person, I believe was dressed in a
9 bright colored sweatshirt, I'd say orange, kind of walk in
10 front. Then there was a person in a white T-shirt who
11 walked to the front of the house.

12 Q That's 3 Linwen Way?

13 A 3 Linwen Way, yes.

14 Q Okay. What happened next?

15 A The original person I saw who was dressed in the
16 black T-shirt went around the side of the house, Number 3,
17 and the person in the white T-shirt was, again, looking up
18 and down the window in the front of the house. Then that
19 person went around the other side of the house, and the
20 jeep remained between 1 and 3 outside.

21 Q Do you know how many pictures you ended up taking?

22 A I took the one of the person through the -- my
23 screen from webinar, and I probably took three or four of
24 the jeep when it moved up. I took one additional picture
25 when the jeep had actually backed up in front of the house.

1 Q When you initially called 911, were you in the
2 house or out of the house?

3 A I was in the house.

4 Q Okay.

5 MS. COFFIN: Your Honor, at this time I would
6 introduce into evidence the 911 call that Ms. Roller made
7 this day. I've shown the Defense.

8 MR. BROWN: No objection.

9 MS. COFFIN: I have the certification.

10 THE COURT: All right.

11

12 **(State Exhibits 1-A and 1-B are admitted.)**

13

14 MS. COFFIN: No, what's wrong with the sound?
15 Did you touch -- no, it's off.

16

17 **(WHEREUPON, a pause had in the proceedings.)**

18

19 **(911 recording plays at 1:16:41 as follows:)**

20

21 OPERATOR: Baltimore County 911, what's the
22 address to your emergency?

23 MS. ROLLER: 8 Linwen Way.

24 OPERATOR: You said "8" -- and what's the street
25 name?

1 MS. ROLLER: Linwen; L-i-n-w-e-n, Way --
2 (Inaudible - 1:16:58) -- and there's a car that's in front
3 of it, a person got out and was knocking on my neighbor's
4 door. When I walked outside, he pulled up, all these kids
5 kinda jumped out of the back. Now they're walking around
6 the back of people's houses and -- (Inaudible 1:17:15).

7 OPERATOR: Okay. Repeat that address to make sure
8 I have it correct?

9 MS. ROLLER: Sure, 8 Linwen; L-i-n-w-e-n, Way.

10 OPERATOR: Okay. That's right off Lona Court?

11 MS. ROLLER: Yeah, Lona 1231.

12 OPERATOR: What's your phone number you're calling
13 from?

14 MS. ROLLER: (410) 428-7220.

15 OPERATOR: What's your name?

16 MS. ROLLER: Kirsten Roller.

17 OPERATOR: I do have that in the Nottingham area,
18 correct?

19 MS. ROLLER: Yeah, they're probably just casing
20 it out. You may need to talk to them. They're walking in
21 the back and just sitting there.

22 OPERATOR: Will you give me a moment, I'm just
23 updating this.

24

25 **(WHEREUPON, a pause had in the proceedings.)**

1 OPERATOR: So, they're walking around the 8 home?

2 MS. ROLLER: That's my home, they're walking
3 around Number 3.

4 OPERATOR: Number 3 Linwen Way address. Have you
5 ever seen that car there before?

6 MS. ROLLER: No. There was an African-American
7 male in a white shirt and jeans, but there were four of them
8 that got back out of the car.

9 OPERATOR: Were weapons involved or mentioned at
10 all?

11 MS. ROLLER: I didn't see anything else --
12 (Inaudible - 1:18:17).

13 OPERATOR: Yeah, we already got it started.
14 You've got the vehicle description?

15 MS. ROLLER: It is a -- like a black/dark-grey
16 Wrangler. I got a picture coming up now. I can't video --
17 (Inaudible - 1:18:54).

18 OPERATOR: You're fine. You said a Jeep Wrangler,
19 that's actually the make?

20 MS. ROLLER: Yes.

21 OPERATOR: Let me get that description, you said
22 it was four subjects. Were they all males?

23 MS. ROLLER: Yes.

24 OPERATOR: What was their race, did you see by
25 any chance?

1 MS. ROLLER: They're all African-American.

2 OPERATOR: (Inaudible - 1:19:20). So where did
3 they come out?

4 MS. ROLLER: (Inaudible - 1:19:27).

5 OPERATOR: Are you or anyone else in any immediate
6 danger?

7 MS. ROLLER: No.

8 OPERATOR: Okay. Do not approach the individuals
9 or the vehicle, okay?

10 MS. ROLLER: Okay.

11 OPERATOR: All right. An officer will be
12 dispatched as soon as possible. Call us back if anything
13 changes or have you any further information. Okay?

14 MS. ROLLER: Okay, thanks.

15 OPERATOR: You got it. Bye.

16

17 **(WHEREUPON, 911 recording conclude 11:19:51.)**

18

19 **BY MS. COFFIN:**

20 Q From the time of that 911 call, did circumstances
21 change that caused you to place a second call?

22 A Yes.

23 Q Tell the folks about that.

24 A So, before I placed a second call, the homeowner,
25 Matt, gave me a call and said, "What's going on with --

1 MR. BROWN: Objection.

2 THE COURT: Sustained.

3 MS. COFFIN: You can't say what people told you --

4 THE WITNESS: Oh.

5 MS. COFFIN: -- or said, but based upon his
6 response to you, what he told you, did you take further
7 action?

8 THE WITNESS: Yes, I called 911 again.

9 **BY MS. COFFIN:**

10 Q Okay. What were you seeing between the 911 calls,
11 were you still looking outside?

12 A Yes, I was looking outside the entire time, and
13 they had both moved to the back of the house.

14 Q So who's, "they"?

15 A The three people that had jumped out of the car.

16 Q Okay.

17 A The driver was still in the car.

18 Q Okay. Is that what caused you to place the second
19 call?

20 A Yes, it seemed like a long time. I didn't know
21 where the officer was.

22 Q Okay.

23

24 **(911 recording played 1:21:06 as follows:)**

25

1 OPERATOR: 911, what's the address of the
2 emergency?

3 MS. ROLLER: I just called and I'm trying to check
4 the status on arrival, I'm at 8. I think that people might
5 be in my neighbor's house.

6 OPERATOR: You're on 8 -- what was the street?

7 MS. ROLLER: Linwen; L-i-n-w-e-n, Way.

8 OPERATOR: I'm checking, let me pull up the call
9 here.

10

11 **(WHEREUPON, a pause had in the proceedings.)**

12

13 OPERATOR: Okay, I do see the call here. It looks
14 like we still got the next available officer out. Has any-
15 thing changed since you last called in?

16 MS. ROLLER: Yeah, I saw them go around. I think
17 they may be in the back of the house or maybe even in the
18 house.

19 OPERATOR: In the house, okay. Let me update this
20 information for the officers.

21 MS. ROLLER: Not here, it would be at Number 3.

22 OPERATOR: 3 Linwen Way, okay. Yeah, that's what
23 we have. I'm gonna let the officers know to check the rear
24 of the location and inside the house, okay?

25 MS. ROLLER: All right. Thank you so much.

1 OPERATOR: Is that your own phone?

2 MS. ROLLER: Yeah.

3 OPERATOR: Okay, gotcha.

4 MS. ROLLER: Thank you.

5 OPERATOR: You're welcome.

6

7 **(WHEREUPON, 911 call conclude 1:22:08 p.m.)**

8

9 **BY MS. COFFIN:**

10 Q You called a third time, is that correct?

11 A Yes, and the third time I knew someone was in the
12 house.

13 Q How did you know someone was in the house?

14 A When I was on the phone with Matt, I was looking
15 up at their bedroom window, and most people when they open
16 there blinds, they open them this way, and the blinds were
17 moved this way. (Indicating)

18 Q So you just made a hand gesture, and I'm going
19 to do it for the record. You're first hand gesture was
20 separating from the middle out way --

21 A Yes.

22 Q -- and your second was a hand gesture pulling the
23 curtain together.

24 A Correct.

25 Q Okay.

1 A I also heard an extremely loud boom in their
2 downstairs window, and what really scared me was I saw their
3 entire drape move.

4 Q Okay.

5 A So I knew someone was definitely in their house.

6 Q Okay. We're now gonna play your third call.

7

8 **(911 recording played 1:23:06 as follows:)**

9

10 OPERATOR: Baltimore County 911, what is the
11 address of your emergency -- (Inaudible 1:23:10).

12 MS. ROLLER: 3 L-i-n-w-e-n Way, there's somebody
13 breaking into their house. I see them --

14 OPERATOR: Okay, ma'am. Hold on one second. What
15 is the address? Your call is breaking up.

16 MS. ROLLER: 3 Linwen; L-i-n-w-e-n, Way. I called
17 them fucking 15 minutes ago.

18 OPERATOR: Okay, ma'am.

19 MS. ROLLER: Yeah?

20 OPERATOR: Okay. I need to you calm down, please.

21 MS. ROLLER: I'm just scared they're gonna see me
22 or something.

23 OPERATOR: Well, get out of their sight then.
24 They're aware of it, I already see a call in the system
25 here. What's your name, ma'am?

1 MS. ROLLER: Kirsten; K-i-r-s-t-e-n. They just
2 took off.

3 OPERATOR: Okay. So you've already called in?

4 MS. ROLLER: Twice.

5 OPERATOR: Do you still see the officer out
6 there?

7 MS. ROLLER: I don't see any officers, they never
8 came.

9 OPERATOR: Okay. I'm showing up that we have
10 officers on scene. Just stay on the line for a minute.
11 Are they responding to --

12 MS. ROLLER: I saw them, now they're chasing him.

13 OPERATOR: The cop is chasing him.

14 MS. ROLLER: Uh-huh, down the street.

15 OPERATOR: Can I get a description of the subject?

16 MS. ROLLER: There are four black males, one is
17 wearing a white T-shirt. He's gonna run the cop over. He's
18 gonna run of cop over. He's gonna run the fucking cop over.

19 OPERATOR: Okay. Ma'am, I need you to talk to me
20 as far as what he's wearing and what he looks like so I can
21 tell the officers.

22 MS. ROLLER: The officer has him in custody. The
23 officer has the car pulled over.

24 OPERATOR: Okay. He has the car pulled over or he
25 has the subject in custody?

1 MS. ROLLER: Car pulled over.

2 OPERATOR: Okay. That's not --

3 MS. ROLLER: (Inaudible - 1:24:48).

4 OPERATOR: Ms. Kirsten -- Ms. Kirsten, I need you
5 to talk to me, please. What is the description?

6 MS. ROLLER: Description of what?

7 OPERATOR: The metal --

8 MS. ROLLER: The cop is down. The cop is down.

9 OPERATOR: -- (Inaudible - 1:25:03). Okay?

10 MS. ROLLER: Okay. I need to help the cop.

11 OPERATOR: Okay. Ma'am, I need to you stay
12 inside.

13 MS. ROLLER: I have to go outside.

14 OPERATOR: I need to you stay inside, ma'am.

15 MS. ROLLER: (Inaudible - 1:25:27).

16 OPERATOR: Ms. Kirsten, stop screaming, please.
17 We already have other officers en route.

18 OFFICER: Parkville Precinct, Officer Craig.

19 OPERATOR: Officer Craig, this is Baltimore County
20 EA station, I have Ms. Kirsten on the line at 3 Linwen Way.
21 She told me that the officer that was out there was just
22 shot and he's down on the ground. There are other officers
23 en route, and I did update with the description of the
24 subject on the call.

25 OFFICER: You have it down here.

1 OPERATOR: I don't know. Yeah, I'm not Dispatch,
2 I'm just call seeking.

3 OFFICER: Okay.

4 OPERATOR: Okay. She's on the line with you.
5 Ms. Kirsten?

6 MS. ROLLER: Yes.

7 OPERATOR: Go ahead and speak with the officer at
8 the precinct.

9 OFFICER: Hi, what is it you have going on there?

10 MS. ROLLER: Well, I talked --

11

12 **(WHEREUPON, 911 recording suspended 1:26:23) .**

13

14 **BY MS. COFFIN:**

15 Q Can you tell the ladies and gentlemen between the
16 time of the second call and the third call you were on the
17 phone during part of this, is that correct?

18 A Correct.

19 Q Were you in your bedroom?

20 A I was in my daughter's bedroom.

21 Q Okay. Tell us exactly what you saw happen at this
22 point.

23 A They said there was an officer on scene, I did not
24 see an officer on scene. I saw the jeep had backed up in
25 front of the house and then the jeep took off.

1 Then I saw the jeep must have turned around and
2 came back down, and then I saw Officer Caprio come down in
3 pursuit of the jeep. We're are on a cul-de-sac, as I said,
4 and the jeep turned around and Officer Caprio had her car
5 like this. (Indicating) That's when you heard me say, she
6 got out of the car, and he's gonna run her over because it
7 didn't look like he was going to stop.

8 I remember taking a deep breath when the car did
9 stop and the car door opened. At this time she was out and
10 her hand was on the roof of the car, and I saw the car door
11 open, and then I was like, okay. But then the door shut and
12 then I heard the gun shot, and the jeep took off, and the
13 officer was on the ground.

14 Q Ultimately did you go to Officer Caprio's side --
15 did you ultimately go to Officer Caprio?

16 A Yes.

17 Q What did do you when you got to her?

18 A As soon as I went there I started CPR.

19 Q Were there any other neighbors with you?

20 A Yes, there was -- am I allowed to say their name?

21 Q Yes, you may.

22 A My neighbor Chris -- Christine, we call her Chris.
23 When I got there, she said Amy did not have a pulse, and
24 Chris held her hand, and I started giving CPR, and we just
25 kept saying, "Stay with us."

1 Q Ultimately others arrived and took over the CPR?

2 A Yes, so it felt like forever doing CPR. I started
3 to get it out of my head. Yes, then another neighbor was
4 there and he had ran to his house to get his brother. His
5 brother came out who was a paramedic, and when he came out
6 he released me of the CPR, and he started to perform CPR.

7 MS. COFFIN: Okay. I'm gonna introduce officially
8 1 A and B.

9 MR. GORDON: No objection.

10 THE COURT: All right. That's in.

11

12 **(State Exhibits 1-A and 1-B readmitted.)**

13

14 **BY MS. COFFIN:**

15 Q The police came and actually spoke with you, is
16 that correct?

17 A Correct.

18 Q You advised them of the photographs that you had
19 taken?

20 A Correct.

21 Q Did the police ask you if they could get those
22 photographs off of your phone?

23 A Originally we went into my house, and I -- yes, I
24 texted them to somebody, and when they took me to the police
25 station, they took the pictures from my phone.

1 Q They ultimately performed what's called an
2 extraction, they took all the information from your phone?

3 A Uh-huh.

4 Q I have previously shown this to the Defense. I'm
5 showing you what's been marked as State's 2-C. This is the
6 actual extraction?

7 A Okay.

8 Q Do you recognize that extraction, you've seen it
9 before?

10 A Yes.

11 Q It's an extraction of all events occurring on your
12 phone on May 21st?

13 A Yes.

14 Q Would you open it up to the time in which you
15 reached out to your neighbors with the 911 calls, and it's
16 tabbed.

17 A (Witness complied with counsel's request.)

18 Q Do you mind standing?

19 A Sure.

20 Q Okay. Can you just go through what's happening
21 with your phone at this point?

22 A Yes, I had taken pictures through my office window
23 of the person in the black T-shirt, then when I went outside
24 I took a picture of the jeep as it moved up between 3 and 5
25 to 1 and 3, and I sent those three images to Matt and Erin.

1 Q This right here? (Indicating)

2 A Yes.

3 Q Okay. Then next?

4 A Erin had called me. It was a very brief call,
5 because at that time I saw the hatch open and two additional
6 men jump out of the truck, and I said, "I need to call 911."

7 Q Okay. What is the time?

8 A 1:55:54 p.m.

9 Q Then right here? (Indicating)

10 A At 1:56:30 I made my first call to 911.

11 Q Okay. Right here? (Indicating)

12 A Then I took additional photos.

13 Q Okay.

14 A Then Matt Clifford, homeowner, called me to see
15 what's going on.

16 Q What time was that?

17 A That was about two o'clock p.m.

18 Q Then next?

19 A At 2:04 Matt called me again. Then at 2:05 I
20 called 911 for the second time.

21 Q Next?

22 A Then I called Matt at 2:06 p.m. then I made my
23 final call to 911 at 2:09:59.

24 Q I'm gonna show you images from the cell phone
25 extraction. Do you recognize these images?

1 A Yes.

2 Q What do you recognize them to be?

3 A The pictures that I took on May 21st.

4 MS. COFFIN: I'm going to place these on the
5 screen, and I wait to use them for the extractor, your
6 Honor, but I ask permission to publish?

7 THE COURT: All right.

8 MR. BROWN: No objection.

9 THE COURT: Without objection.

10

11 **(State Exhibit 2-C published to the jury.)**

12

13 **BY MS. COFFIN:**

14 Q Tell the folks what they see right here?

15 A This is from my office window, a pictures of the
16 first person that I saw at Number 3.

17 Q Okay. Is that the first in time photo that you
18 took?

19 A Yes.

20 Q Okay. Then you're gonna just take it in a little
21 bit for the folks so they can see. Would you point to the
22 image that you're talking about?

23 A So right here is the front door, and here is that
24 window that I was speaking of, and here is the person in the
25 black T-shirt and jeans. (Indicating)

1 Q Okay. Now, 2-E, tell the folks what they're
2 seeing here?

3 A This is when I had vacated my house out the back
4 door, and I walked around the side of my house. Originally
5 the jeep was parked further down. When I walked out on the
6 side of my house, the jeep started to go and move forward
7 between house 1 and 3, and this is a picture of the jeep
8 moving, which they eventually stopped and stayed there for
9 some time.

10 Q Okay. I'm gonna show you what's been marked as
11 State's 3-A with "Roller" written on the top of it.

12 A Okay.

13 Q Do you recognize what that aerial map shows?

14 A Yes, this is my neighborhood.

15 Q Okay. I'm gonna put this down on -- actually,
16 I'm gonna ask you to come draw on it first.

17 A Okay.

18 Q So, when you first saw the jeep, will you put a
19 rectangle?

20 A (Witness complied with counsel's request.)

21 Q Okay. Can you put an R over the house you lived
22 in in May of 2018 --

23 A (Witness complied with counsel's request.)

24 Q -- and will you put a C over the Clifford's home?

25 A (Witness complied with counsel's request.)

1 Q Okay. So we'll show the folks what you've marked.
2 This is where you first saw the jeep?

3 A Uh-huh.

4 Q You said the jeep moved?

5 A Uh-huh.

6 Q This is 2-E, the first location that you've marked
7 on the map?

8 A No.

9 Q Where was the first location as seen in 2-E?

10 A In 2-E, that's the one you're talking about?

11 Q Yep, uh-huh, this photo. Where is that in
12 relation to the Clifford's home?

13 A So that is right here. (Indicating).

14 Q Okay. Dub it X now for that movement.

15 A I had walked out the back door, and I think this
16 is a little further up, but the jeep, I felt that they had
17 saw me and moved up. Then I walked around the front of my
18 house to the back of the house, and the jeep stayed here.

19 Q Okay.

20 A That's where the two additional people came out
21 of the truck or the hatch.

22 Q Okay. Now I'm putting 2-F up. Do an orientation
23 for the folks. Where is this?

24 A This is the same location as the previous picture,
25 he just moved up in front of the parked car between 1 and 3.

1 Q So, this is the parked car, and they moved further
2 down?

3 A Correct.

4 Q Okay. Is this further down at the end of the
5 porch here or here? (Indicating)

6 A Closer to that exit of the court.

7 Q Okay. Then 2-G?

8 A This is during my final call, the jeep had moved
9 back in front of the house.

10 Q Clifford's house?

11 A This is the Clifford house, Number 3.

12 Q Okay.

13 A So, it backed up and parked directly in front of
14 the Clifford's house.

15 Q Okay. Now you've drawn an arrow. Did you
16 initially see the police car when it first arrived in the
17 block?

18 A No.

19 Q You just saw the jeep taking off?

20 A Uh-huh, I saw the jeep, yes, leaving, and I did
21 not see an officer on scene at that time.

22 Q Okay. When you next saw the officer and the jeep,
23 where are they in relation to --

24 A The jeep was coming back down the street.

25 Q So go ahead and do a full letter arrow.

1 A So the jeep came back down the street and started
2 to turn around. That's when Officer Caprio was in pursuit,
3 and her car ended up being more diagonal. She had stopped
4 the car, she had gotten out of the car, and that's when you
5 heard me say, "They're going to run her over."

6 Q Okay. You can have a seat.

7 MS. COFFIN: I would offer into evidence at this
8 time 3-A Roller.

9 MR. BROWN: No objection.

10 THE COURT: All right. It's in.

11
12 **(State Exhibit 3-A is admitted in evidence.)**

13
14 **BY MS. COFFIN:**

15 Q When you first approached Officer Caprio after she
16 had been run over, had you noticed anything on her person or
17 about her person?

18 A Yes.

19 Q Tell the folks what you noticed?

20 A I noticed that there was blood coming from her
21 head, and I noticed that there were tire tracks on her legs.
22 I'll never forget how hard her chest felt and her face,
23 because I didn't -- in my head I thought I would be running
24 up to a man and it was a young woman. I can't get her face
25 out of my head. Do you want me to go into detail?

1 Q No --

2 A Okay.

3 Q -- just that you saw the tire marks. Thank you,
4 Ms. Roller. That's all the questions I have. Now the
5 Defense may have some for you.

6 THE COURT: Mr. Brown?

7 **CROSS-EXAMINATION**

8 **BY MR. BROWN:**

9 Q Ma'am, I wanna go back. You said that -- on the
10 phone you said, "They're going to run her over," I think.
11 That's what you said you said.

12 A When I first saw this.

13 Q Who were you talking to when you said that?

14 A 911.

15 Q Okay. That's when the car had gone into the
16 cul-de-sac and was coming back down, right?

17 A Correct, it was turning around.

18 Q Yeah, then it got to the point where, I think you
19 indicated, that the car did stop, and that the officer put
20 her hands on the jeep, you heard a gunshot, and the jeep
21 took off. Is that correct?

22 A It seemed simultaneously that the person had
23 opened the door, and then it seemed the jeep took off, and
24 I saw the yellow flash of a gun.

25

1 Q All right. So give me that again. The car comes
2 to a complete -- comes to a stop, the jeep.

3 A So originally Officer Caprio was out of the car,
4 the car I did not think was going to stop, and then the car
5 did stop, and she had approached the car, and then the car
6 door opened for a brief second, shot took off -- a gunshot,
7 it seemed in my memory simultaneously.

8 Q Okay. So, in your memory -- you testified earlier
9 that it was a gunshot and then the jeep took off, but now
10 you're saying that it was about at the same time, shot goes
11 off, gun takes -- I mean, shot goes off --

12 A It was like, gun, right, car takes off.

13 Q -- and the car takes off?

14 A Exactly.

15 Q Okay. But it wasn't clearly any significant
16 period of time one way or the other, it was almost
17 simultaneous --

18 A It happened very quickly.

19 Q -- in your mind, is that correct?

20 A Correct.

21 Q In other words, it wasn't that it took -- that
22 the car took off, there was a block of time, and a shot
23 fired; nor was it there was a shot fired, a block of time,
24 and the car took off. These all -- these things happened
25 simultaneously, is that correct, in your mind?

1 A In my mind, yes.

2 Q Okay. But the car had come to a stop and the
3 person was getting out of the car, is that correct?

4 A No.

5 Q Well, the car door was open?

6 A I did not see the person coming out of the car.
7 The car originally was going, moving towards Officer
8 Caprio.

9 Q Then came to a stop?

10 A Yes, then the car door opened briefly, shot --

11 Q Right.

12 A -- and that's where it all seemed simultaneously.

13 Q Happening at that point?

14 A Yes.

15 Q Now, when the car door is open, is Officer
16 Caprio's hand on the car at that point in time?

17 A I cannot remember.

18 Q Okay. Did you ever see Officer Caprio behind her
19 cruiser as the car is going up -- the jeep is going up to
20 the end of the cul-de-sac, turning around and coming back
21 down, did you see her behind her cruiser?

22 A I think that's the way she exited the car, and
23 then she was in front of the jeep.

24 Q Okay. I'm saying, when she exited her car, did
25 you ever see her kind of cover behind her own vehicle?

1 A To move in front of the car, yes, she had to go
2 behind her car.

3 Q Okay. As the jeep is approaching, she leaves that
4 cover and steps out into the path of the jeep, and it comes
5 to a stop, yes?

6 A Yes.

7 Q Okay. When it comes to a stop, the door opens and
8 at this point she approaches the vehicle and puts her hand
9 on the vehicle, is that correct?

10 A Uh-huh.

11 Q Then simultaneous to a gunshot being fired, the
12 jeep is taking off, is that correct?

13 A From my perspective, it looked like the person in
14 the car had hesitated, was about to get out, decided not to,
15 and then took off.

16 Q Okay. But it wasn't a continuous flow from the
17 time it went up to the cul-de-sac, came back down, step on
18 the gas and hit Officer Caprio. That's not what happened,
19 no.

20 A No, I did see the car, right.

21 Q Go up and turn around and come back and stop.

22 A It had looked like it was not going to stop, and
23 then as I said, it seemed like they were going to stop --

24 Q Right.

25 A -- and then they proceeded to go.

1 Q But it stopped?

2 A Yes.

3 Q That was about the same time Officer Caprio was
4 screaming out commands, "Stop. Get out of the fucking car.
5 Stop the fucking car," whatever it was. All that's going
6 on at the same time, is that correct?

7 A Correct.

8 Q Okay. When you're watching this activity from
9 the moment you saw some suspicious activity going on, did
10 you ever lose sight of the vehicle?

11 A When it went -- at the very end, yes, when it
12 backed up in front of Number 3 and then it went back down
13 our street.

14 Q Okay. When you say, I think in one call you said
15 there were three individuals going in the house in question,
16 is that correct?

17 A Correct.

18 Q Were you still watching the vehicle at that point
19 in time?

20 A It was always in my sight, correct.

21 Q Okay. Then you saw three individuals -- not
22 four, but three individuals going into this house, is that
23 correct?

24 A One person stayed in the car, the driver, and
25 then, yes --

1 Q Okay.

2 A -- two people adjoined the original person that I
3 had witnessed.

4 Q Okay. Did you ever see the vehicle -- did you
5 ever see any of those three individuals return to the
6 vehicle?

7 A No.

8 Q Okay. That includes the fact that you had sight
9 eyes on that vehicle the entire time, is that correct?

10 A Yes.

11 Q Yes, okay. Those three individuals never came
12 back to the vehicle, is that right?

13 A Correct.

14 Q Okay.

15 A Not to my knowledge.

16 Q No, I understand. I think you testified that you
17 saw tire tracks on Officer Caprio's leg?

18 A Yes, they were -- they stood out to me, they were
19 white grayish.

20 Q Did you actually see -- well, you did. You saw
21 the contact between the car, the vehicle, and Officer
22 Caprio, is that correct?

23 A Uh-huh.

24 Q Did the car roll over her legs, her torso, could
25 you tell?

1 A It happened so quick.

2 Q Okay.

3 A You know, but the tracks I saw were on --

4 Q Her leg?

5 A Uh-huh.

6 Q One leg or both?

7 A It would be both.

8 Q Okay. All right. How long -- were you the first
9 one out to render aid to Officer Caprio?

10 A Yes.

11 Q So about how long was it, seconds, minutes, how
12 long was it?

13 A From the time I left my house to go there?

14 Q Yes.

15 A I don't know. They wouldn't let me leave my house
16 until they connected me to Parkville Precinct.

17 Q Uh-huh?

18 A As soon as I got connected, I said, "I'm leaving
19 and I'm going to help."

20 Q Okay. Were you the first one out --

21 A To help.

22 Q -- to render aid?

23 A To render CPR, yes.

24 Q Did it appear that any other part of her body had
25 been run over aside from the legs that were --

1 A Unless -- I'm guessing her center, her torso.

2 Q Okay. But were there track marks?

3 A It was head trauma.

4 Q Okay, right.

5 A I saw head trauma.

6 Q But that wasn't -- I mean, her head was not run
7 over, that was from her head probably it falling back and
8 hitting the ground, is that correct?

9 A (No audible response)

10 Q So, when the car -- when she's firing the gun and
11 the car is taking off simultaneously, do you watch the way
12 her body falls, are you able to see that at that moment? In
13 other words, you know, I can imagine a car coming straight
14 at you so I'm gonna fall back, and it's gonna run over my
15 entire body; but on the other hand, if the car is heading
16 this way and it hits me, then I'm stopped and it will run
17 over my entire body. So I'm trying to get a sense of what
18 you actually visualized.

19 A I saw some type of impact, and then she just fell.

20 Q Did she fall to the right or to the left or just
21 fall straight back?

22 A So, if you're -- can I stand?

23 Q Yes, ma'am.

24 A So, if I'm the driver of the car, they hit her,
25 she flies back this way. (Indicating).

1 Q Okay. So, that -- right. So she fell to the
2 left as the driver is headed this way, is that correct?

3 A Yes.

4 Q When the car was coming back down the cul-de-sac,
5 did you hear any screeching marks like you're slamming on
6 brakes or anything like that?

7 A No.

8 Q Later that day since then, did you ever see any
9 brake marks out there where the car came to a screeching
10 halt or something?

11 A I saw blood.

12 Q You saw blood, all right, but I'm talking about
13 tire tracks or anything --

14 A I did not look for tire tracks.

15 Q -- on the pavement, okay.

16 A I can't --

17 Q You didn't hear any screeching tires like his car
18 coming to a sudden halt or anything like?

19 A (No audible response)

20 Q No -- is that no?

21 A No, I'm sorry.

22 Q That's fine. But it did come to a halt. Not a
23 screeching halt, but it came to a halt, is that correct?

24 A I would not call -- it seem like it stopped.

25 Q It stopped.

1 A It stopped.

2 Q That's a halt, a stop. It came to a stop.

3 A Halt seem like a abrupt stop to me.

4 Q Okay. It came to a stop.

5 A It came to a stop.

6 Q That's fine.

7 MR. BROWN: Court's indulgence.

8

9 **(WHEREUPON, a pause had in the proceedings.)**

10

11 **BY MR. BROWN:**

12 Q Did you see the jeep when it initially left the
13 area?

14 A Uh-huh.

15 Q You didn't see Officer Caprio at all during that
16 point in time?

17 A No, sir.

18 Q So you never saw Officer Caprio until you saw her
19 pull up into the cul-de-sac, is that correct?

20 A Yes.

21 Q Even then when they pulled up into the cul-de-sac,
22 she angled her vehicle, is that correct, when she pulled in?

23 A She tried to stop the jeep.

24 Q Right.

25 A Yes.

1 Q All right. So she would have come into the
2 cul-de-sac this way and then kind of angled her vehicle, the
3 cul-de-sac being up here? (Indicating)?

4 A Yes, the driver was turning at the end of the
5 cul-de-sac --

6 Q He's coming back down.

7 A -- and she was trying to stop the jeep.

8 Q Right, so her car is positioned this way, right,
9 door, she gets out of the door, and then she eventually end
10 up over here in the path of the car? (Indicating)

11 A This is the cul-de-sac. (Indicating)

12 Q Right.

13 A Her car is this way, the jeep is this way.

14 Q Okay.

15 A So, she's trying to stop the jeep.

16 Q All right. How many times do you think you heard
17 her throw out the commands to, "Stop" or "Get out of the
18 fucking car. Stop the fucking car," how many times did you
19 hear her say that?

20 A I could not tell you.

21 Q Okay. All right. Do you recall how long from the
22 moment you saw this suspicious person to the moment that you
23 looked out and saw, you know, the incident with shots fired,
24 car is taking off simultaneously, how much time passed?

25 A I believe it would be about 14 minutes.

1 Q 14 minutes, okay. Did you ever see any of the
2 three original individuals based on their descriptions --
3 because they varied in what they were wearing, is that
4 correct?

5 A Correct.

6 Q Did you ever see the three that you saw initially,
7 are those the same three throughout that you were watching?

8 A Yes.

9 Q Okay.

10 A And the driver.

11 Q Right, but the driver wasn't --

12 A In the house.

13 Q -- in part of the house, messing with the house
14 or anything like that?

15 A Correct.

16 Q Is that correct?

17 A Right.

18 Q Okay. No one ever came back to the house -- I
19 mean -- back to the house -- no one ever came from the house
20 back to the vehicle?

21 A Not to my knowledge.

22 Q Okay. When you saw the vehicle when she has her
23 hand on the car, she's firing a shot, and the car is taking
24 off simultaneously, do you pay much attention to where the
25 car goes at that point in time?

1 Q Do you pay much attention to where the car goes at
2 that point in time?

3 A No.

4 Q Okay. All right. I don't mean to be too picky,
5 but --

6 A It was something out of a movie that I would never
7 experience --

8 Q Right, I gotcha.

9 A -- to see.

10 Q No.

11 A So, it's very --

12 Q Right, I understand completely. Yeah, yeah. So
13 we don't fault you, you know, in terms of --

14 A It was also a year ago.

15 Q Right. I gotcha, so uncertainty about things.
16 This is certainly not a case from you out there watching it,
17 and this is not a case of this car speeding up on her,
18 running her over and she gets a shot off. Right? That's
19 not what happened.

20 A That's what happened after they had stopped the
21 car, the car took off again, and then the shot went off.

22 Q Right, but the car had come to a stop, he was
23 getting out of the car --

24 A Eventually the car was driving at the officer --

25 Q Right, and then stopped?

1 A Then the car stopped, opened door briefly --

2 Q Right?

3 A -- shut the door and then took off.

4 Q Well, yeah, but you said the shot was fired --
5 first you said --

6 A Originally I didn't see --

7 Q Well, let me tell you what you really said. The
8 car stopped, she put her hands on the jeep, you heard a
9 gunshot, and then the jeep took off. That's when Ms. Coffin
10 was asking you the questions.

11 A It seemed very simultaneously, a gunshot and the
12 taking off.

13 Q Okay, I gotcha. Thank you.

14 MR. BROWN: I have no further questions.

15 THE COURT: Redirect?

16 MS. COFFIN: No, sir.

17 THE COURT: Thank you, ma'am. You may step down,
18 please. You are excused from this matter. Please don't
19 discuss the case with anyone until it's been concluded.

20 MS. COFFIN: Next the state would call Officer
21 Cattell.

22 THE COURT: All right.

23 MS. COFFIN: Officer Cattell, will you remain
24 standing here to be sworn on your testimony.

25 THE CLERK: Will you please raise your right hand?

1 **(WHEREUPON, a pause had in the proceedings.)**

2

3 MS. COFFIN: Christopher Squires, if you would
4 just remain standing here. You're gonna be sworn on your
5 testimony.

6 THE CLERK: Raise your right hand.

7 - - -

8 **CHRISTOPHER SQUIRES**

9 **having been first duly sworn, was**

10 **examined and testified as follows:**

11 - - -

12 THE CLERK: Please have a seat. State your name,
13 first and last, spell your last for the record.

14 THE WITNESS: My name is Christopher Squires; last
15 name S-q-u-i-r-e-s..

16 **DIRECT EXAMINATION**

17 **BY MS. COFFIN:**

18 Q Mr. Squires, I'm gonna ask you in May of 2018,
19 what address you lived at?

20 A 9514 Dawnvale Road, Nottingham, Maryland, 21236.

21 Q Prior to the 21st, how long had you lived at that
22 address?

23 A Approximately three years.

24 Q Okay. How would you describe the area in which
25 you live?

1 A It's a nice, fairly quiet neighborhood. There
2 is only local traffic because we're off of Belair Road.
3 Neighbors in and around the area are all friendly, we have
4 two dogs we take for walks, and a lot of the neighbors have
5 dogs, so when we're out walking we get to know a lot of the
6 neighbors and a lot of their dogs. Everyone's been friendly
7 and it's been a great place to be.

8 Q Okay. I'm gonna show you what's been marked as
9 2-A Violanti and Squires. Take a moment to look at that.
10 I may have said 2, I believe it's 3.

11 A Okay.

12 Q Are you familiar with that, what's seen in
13 there?

14 A Yes.

15 Q What is it?

16 A It's an aerial view of my area, my neighborhood
17 and my house.

18 Q Okay.

19 MS. COFFIN: I would offer into evidence State's
20 2-A, Violanti and Squires at this time.

21 THE COURT: 2-A or 3-A?

22 MS. COFFIN: 3 -- 3, I'm sorry. I cut it off on
23 this at the top.

24 THE COURT: Okay.

25 MS. COFFIN: Thank you.

1 MR. GORDON: No objection.

2 THE COURT: All right. 3-A is in.

3

4 **(State Exhibit 3-A readmitted in evidence.)**

5

6 **BY MS. COFFIN:**

7 Q I'm gonna ask you to stand up. So, will you
8 orient the folks, where is Belair Road?

9 A Belair Road is here.

10 Q It's quite a bit of a glare. Would that help you?

11 A Okay.

12 Q Back in May, can you advise the general location
13 of your home?

14 A I live right here. (Indicating)

15 Q Okay. Can you put an S at that location?

16 A An S?

17 Q Uh-huh.

18 A (Witness complied with counsel's request.)

19 Q For the folks to understand the community, would
20 you just explain, you come on what road from Belair Road?

21 A I come in off of Belair Road on Walter Avenue.
22 The first street you come to is Dawnvale Road, and Dawnvale
23 Road is from -- I hope I'm not going too fast -- Dawnvale
24 Road comes from Dawn Road around and over and down to the
25 circle here where I live.

1 Q Okay.

2 A It extends further back as Walter comes back and
3 connects with Dawn, at that point it becomes Lona Court, and
4 Lona Court comes down --

5 Q I'm just gonna move it over.

6 A Okay.

7 Q There you go.

8 A So the court area here is Linwen Way, it's a
9 small court area here that's Steve Way, which is a small
10 court area here. Other than coming in off of Walter, the
11 only exits is really down Dawn, and there's no other exit
12 out other than Walter at this end of the road.

13 Q Okay. I'm gonna ask you to go back to your seat.
14 I'm gonna hop you up and down a couple times.

15 A Sure, okay.

16 Q Can you tell the folks what you were doing in the
17 afternoon on 21st and who you were with?

18 A I was out doing yard work, had taken a break. My
19 wife and I were sitting on our patio -- actually the carport
20 to the house we converted into a patio. From where I sit in
21 our chairs there, I face the front of the house. Sometime
22 in the afternoon, not sure of the time, I guess probably it
23 was 1:30 or 2:00 or so, a black Jeep Wrangler came down the
24 front of the street. It was driving quick. Quick enough it
25 caught our attention to think someone was in a hurry.

1 It turned, as can you see from the picture, I'm
2 right at the end of that little island. The jeep turned
3 around that corner and pulled up and parked behind a neigh-
4 bor's vehicle. At that time the driver got out of the jeep,
5 and rather than going to a neighbor's house, got out and
6 came around the front of the car and started to exit across
7 the grass island.

8 It seemed suspicious to me that someone would
9 come in and not be visiting anybody and just leaving the
10 vehicle. So I proceeded to walk out towards the vehicle as
11 I watched the man walk down the street. As I got close to
12 the jeep, I saw the back window was broken out. I suspected
13 it may have been a stolen vehicle that was being dropped,
14 so I called 911.

15 When the 911 operator came on, I told him that
16 I thought this may be a stolen vehicle being dropped. I
17 described the vehicle with license plate, back window is
18 broken out. By that time I had gone around the driver's
19 side and looked in, didn't notice any damage or keys. I
20 saw a cell phone, I think, in a couple holder. As I went
21 to the front of the vehicle, I saw a hole in the front
22 window with some crackling around it. The 911 operator
23 asked me to hold, came back on and said there had been --

24 MR. GORDON: Objection.

25 THE COURT: Sustained.

1 THE WITNESS: Excuse me?

2 MS. COFFIN: That's all right. You can't say --

3 THE WITNESS: Oh, okay.

4 MS. COFFIN: Wait a minute. I'm gonna hold you up
5 a minute. You can't say what the 911 operator told you, but
6 at this time I'm going to offer into evidence Mr. Squire's
7 911 call, which is marked State's A and B [sic], and I would
8 ask to play it.

9 THE COURT: All right. Without objection it will
10 be in.

11 **(State Exhibits 8-A and 8-B are admitted.)**

12 **(911 recording played 2:14:39 as follows:)**

13

14 OPERATOR: Baltimore County Nonemergency Services,
15 how can help you?

16 MR. SQUIRES: Yeah, hi. My name is Chris Squires,
17 I live at 9514 Dawnvale Road. A couple minutes ago a Jeep
18 Wrangler? Yeah, Wrangler. We live on a little small court,
19 a little circle, and this jeep came barreling down here and
20 parked behind one of the neighbor's cars. The young man got
21 out, and he just walked out of the neighborhood. It seemed
22 kind of odd. When I came over, the back window is all
23 smashed out, there's a hole and a smash in the front wind-
24 shield. There's a cell phone itself that appears to be
25 inside, and I'm not touching it.

1 OPERATOR: Okay. Stay on the line with me one
2 second, okay?

3 MR. SQUIRES: Sure. I'm standing here at the
4 vehicle if you need the license plate or something.

5 OPERATOR: You said he was in jeep?

6 MR. SQUIRES: Yes, a black Wrangler sport.

7 OPERATOR: Black Wrangler. All right. Stay on
8 the line with me. It's not gonna be one second, okay?

9 MR. SQUIRES: Sure, not a problem.

10

11 **(WHEREUPON, a pause had in the proceedings.)**

12

13 OPERATOR: Okay. Right now I do think we have
14 something going on in the area, and that vehicle does match
15 the description. So I need you to stay on the line with me.
16 What's your name, sir?

17 MR. SQUIRES: Christopher Squires; S-q-u-i-r-e-s.

18 OPERATOR: Black Wrangler Jeep in front of what
19 house?

20 MR. SQUIRES: It's in front of -- his number is 95
21 15 Dawnvale; D-a-w-n-v-a-l-e.

22 OPERATOR: That's where the vehicle is?

23 MR. SQUIRES: Yes.

24 OPERATOR: The subject walked out of the area,
25 which way did he go?

1 MR. SQUIRES: He went down Dawnvale, made a right
2 on Walter, and I'm assuming if he's going back that way,
3 he's gonna have to go down Dawn to get to Pinedale to get
4 out of the neighborhood.

5 OPERATOR: Okay. So he's on Pinedale, and then
6 turn which way onto Walter?

7 MR. SQUIRES: From our house he made a right onto
8 Walter. From there I couldn't see anymore, but I'm gonna
9 assume he's gotta go down Dawn.

10 OPERATOR: Okay. What's a description?

11 MR. SQUIRES: Black male, relatively thin, brown
12 pants, black sweatshirt --

13 OPERATOR: Brown pants, black sweatshirt?

14 MR. SQUIRES: Yes. It almost looks like a bullet
15 hole in the front windshield.

16 OPERATOR: Okay. Give me one second. Sorry,
17 what's your phone number, sir?

18 MR. SQUIRES: My cell phone is (443) 425-6045.

19 OPERATOR: That was (443) 425-6045?

20 MR. SQUIRES: Right, and my home phone number is
21 (410) 663-1465.

22 OPERATOR: It looks like bullet holes --

23 MR. SQUIRES: I see a helicopter coming over now.

24 OPERATOR: It looks like bullet holes in where,
25 in the windshield, front windshield?

1 MR. SQUIRES: It looks like it, yeah. I mean,
2 that's what I would think. It's a hole straight through,
3 it shattered the window. I don't see where it hit the dash-
4 board, it may have gone all the way through. Maybe that's
5 why we got the back window. I don't know, the back window
6 is smashed. There's some glass shards in and around the
7 seats. I see the helicopter over me right now.

8 OPERATOR: Okay. Do you have any other
9 descriptions or any other information that may assist?

10 MR. SQUIRES: That's all I can say. Like I said,
11 I saw the young man kind of race back here, it was unusual
12 for somebody to do that, there is no traffic back here. He
13 kind of pulled up, bailed out of the thing and started
14 walking down the street.

15 OPERATOR: Okay, sir. The vehicle is a black
16 Wrangler that just pulled up onto Dawnvale and parked in
17 front of 9515, you're about 9514?

18 MR. SQUIRES: Yes, I am right across the street.

19 OPERATOR: Then he walked down and turned right
20 onto Walter headed towards like Linwen Way, Steven Way, all
21 that --

22 MR. SQUIRES: Yeah, all those are courts unless
23 you go through the woods at the end. So, there's Dawn and
24 then --

25 OPERATOR: Right, so he went south on Dawn?

1 MR. SQUIRES: Yeah, that can take you do you know
2 to Pinedale and back out to Seven Courts and all that kind
3 of stuff.

4 OPERATOR: Belair Road and all that, yeah.

5 MR. SQUIRES: Oh, I see an officer. She's coming
6 over.

7 OPERATOR: Yeah, if you wanna go outside and wave
8 them down.

9 MR. SQUIRES: Yeah, she's coming over.

10 OPERATOR: All right. That's awesome.

11 MR. SQUIRES: Yeah, she's coming over to me.

12 OPERATOR: All right. Take care, sir.

13

14 **(WHEREUPON, 911 recording conclude 2:19:34)**

15

16 **BY MS. COFFIN:**

17 Q Mr. Squires, do you have any limitations in your
18 vision or eyesight?

19 A I wear progressive lenses.

20 Q Okay.

21 A I do have a slight color blindness. I see color,
22 I just don't always call it the right thing.

23 Q Okay. You gave a description of a thin black
24 male in a black T-shirt and brown pants, is that correct?

25 A Black sweatshirt, yes.

1 Q Okay. How long have you been a driver?

2 A 46 years, I guess, yeah.

3 Q Okay. What's the speed limit there on Dawnvale?

4 A 25.

5 Q Do you have an estimate as to the speed in which
6 that jeep pulled onto Dawnvale when you saw park --

7 MR. GORDON: Objection.

8 THE COURT: Overruled. He can answer that.

9 THE WITNESS: I would guess 30 or so. When you
10 come to the end of that circle there and you start to turn,
11 even 25 is pretty quick. We heard the tires kind of grab-
12 bing the blacktop, which was just an indication that it was
13 going quick. I mean, not speeding like on the Beltway sort
14 of stuff, but for a small court, it caught our attention.

15 **BY MS. COFFIN:**

16 Q Okay. In your 911 call, you were describing where
17 the vehicle was -- and I'm gonna make you stand up again.

18 A Okay.

19 Q I'm gonna give you the red marker and ask you to
20 put an X at the location where you saw the jeep abandoned.

21 A (Witness complied with counsel's request.)

22 Q Okay. Now, would you actually do a line of where
23 you saw that man go from the time he left the jeep until you
24 lost visual sight on him.

25 A Across this plot --

1 Q Say it louder.

2 A All right. Sorry. He came across the grass plot
3 into this sidewalk, almost immediately crossed over to this
4 side, he came down the sidewalk here, and then turned right
5 onto Walter, then once he got about here, then I was blocked
6 out by that house there.

7 Q Okay. While you're still standing, I'm going to
8 show you -- I'm sorry.

9

10 **(WHEREUPON, a pause had in the proceedings.)**

11

12 **BY MS. COFFIN:**

13 Q Take a moment at what I have marked as 72-A
14 through D. Would you look at them to yourself first, and
15 then tell me if you can identify those items?

16 A If I can identify them?

17 Q Uh-huh, what those photos are of?

18 A All right. This --

19 Q All right. First, look at them all and tell me
20 you recognize them.

21 A Okay --

22 THE COURT: Tell me "if" you recognize them.

23 MS. COFFIN: "If you recognize them."

24 THE WITNESS: I do recognize them.

25

1 **BY MS. COFFIN:**

2 Q What do you recollect them to be?

3 A This first photo is from my seat in the patio of
4 the house looking out --

5 Q So, I'm gonna stop you a moment. Are they fair
6 and accurate representations of the visual sight lines that
7 you've talked about with this jury?

8 A Yes.

9 MS. COFFIN: I would offer into evidence 72-A
10 through D at it time.

11 MR. GORDON: No objection.

12 THE COURT: All right. They're in, 72-A through
13 72-D.

14 **(State Exhibits 72-A through 72-D admitted.)**

15
16 **BY MS. COFFIN:**

17 Q So I'm gonna go ahead and place this down on the
18 Elmo, I'll give you the red marker back, and tell folks what
19 72-A is showing?

20 A All right. 72-A is showing our carport, which
21 is our patio here. My seat which is just out of view here.
22 (Indicating)

23 Q Okay. So let's just go ahead and put a little X
24 at the location where you were seated.

25 A So I would've been seated there. (Indicating)

1 Q Okay.

2 A The jeep came into view at this point here. It
3 came down around even parked just about behind my neighbor's
4 truck here. (Indicating)

5 Q Okay.

6 A That's about where the jeep was.

7 Q I'm showing you 72-B. What's seen there?

8 A All right. This is just a little bit closer, so
9 this is at the edge of our patio and looking out. On the
10 day in question, the jeep was parked just about right here
11 where my neighbor's truck is.

12 Q So, go ahead and put a circle around that.

13 A (Witness complied with counsel's request.)

14 Q That's a red truck?

15 A Correct.

16 Q Okay. Showing you 72-C. Will you draw on 72-C
17 the direction of travel you saw the man as he left --

18 A Okay.

19 Q -- the jeep.

20 A Circle where the jeep was?

21 Q Uh-huh.

22 A All right. So the jeep was here, walked across
23 the grass to here, to that sidewalk -- it is kind of an
24 odd angle -- across this side, and then down to the corner.

25

1 Q Okay. 72-D, will you orient the ladies and
2 gentlemen where Walter -- Walters --

3 A Walter Avenue?

4 Q -- Walter Avenue could be seen, if you could
5 see it?

6 A Okay. This house here is on the other side of
7 Walter Avenue. All right? So when you walk down the side-
8 walk on this side here and got to the corner, turned right,
9 I lost view when he got behind that house. That car wasn't
10 there. That house. (Indicating)

11 Q So, turning right towards Linwen Way?

12 A That's correct. He was going in that --

13 Q Not Belair Road?

14 A Right, that direction, not towards Belair Road.

15 Q Okay. You can have a seat again.

16 A Okay.

17 Q When the officers approached you there at your
18 home, did you tell them what you've just told the ladies
19 and gentlemen of the jury?

20 A Tell them what I said?

21 Q Yes.

22 A When the first officer arrived --

23 Q I'm sorry, that was a bad question. What you just
24 recounted here --

25 A Yes.

1 Q -- did you tell the officers when they arrived
2 there?

3 A Okay, I'm sorry.

4 THE COURT: Could you rephrase that --

5 THE WITNESS: I'm not sure on the question.

6 THE COURT: -- because I don't understand what
7 you're saying either.

8 THE WITNESS: What did I say today?

9 **BY MS. COFFIN:**

10 Q Everything you just told this jury --

11 A Yes.

12 Q -- did you tell the police officer when he first
13 got to you?

14 A I did.

15 Q Okay. Did there come a time when they asked you
16 if you would be willing to participate in an identification
17 procedure?

18 A They did.

19 Q Okay. Did anyone say anything to you in order to
20 influence whether or not you were making an identification?

21 A No.

22 Q What happened?

23 A Well, after I had given the description to them,
24 within a few minutes they brought out a form. I don't know
25 what the title of the form was.

1 But they were instructing me that I was gonna
2 be asked to make an ID, if I could, and there was a list
3 of things that I needed to be aware of, sign and date the
4 form.

5 Q I'm gonna show you what's been marked as State's
6 Exhibit Number 6. Is that the form you're referring to?

7 A Yes, it is.

8 Q Okay. On this form I'm going to just place it
9 on the Elmo, I'm going to ask you to with my ink pen -- and
10 you don't have to get up -- with my ink pen, you circle the
11 parts that are your handwriting.

12 A All of these, this, this, this, this. That's the
13 officer.

14 Q Okay. So, you've circled on this form all the
15 parts that are your signature?

16 A Yes.

17 Q They took you to a location to make an
18 identification, is that correct?

19 A That's correct.

20 Q Will you tell the ladies and gentlemen if you were
21 able to make an identification?

22 A I was.

23 Q Will you tell the ladies and gentlemen what that
24 identification was?

25

1 A That the driver that I seen exit the vehicle and
2 leave the neighborhood was across the street at that time
3 sitting on the curb. When I identified him, I'm assuming an
4 officer came over, had him stand up, asked me again if I was
5 certain that that's who I had seen driving the jeep, and I
6 concurred that, yes, it was.

7 Q Did you write on this form State's Exhibit Number
8 6, the level of certainty of your identification?

9 A Of level 6? I'm not sure --

10 Q This is Exhibit 6?

11 A Okay.

12 Q What was your level of certainty?

13 A A hundred percent.

14 Q Okay. At the time you made your identification,
15 did you know what had happened to Officer Caprio on Linwen
16 Way?

17 A No, I did not.

18 Q Okay.

19 MS. COFFIN: That's all the questions I have.

20 Thank you, sir.

21 THE COURT: Cross?

22 MR. GORDON: Yes, your Honor.

23

24 **(WHEREUPON, a pause had in the proceedings.)**

25

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND,	*	
	*	
Plaintiff;	*	
	*	
-vs-	*	
	*	Case No. 03-K-18-002254
DAWNITA HARRIS,	*	
	*	(Volume 3)
Defendant.	*	
	*	
* * * * *	*	

OFFICIAL TRANSCRIPT OF PROCEEDINGS

(JURY TRIAL)

April 24, 2019

BEFORE:

THE HONORABLE JAN M. ALEXANDER

APPEARANCES:

ROBIN COFFIN, ESQ.
ZARENA SITA, ESQ.

On behalf of the State

WARREN BROWN, ESQ.
J. WYNDAL GORDON, ESQ.

On behalf of the Defendant

TRANSCRIBED BY:

CONSTANCE A.S. WILSON, RPR
Digital Recording Department
401 Bosley Avenue - Room 403
Towson, Maryland 21204
(410) 887-2688

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2	Technician Thorn	12	22	23	--
3	James Kolb	25	33	42	--
4	Mary Violanti	44	49	--	--
5	Officer Wrightson	55	--	--	--
6	Matthew Clifford	59	--	--	--
7	Technician Reed	76	--	--	--
8	Officer Saltzer	85	--	--	--
9	Patricia Smith	88	108	--	--
10	Donald Williams	118	121	123	--
11	Technician Mitchell	124	129	134	134
12	Officer Gargurevich	136	--	--	--
13	Constantine Hagepanos	142	148	--	--
14	Trudy Edwards	151	--	--	--
15	Kenneth Chambers	154	158	165	165
16	Technician Michael	167	--	--	--
17	Detective Atkins	177	181	--	--
18	Officer Yi	183	--	--	--
19	Gary Hauptmann	187	--	--	--
20	Officer Williams	192	196	200	201
21	Detective Bridges	206	--	--	--
22	Detective Battaglia	213	218	--	--
23	Technician Klein	219	--	--	--
24	<u>WITNESS</u>		<u>FURTHER REDIRECT</u>		<u>FURTHER RECROSS</u>
25	Officer Williams		205		--

1 THE CLERK: For the record, can you state your
2 name, first and last, spelling your last name.

3 THE WITNESS: Donald R. Williams; W-i-l-l-i-a-m-s.

4 **DIRECT EXAMINATION**

5 **BY MS. COFFIN:**

6 Q Mr. Williams, can you advise the ladies and
7 gentlemen of the jury where you lived on May 21st of 2018?

8 A Pardon me? I'm sorry.

9 Q Tell the ladies and gentlemen where you lived --

10 A I live in Baltimore County, Parkville, Maryland.

11 Q Okay. Do you live in the area of Lynn -- no,
12 strike that -- Northwind Road?

13 A I do.

14 Q Okay. Would you have occasion to go past that
15 street Northwind?

16 A Quite often.

17 Q Do you know the family that lives at 9610 North-
18 wind, the Smiths?

19 A I have known of them -- multiple times, different
20 times, different occasions I've talked to them.

21 Q Can you scooch a little further?

22 A I'm sorry.

23 Q Only because we want that microphone --

24 A Absolutely.

25 Q Okay. So you know of them?

1 A Yes.

2 Q Are you friendly with them?

3 A They're basically neighbors.

4 Q Just neighbors.

5 A I've talked to them here or there, whatever, say
6 hi or something like that.

7 Q Okay. I'm going to direct your attention
8 specifically to May 21st of 2018 and ask the ladies and
9 gentlemen of the jury what you were doing that afternoon?

10 A That afternoon I was on my way home with my wife
11 from the dump. We had made two dump runs that day, and
12 coming back to our home we passed the neighbor's house, and
13 seen -- it caught my attention when somebody was standing
14 outside of a dark colored jeep, like with some orange color
15 shirt or something like that. They were stretching like
16 they were standing and pulling it off or whatever. I
17 thought, well, they were just getting some work done. They
18 quite often have that done.

19 Q You mean the Smiths were getting work done?

20 A Yes, I just assumed that's what was going on,
21 and I just went on home. I noticed the car door was open
22 and facing the street, and it was about halfway down the
23 driveway like. I went home, then later that afternoon I
24 heard all of the sirens and everything going on. I was
25 talking to my other neighbor and he said --

1 Q You can't tell what your neighbor said to you?

2 A No?

3 Q Whatever your neighbor said, it caused you to
4 think?

5 A It caused me to think, and then I went up to the
6 house where the police were parked at the driveway.

7 Q That would be the 9610 Northwind?

8 A Yes, and I told the police at that time I seen
9 somebody there earlier that afternoon.

10 Q Do you know what time that was?

11 A It was approximately around 1:30 or two o'clock,
12 somewhere in that proximity.

13 Q Okay. Now, did you see the race of the
14 individual?

15 A I did.

16 Q What was the race?

17 A Black.

18 Q Okay. I'm going to show you a photograph, State's
19 Exhibit 20-C. Do you recognize what is seen in 20-C?

20 A Yes.

21 Q Okay. Can you take this red marker and mark an X
22 where the jeep was?

23 A It was around this right here. (Indicating).

24 Q Can you also do an arrow where the front of the
25 jeep was facing?

1 Q Okay. Did there come a time that you saw anything
2 out of the norm?

3 A Well, nothing really out of the norm. We saw a
4 vehicle turn onto Ardmore from Rader, and basically stopped
5 in front of a couple houses down from us on the opposite
6 side of Mr. Hagepanos, and I saw an individual -- we didn't
7 see him get out of the car, but we saw a person walk back
8 across the street, approach the front porch, and pick up a
9 package, and then returned to the car -- or the vehicle, and
10 turn around and came back to the front of the home.

11 Then we just thought that was a little out of the
12 ordinary, because we have a lot of deliveries being made by
13 Amazon, and they have a tendency to deliver packages with
14 personal cars. So, I don't know if -- we didn't know if the
15 package was being picked up again because of misdelivery or
16 something like that, and that's basically what we saw. We
17 saw the individual go back to the car, and then drove off
18 down Ardmore towards Taylor avenue. Then about four or five
19 minutes later it returned down Ardmore towards Raider and
20 stopped at the stop sign and then made a right-hand turn on
21 back up towards old Harford.

22 Q Okay. Were you able to make anything out about
23 the jeep as the jeep drove by you?

24 A Well, I caught three of the numbers or letters of
25 the license tag, and I gave those to the detectives the --

1 Q Okay.

2 A -- day after, and also with the heavily tinted
3 windows on the vehicle, it just so happened to be that the
4 sun was shining on a certain angle, and you could pick up
5 silhouettes of people in the vehicle. It was four people we
6 could distinguish from the sunlight shining through the car.

7 Q Okay. Do you remember what the three characters
8 were that you saw of the tag?

9 A Not off hand. I said I wrote them down and gave
10 them to the detectives the day after.

11 Q Okay. What, if anything, did you do with that
12 information at the time.

13 A Well, the next morning we were gonna call Coke
14 Hagepanos and let him know what we had seen, but I guess we
15 waited too late that night, and I didn't wanna wake him up,
16 so I called him the next morning to make him aware of the
17 fact of what had transpired that afternoon or morning.

18 Q Did there come a time Nah (phonetic) spoke with
19 any police officers?

20 A That afternoon when Coke had, I guess, saw his
21 video from his security cameras, he called me and told me
22 the detectives would be there --

23 MR. GORDON: Objection.

24 THE COURT: Sustained as to what he told you.

25 Next question?

1 **BY MS. SITA:**

2 Q Did you meet with any police officers?

3 A Yes.

4 Q Okay. Where did you meet with them?

5 A At Mr. Hagepanos's house.

6 Q Okay. If I showed you a report from Detective
7 Needham who you met with, would it refresh your recollection
8 as to the characters from the license plate?

9 A Yes.

10 Q If you could just take a moment to review that
11 document, and then look up at me when you're sufficiently
12 recollected?

13 A (Witness complied with counsel's request.)

14 Q What are the characters that you told the officers
15 that were on the jeep?

16 A 7DE.

17 Q Is that 7 -- D as in David -- E as in Edward?

18 A That's correct.

19 Q Oh, I'm sorry. Did you mention who you were on
20 the porch with?

21 A My wife, Barbara.

22 MS. SITA: Thank you. The State has no further
23 questions, your Honor.

24 THE COURT: Cross?

25 MR. BROWN: Yeah, real quick.

1 THE WITNESS: -- which would be say, for instance,
2 Joppa Road intersects with Belair Road up in Perry Hall, you're
3 probably talking no more than five to ten minutes.

4 **BY MR. GORDON:**

5 Q Five to ten minutes?

6 A It also depends on what time of day and the
7 traffic.

8 Q The traffic. So, at the most you're talking ten
9 minutes, at the least you're talking five?

10 A At least ten minutes.

11 Q All right. Thank you, sir.

12 Q Now, at the time that you saw this black jeep, do
13 you recall or do you remember what time it was?

14 A It was somewhere around early morning, probably
15 around anywhere between 11:30 and 12:30.

16 Q 11:30 and 12:30, okay.

17 A I mean, I wasn't looking at the clock, put it that
18 way. When I arrived back home I know it was probably around
19 lunchtime for me.

20 Q All right. Then the time that you saw the jeep
21 actually -- you saw the jeep twice that day?

22 A Twice, yes.

23 Q So, if you first saw it around 11:30 and 12:30,
24 12:30 being the latest, you saw it a couple minutes after
25 that?

1 A That's correct.

2 Q Then you saw that same individual --

3 A No, I'm not even telling you he came out of the
4 passenger's side.

5 Q Oh.

6 A All I know is the individual got out of the
7 vehicle.

8 MR. GORDON: No further questions.

9 MS. SITA: Very briefly, your Honor.

10 **REDIRECT EXAMINATION**

11 **BY MS. SITA:**

12 Q Just to clear up the record, Mr. Chambers. You
13 identified State's Exhibit 23-D as the person who you saw
14 go up on Mr. Hagepanos' porch?

15 A Yes.

16 Q That's listed as Eugene Genius?

17 A That's correct.

18 MS. SITA: Thank you, your Honor. The State has
19 no further questions.

20 THE COURT: Anything further?

21 **RECROSS-EXAMINATION**

22 **BY MR. GORDON:**

23 Q When did you see a picture of Mr. Eugene Genius?

24 A The day I saw the detectives.

25 Q He presented you with a picture of Eugene --

1 A I'm a technician in the Technology and
2 Communication Section.

3 Q Okay. Directing your attention to May 21, 2018,
4 were you working that day?

5 A I came in. Yes, ma'am, I came in for the evening
6 shift.

7 Q Okay. Were you directed to process any evidence?

8 A Yes, I was told immediately when I reported to
9 duty to respond to Franklin Square Hospital to pick up a
10 body camera from Officer Caprio.

11 Q Okay. Did you do that?

12 A Yes, I did. I went directly to the hospital.

13 Q What, if anything, did you do when you picked up
14 the body camera?

15 A I actually brought a tablet with me. We were
16 looking for suspect information as quickly as we could
17 get it, so I brought a tablet and I was going to actually
18 download -- upload the video on the tablet with software
19 that we have on there. When I did try to upload the video
20 on that tablet, it would not work. So I tried to actually
21 go into my captain's police vehicle and download the soft-
22 ware which did not work, so he immediately told me to go to
23 headquarters and upload the video, which is what I did.

24 Q Okay. Where is headquarters located?

25 A 700 East Joppa Road in Towson.

1 Q Okay. Is that also the Public Safety Building?

2 A It is, yes.

3 Q Okay.

4 A Correct.

5 Q Were you able to upload it once you got to
6 headquarters?

7 A Yes, I uploaded. I docked it at the docking
8 station and it uploaded automatically.

9 Q Okay. Where does it get uploaded to?

10 A Evidence.com is the actual program it gets
11 uploaded to.

12 Q Okay. Once it is uploaded to evidence.com, can it
13 be accessed by police personnel?

14 A Yes, it can be, authorized users.

15 Q I'm showing you what has been previously marked
16 for identification purposes only as State's Exhibit Number
17 75. Do you know what this is?

18 A Yes, that is the video footage from Officer
19 Caprio's camera.

20 Q Where is this contained?

21 A This is contained on evidence.com.

22 Q Okay. Is this a screenshot of how it looks once
23 it's uploaded to evidence.com?

24 A Yes, that is correct. Once you log in and put in
25 the CC number which would be her information, it'll pop up.

1 MS. SITA: Your Honor, at this point the State
2 would move to admit State's Exhibit Number 75.

3 MR. GORDON: No objection.

4 THE COURT: All right.

5
6 **(State Exhibit 75 is admitted in evidence.)**

7
8 **BY MS. SITA:**

9 Q Are you able to tell when the video was recorded?

10 A Yes, there's information on here. If you could
11 just pull it up a little bit and to the right. It will say
12 recorded on, it says, "May 21, 2018 at 2:11 p.m."

13 Q Okay. Does that information ever change?

14 A No, it does not.

15 Q The time that was recorded, is that also the time
16 that the body-worn camera is activated?

17 A That's correct.

18 Q Thank you.

19 MS. SITA: Your Honor, the State has no further
20 questions.

21 THE COURT: Cross?

22 MR. GORDON: Yes.

23
24 **(WHEREUPON, a pause had in the proceedings.)**

25

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND,	*	
	*	
Plaintiff;	*	
	*	
-vs-	*	
	*	Case No. 03-K-18-002254
DAWN TA HARRIS,	*	
	*	(Volume 4)
Defendant.	*	
	*	
* * * * *	*	

OFFICIAL TRANSCRIPT OF PROCEEDINGS

(JURY TRIAL)

April 25, 2019

BEFORE:

THE HONORABLE JAN M. ALEXANDER

APPEARANCES:

ROBIN COFFIN, ESQ.
ZARENA SITA, ESQ.

On behalf of the State

WARREN BROWN, ESQ.
J. WYNDAL GORDON, ESQ.

On behalf of the Defendant

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<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Kirk Thomas	9	13	20	21
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1 THE WITNESS: This is a photograph that was taken
2 of Officer Caprio's police shirt at the time of autopsy.
3 It's open in the front. Can you see some blood staining
4 on the left upper chest and collar area, and if you look
5 closely at the photo, can you see a grayish white patterned
6 mark in the area of the right and upper chest armpit area,
7 and also across the front of what would be the upper abdomen
8 lower chest area crossing from the right onto the left side
9 of the shirt.

10 **BY MS. COFFIN:**

11 Q The marks that are seen on her shirt, were they
12 consistent with subsequent injuries that you found during
13 the performance of your autopsy?

14 A Yes.

15 Q Okay. You can go back to your seat.

16 A (Witness complied with counsel's request.)

17 Q 36-D, what does this show?

18 A (No audible response).

19 Q Can you tell what 36-D shows?

20 A Yes. This is a close-up view of the left shoulder
21 upper chest area of the shirt just showing the blood stain
22 there and also some tearing in the shoulder area of the
23 shirt.

24 Q Okay. 36-E?

25

1 A This is a photograph that was taken of the
2 back side of the same shirt showing some scuff marks and
3 discoloration of the shirt, some blood staining and also
4 tearing.

5 Q 36-F?

6 A This photo is specifically taken -- it's what we
7 refer to as an identification photo to clearly show the face
8 of that individual that's being autopsied.

9 Q Do you also see injuries to her body in this
10 photo?

11 A There are a few small abrasions, which are scrapes
12 on the nose and you can see some faint contusions or
13 bruising of the chest.

14 Q 36-G?

15 A This photograph was taken specifically of the
16 mid-chest area showing, again, those two contusions and the
17 abrasion with the circular impressions on the central chest
18 that are likely due to CPR, also some additional bruising
19 above that on the upper chest.

20 Q This area right here? (Indicating)

21 A Yes.

22 Q 36-H?

23 A This photograph shows the right lower chest and
24 upper abdomen. There are numerous contusions and abrasions
25 of that area right here. (Indicating)

1 Q You just made like a tunnel. Is that what you're
2 reflecting as the injuries consistent with what you saw on
3 her shirt?

4 A Yes.

5 Q 36-I?

6 A This is an abrasion or scrape of the front of the
7 right hip area with an associated bruise.

8 Q 36-J?

9 A This is the right thigh, kind of the front and
10 the outer portion of the right thigh showing additional
11 abrasions and contusions.

12 Q 36-K?

13 A This photograph is of her right knee showing an
14 abrasion there on the outer aspect of the knee.

15 Q 36-L?

16 A Again, this photo is specifically taken to show
17 the right upper abdomen, the right side and the lower chest
18 area showing additional contusions and abrasions on the
19 lateral or outside aspect of the torso.

20 Q 36-M?

21 A In the same area as the photo we were just looking
22 at, just showing more as we were moving towards the back of
23 the torso in the same upper abdomen lower chest area showing
24 additional contusions and abrasions.

25 Q 36-N?

1 A This is now going to the back in that same area,
2 the right mid-back showing a contusion of that area.

3 Q 36-O?

4 A This photo shows the back of the right elbow,
5 showing, again, abrasions and contusions.

6 Q 36-P?

7 A This is of the outside of her right hip showing a
8 contusion there.

9 Q 36-Q?

10 A This photo is very similar to the one we were
11 just looking at showing contusion to the back of the upper
12 thigh.

13 Q 36-R?

14 A These upcoming photos were mainly taken just to
15 document how the feet and hands looked. This is a photo-
16 graph of the right foot. There's also a faint contusion
17 there on the outer aspect of the foot.

18 Q 36-S?

19 A Again, just to document the appearance of the
20 hands. There's a very faint contusion of the palm of the
21 hand right above where the thumb is.

22 Q 36-T?

23 A This is a photograph of the left shoulder showing
24 contusions there of the shoulder.

25 Q 36-U?

1 A Again, a photograph of the top part of the left
2 shoulder showing contusions.

3 Q 36-V?

4 A This is the back of the left arm, again, showing
5 small abrasions and contusions.

6 Q 36-W?

7 A This photograph was specifically taken to document
8 contusion of the left elbow.

9 Q 36-X?

10 A This photograph is showing the back of the left
11 hand showing multiple abrasions and contusions.

12 Q 36-Y?

13 A This is a photograph of the left hand, again,
14 showing faint contusions, discoloration of the palm just
15 proximal to where the thumb is.

16 Q 36-Z?

17 A This shows the front of the left thigh and a
18 contusion located there.

19 Q 36-AA?

20 A This is a photograph of the outer aspect of the
21 left ankle just showing faint contusions there as well.

22 Q 36-BB?

23 A This is a photograph of the left side of the
24 head showing a full thickness scalp laceration, which is a
25 tearing of the skin.

1 Q That laceration took her scalp. Was that a fatal
2 injury?

3 A This is a superficial scalp wound. There was no
4 significant underlying skull fractures or injuries to the
5 brain specifically associated with that injury.

6 Q These abrasions and contusions that were seen in
7 these photographs, within a reasonable degree of certainty,
8 are they consistent with her having been run over by a
9 vehicle?

10 A Yes.

11 Q Now, I'm gonna go deeper into detail about her
12 injuries. On page 1 of your report during your external
13 examination you said that you noted sepias -- am I close?

14 A Direct me to where you're looking.

15 Q I am going to --

16 MR. GORDON: Crepitus.

17 MS. COFFIN: Crepitus. Thank you.

18 MR. GORDON: Oh, okay. Yes, crepitus.

19 **BY MS. COFFIN:**

20 Q Will you explain what that means?

21 A Yes, crepitus is something that we look for at
22 the time of autopsy, particularly in the chest when some-
23 body has rib fractures. The rib cage is designed to keep
24 air trapped inside of the chest cavity so that we can
25 breathe.

1 When there are rib fractures, that air escapes
2 from the chest cavity out into the soft tissues of the
3 chest wall. It can feel like bubble wrap or popcorn under
4 the skin when you touch it, and that's what we describe as
5 crepitus. It's an indicating of rib fractures usually.

6 Q Okay. Will you go onto describe all of the
7 internal injuries that you note?

8 A Well, I'd like to start just -- I talked briefly
9 about the head laceration. No brain injuries, no skull
10 injuries. There's a joint space between the skull and the
11 neck vertebrae where it connects. There's a bit of widening
12 of that space, and associated softening of the upper most
13 part of the spinal cord in that area at the time of autopsy.
14 I've described and shown --

15 Q Can I stop you there?

16 A Yes.

17 Q What would cause that kind of opening?

18 A Typically that is due to blunt force trauma.

19 Q Okay. Thank you.

20 A Moving on to the torso and injuries that were
21 seen there. We've looked at photographs of the numerous
22 contusions and abrasions that were really most obvious and
23 localized to the right side of the body; the right upper
24 abdomen, the right side of the chest.

25

1 Internally those corresponded with injuries to
2 the liver, which fits just under the rib cage in the lower
3 chest, which was the right side of the liver as described
4 in the autopsy report as macerated, which means extensively
5 lacerated, such that it would not be able to be put back
6 together easily; lacerations or tearing of the diaphragm,
7 which is the muscle that separates the abdominal cavity from
8 the chest cavity; multiple rib fractures on both side of the
9 chest, right and left; bruising to the lungs, aspiration of
10 blood into the lung tissue; hemorrhage within the soft
11 tissues of the central chest.

12 When looking at the back soft tissues, there
13 was a tremendous amount of hemorrhage or hematoma, which
14 is a collection of blood, in the almost entire right side
15 of the back, with fewer small areas of bruising or blood
16 accumulation within the soft tissues of the left upper back
17 and left shoulder area. The spinal cord also showed hemor-
18 rhage in the lower part of the thoracic spinal cord with
19 softening. Again, similar to what I saw in the upper cord,
20 softening of the spinal cord in the thoracic region of the
21 spinal cord as well.

22 Q What would cause that kind of injury?

23 A It's associated with blunt force trauma.

24 Q With regard to her liver, was that a injury that
25 was survivable?

1 A The liver injury specifically?

2 Q Yes.

3 A I mean, people do sustain liver injuries and
4 they are able to repair them in a surgical setting if that's
5 done immediately. The liver contains a tremendous amount of
6 blood, and it's very difficult to stop the bleeding. So I
7 can't say for certain whether the liver injury alone would
8 have resulted in her death. It may have been able to have
9 been repaired surgically.

10 Q Okay. With regard to the rib fractures, you are
11 aware that CPR was performed in this case?

12 A Yes.

13 Q Will you explain if the rib fractures you saw
14 could be associated with the application of CPR?

15 A We do see rib fractures quite frequently when
16 someone receives CPR. The CPR compressions are performed
17 in the center of the chest, and it creates pressure at the
18 front of the ribs where they join to the sternum or breast
19 bone.

20 So we oftentimes, relating to CPR, see rib
21 fractures that are in the front along the sternum. They
22 are associated with minimal amounts of hemorrhage, because
23 at the point of someone receiving CPR, their blood isn't
24 circulating properly through their body, so the injuries
25 don't bleed as much.

1 The rib fractures that were seen during Officer
2 Caprio's autopsy were not in that location, they were not
3 consistent about CPR. They were fractures that were
4 occurring laterally, which means on the sides of the chest
5 and in the back.

6 Q So, right here. (Indicating) I'm standing up.
7 Fractures here on my side?

8 A Yes.

9 Q Ribs in the back?

10 A In the back.

11 Q Okay. What, if anything, does that indicate
12 to you?

13 A This is consistent with a crush type of injury.

14 Q Okay. Doctor, were the injuries that you [sic]
15 sustained rapidly fatal in this case?

16 A The injuries that I observed during the course
17 of this autopsy in total are rapidly fatal, yes.

18 Q Within a reasonable degree of certainty, the marks
19 that are seen and aligned on her shirt, are they consistent
20 with a crush injury as you've described the injuries here
21 internally?

22 A Yes.

23 Q Within a reasonable degree of certainty, can you
24 advise the cause of death?

25 A The cause of death was multiple injuries.

