

Circuit Court for Baltimore City  
Case No. 119134024

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND\*\*

No. 0023

September Term, 2022

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RUBEN L. JACKSON

v.

STATE OF MARYLAND

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Reed,  
Zic,  
Raker, Irma S.,  
(Senior Judge, Specially Assigned),

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Opinion by Raker, J.

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Filed: August 17, 2023

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation confirms to Rule 1-104(a)(2)(B).

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

Appellant Ruben Jackson Jr. was convicted in the Circuit Court for Baltimore City of second-degree murder and use of a handgun in the commission of a crime of violence.

Appellant presents the following questions for our review:

1. “Where appellant testified that he acted in self-defense, did the court commit reversible error in excluding evidence of prior abusive conduct by the decedent?”
2. Did the court commit reversible error by instructing the jury on an alternative basis for finding self-defense that was not generated by appellant’s testimony?”

Because we shall find that the trial court committed error and that error was not harmless, we shall reverse.

I.

Appellant was indicted by the Grand Jury for Baltimore City of first-degree murder, second-degree murder, and use of a handgun in the commission of a crime of violence. The court sentenced appellant to a term of incarceration of 25 years.

On April 12, 2019, Baltimore City police responded to a report of a family disturbance at the home appellant shared with his mother and his father, the eventual victim. When police arrived, they witnessed both parents arguing with their son, appellant, who was walking away from the house. The officers asked the parents if they needed help, and both refused, claiming they would deal with the issue. Two days later, on April 14, 2019, Patricia Martin, appellant’s mother, called 911 to report that she had found her husband, Ruben Jackson Sr, dead in the basement of their home. He was wrapped in a

blanket and surrounded by a pool of blood. Police officers detained appellant for questioning and found a spent bullet casing in his jacket pocket.

The police interviewed appellant, and he initially denied any involvement in the murder. As the interrogation continued, appellant gave differing accounts of the events. Eventually, appellant admitted that he shot and killed his father, claiming self-defense. Appellant maintained that his father had been repeatedly abusive and physically violent. On this fatal incident, appellant claimed that his father had been choking him and threatening to kill him. Appellant told the police that he was having trouble breathing, that he asked his father to stop choking him, and that he was blacking out from asphyxiation when he grabbed a gun located on a nearby piece of furniture. He then shot his father in the side. The fighting continued, and appellant shot his father three more times. He stated that he had denied any involvement originally because he feared his story would not be believed.

The autopsy showed that decedent suffered five gunshot wounds, most likely from four bullets. The first bullet entered the right side of the temple and lodged in the decedent's left jawbone. The second bullet entered the back of his head on a forward trajectory. The third grazed the side of the neck, moving downward from front to back. And the fourth bullet caused two wounds because it traveled from left to right, hitting the decedent's left arm then the left side of his chest before lodging in his sternum. The medical examiner testified that the first three bullets appeared to be fired at close range, although the evidence was inconclusive.

During the trial, appellant pursued a theory of self-defense. He painted a picture of the decedent as both physically and emotionally abusive. Consequently, much of the trial turned on evidentiary decisions by the court regarding the scope of self-defense evidence appellant could introduce.

Appellant testified about his relationship with his father, describing it as “up and down” and “rocky.” Their relationship was intermittently amicable; however, those times were interspersed with times when appellant felt scared or threatened by his father. Appellant testified that his father would get angry and upset at him, lashing out and beating him. His father would refer to him in a denigrating manner, using terms such as, “dumb ass, pussy, [and] punk bitch.” Appellant explained that he has a learning disability and was hurt when his father would refer to him as a “dumb ass” or a “stupid ass.”

Appellant testified that his relationship with his father deteriorated even further after his mother, Ms. Martin, underwent heart surgery in early 2019, because appellant and his father were now home alone together. When she was home, Ms. Martin would normally calm the situation. In her absence, appellant would simply try to avoid his father. Regardless of appellant’s efforts, his father abused him during that time. At one point, appellant attempted to get away from his father, but Mr. Jackson Sr. grabbed appellant’s head and slammed it into a stucco wall, creating a cut. Ms. Martin’s return from surgery did not stop the abuse; the name-calling and physical violence continued.

During the trial, both appellant and his mother, Ms. Martin, testified as to the dispute which had occurred two days before Mr. Jackson Sr.’s death. Ms. Martin testified that Mr.

Jackson Sr. wanted to move a bed railing into his son's bedroom. Ms. Martin told her husband it was unnecessary because there was already a bed railing in the room. Appellant objected as well. His father responded by pushing him down the stairs. Ms. Martin asked appellant to leave the home to let things calm down. She testified that when the police arrived, she sided with her husband, to calm him down. After a few hours, she called appellant to tell him he could return home. She implored him to keep the peace, because if there was a physical fight, she was too weak to offer any assistance.

During the trial, appellant testified to the events that occurred immediately before and after the shooting. The morning of the incident, appellant was home alone with his father. Mr. Jackson Sr. and appellant were moving an armoire into the basement. Mr. Jackson Sr. wanted to call Ms. Martin to ask her about moving it. Appellant objected, stating that they shouldn't bother her. Appellant testified that his father's demeanor changed, and he began to feel scared and threatened. His father then went upstairs and returned with a revolver, while yelling at appellant. He threatened to kill appellant and slammed his gun down on a cabinet. Appellant testified that his father said, "matter fact, I don't need this gun to kill you. I can do it with my bare hands."

At this point Mr. Jackson Sr. began to strangle appellant with both hands. Appellant attempted to fight him off but was unable to do so. Appellant testified that this went on for "many, many seconds," that he felt like he was blacking out, and that he believed his father was going to kill him. It was at this moment that he grabbed the revolver and fired the first

shot into his father's side. His father reached for a knife by the fireplace and appellant fired the remaining shots in rapid succession.

Appellant testified that in the immediate aftermath he was in shock. He began to clean the scene and move his father's body to the basement, covering it with a blanket. His mother found the body the next morning and called the police.

At trial, appellant offered the above-mentioned evidence to support his self-defense argument. The court made some significant evidentiary decisions regarding additional evidence and descriptions of Mr. Jackson Sr.'s behavior which are now the crux of this appeal. During pre-trial motions, the court ruled that defense counsel's opening statement could include reference to appellant's "tumultuous relationship" with his father and describe the domestic violence "in a general sense"; however, appellant could not assert that he had been repeatedly abused.

Right before opening statement, the court made clear that it would prohibit defense counsel from saying that appellant suffered from battered person syndrome because the defense did not intend to present an expert. The judge differentiated between allowing evidence of some abuse and establishing a pattern of abuse, stating as follows:

"And so we're walking a very thin line. I don't think you get to show a pattern of abuse unless you have an expert who can tie it to a syndrome. Now, that is not to say he can't offer evidence of self-defense or imperfect self-defense. But you can't say, we're not saying to the jury it is a syndrome, but present a syndrome without an expert."

The court ruled that, throughout trial, some of the history between appellant and the decedent could be admitted as evidence of self-defense or imperfect self-

defense, but that, if appellant attempted to show a pattern of abuses, it would run afoul of the court’s prohibition on evidence of a syndrome. The court indicated an intention to take any evidence of specific abuses on a case-by-case basis.

In keeping with that ruling, during Ms. Martin’s testimony, the court sustained objections to several of defense counsel’s questions. The court disallowed general questions about the nature of the relationship between decedent and appellant, the relationship between the two during appellant’s teenage years, the relationship between the two when appellant became an adult, and the nature of their day-to-day interactions. The court instructed defense counsel repeatedly to constrain the timeframe of his questions to a time period closer to the incident. The general questions to which the court sustained objections were as follows:

Question 1. “Describe your relationship with Ruben Sr. from the beginning of the relationship”

Question 2. “Did you have any issues in the relationship”

Question 3. “How would you describe the relationship between your son and husband?”

Question 4. “How would you describe the relationship once Ruben Jackson Jr. became a teenager?”

Question 5. “How would you describe the relationship as Mr. Jackson became an adult?”

Question 6. “How would you describe the relationship between Ruben Jackson Sr. and Ruben Jackson Jr. as it relates to their day-to-day interaction?”

The court also sustained an objection to Ms. Martin’s testimony that when she would attempt to calm the tension between father and appellant, Mr. Jackson Sr. would tell her to “shut up, Bitch.” The court informed counsel that Ms. Martin could not testify about abusive statements made to her. Finally, the court sustained the State’s objection to defense

counsel asking appellant whether he had witnessed any physical contact between his father and mother.

At the close of the evidence, the court and counsel discussed jury instructions, the subject of appellant's second question presented in this appeal. Because we shall find that the court erred in excluding evidence related to appellant's state of mind and his defense of self-defense, we will not set out the underlying facts related to that issue.

Appellant was convicted of second-degree murder and use of a handgun in the commission of a crime of violence. As noted, the court imposed sentence and this timely appeal followed.

## II.

Appellant argues that evidence of his father's abuse and of his observation of his parents' marriage, were relevant to proving his claim of self-defense. Appellant contends that, because the defense generated the issue of self-defense, character evidence about the decedent is admissible for two purposes. The defense can introduce evidence first to prove the defendant's state of mind and second, as corroborative evidence that the deceased was the initial aggressor. Here, appellant claims the excluded evidence was admissible for both purposes.

Appellant argues that evidence that he had a contentious relationship with the decedent and that the decedent had physically abused his wife and son would have substantiated appellant's contention that he feared his father and that his fears were

reasonable, provided that he could show he had knowledge of that history. In addition, appellant contends that this evidence would have made it more probable that the decedent was the first aggressor, regardless of the defendant's knowledge of that prior violence.

Appellant argues that the court's ruling was based on a misinterpretation of the cases on battered-child and battered-spouse syndrome, and was wrong to permit evidence of a pattern of abuse only if accompanied by expert testimony regarding a specific syndrome. Appellant maintains that the caselaw relied upon by the trial court applies to situations in which battered-child or battered-spouse syndrome is raised to explain why a defendant may have perceived a threat from a decedent's objectively non-threatening behavior and, as a result, acted as the initial aggressor. Appellant claims that this was not such a case. He claims that he was not the initial aggressor, and, thus, his defense was based upon a theory of traditional, common law, self-defense as opposed to a battered-child theory. Under a traditional common law theory, appellant claims, he should have been able to offer evidence of the decedent's violent character.

The court's errors were not harmless, according to appellant. Appellant argues that because he was the only witness to the incident, his testimony and credibility were central to the case. He contends the outcome of the trial was determined by whether the jury believed his testimony. The evidence he sought to introduce about the general violent and intemperate behavior of the decedent would corroborate his account and support his state of mind. Ms. Martin's testimony regarding her husband's behavior towards her would provide the same credibility. Consequently, the decisions were not harmless.

The State argues, first, that the objections to the initial six prohibited general questions are not preserved for our review because, when the court sustained the State's objections to the evidence, defense counsel failed to make any proffer as to the relevancy or materiality of the excluded evidence. The State asserts that a proffer is necessary to preserve an objection to excluded evidence. Defense counsel did not proffer the admissibility basis as to any of the first six sustained objections.

As to the substance of the evidentiary rulings, the State maintains that the trial court exercised proper discretion in sustaining its objections during the testimony of appellant and Ms. Martin. The State contends that the trial court did not categorically prohibit all character evidence of the decedent but instead, the sustained objections related to the form of questions utilized by defense counsel, which resulted in unprompted testimony. The State characterizes the defense counsel's questions as "overboard, calls for narrative-style questions." For example, asking appellant's mother to describe the entirety of her relationship with the decedent was overbroad. The State refers to the fact that the court was explicit in its instruction to defense counsel that the questions were overbroad, and that the timeframe had to be narrowed. In any case, the state argues that any error was harmless because appellant was able to present other evidence of abuse.

III.

We address appellant’s first argument that the court committed reversible error in excluding evidence of Mr. Jackson Sr.’s abusive conduct. We consider first the State’s preservation argument that appellate waived or forfeited this claim by failing to proffer the basis for admissibility. The Supreme Court of Maryland has held that a proffer is the most common method of preserving a claim that the trial court erred in excluding evidence. *Devincentz v. State*, 460 Md. 518, 535 (2010). The proffer is designed to make “the grounds for a different ruling manifest to the trial court at a time when the court can consider those grounds and decide whether to make a different ruling.” *Peterson v. State*, 444 Md. 105, 124-25 (2015).

However, “a proffer is not an absolute requirement for preservation.” *Devincentz*, 460 Md. at 535. Prior to the adoption of the Maryland Rules of Evidence, the Supreme Court of Maryland held that “where the tenor of the questions and the replies they were designed to elicit is clear, a proffer in the record is not a necessary prerequisite for a review of the ruling.” *Peregoy v. Western Md. Ry. Co.*, 202 Md. 203, 209 (1953). After the adoption of the rules, Rule 5-103(a)(2) maintained this same exception to the proffer requirement. To preserve a claim, appellant must be prejudiced by the ruling and “the substance of the evidence [must be] made known to the court by offer on the record *or was apparent from the context within which the evidence was offered.*” *Id.* (emphasis added).

Maryland courts have determined the necessity of a proffer for preservation on a case-by-case basis. *Merzbacher v. State*, 346 Md. 391, 416 (1997) (holding that a challenge

was unpreserved when the witness could have answered in various ways, leaving the appellate court with no ability to discern its favorability to the defense); *Conyers v. State*, 354 Md. 132, 163-64 (1999) (finding a challenge unpreserved when defense counsel never established the importance of the excluded evidence); *Peterson v. State*, 444 Md. 105, 162 (2015) (holding that a defense counsels proffer was unclear, inadequate, untimely, and it was doubtful whether counsel had the proper foundation to question the witness). In all these instances, the court found the relevance of the excluded evidence unclear. However, Maryland courts have held that challenges to excluded evidence can be preserved without a proffer if the purpose of the excluded testimony is clear. *Jorgensen v. Maryland*, 80 Md. App. 595, 602 (1989) (holding that a challenge was preserved without a proffer because “the questions to which objections were sustained clearly generated the issue – what the examiner was trying to accomplish was obvious”); *Devincentz*, 460 Md. at 539 (2018) (holding that a proffer was unnecessary because the relevance was apparent from the context).

We hold that the issue is preserved for our review. It was clear to all that appellant’s defense was self-defense and that he was alleging that his father was the first aggressor. A proffer was not required to preserve the issues for our review.

Ordinarily, we review a trial court’s admission of evidence for abuse of discretion. *Wheeler v. State*, 459 Md. 560 (2018). The standard of review may vary between abuse of discretion and *de novo*, depending upon whether the “ruling under review was based on a discretionary weighing of relevance in relation to other factors or on a pure conclusion of

law.” *Perry v. Asphalt & Concrete Services, Inc.*, 447 Md. 31, 48 (2016) (internal quotations omitted). If a judge’s ruling involved a legal question, we review *de novo*. *State v. Simms*, 420 Md. 705, 725 (2011). A court may exclude evidence if its probative value is substantially outweighed by the weight of unfair prejudice, and we review such decisions for an abuse of discretion. *Montague v. State*, 471 Md. 657, 674 (2020). Trial courts do not have discretion to admit irrelevant evidence. *State v. Simms* 420 Md. 705, 725 (2011).

Repeatedly, the trial court sustained objections to defense counsel’s examination of appellant and his mother. The trial court based these decisions on its determination that the questions were too broad and had to be narrowed chronologically to a timeframe closer to decedent’s death. These are decisions of law, determining that these questions are not legally relevant because the timeframe is too wide.

Relevant evidence is evidence that has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Rule 5-401. In Maryland, defendants claiming self-defense can introduce evidence regarding decedent’s character to achieve one of two objectives. Defendants can introduce character evidence to prove their state of mind or to substantiate evidence that the decedent was the initial aggressor. *Thomas v. State*, 301 Md. 294, 306-07 (1984).

A jury may consider a defendant’s knowledge of prior violent acts to prove that he had reason to perceive a deadly motive and purpose in the victim’s acts. *Id.* at 307. To introduce such evidence, the defendant must first prove (1) that he had knowledge of the

prior acts of violence, and (2) that there was an overt act demonstrating the decedent's deadly intent towards him. *Gunther v. State*, 228 Md. 404, 410 (1962). Alternatively, a defendant can offer evidence of a crime victim's relevant character trait as propensity evidence, tending to make it more likely that the victim would act in conformity with their prior violent conduct. Rule 5-404(a)(2)(B). This evidence can be introduced by reputation evidence or opinion testimony. Rule 5-405. The evidence appellant sought to introduce was relevant for both purposes.

Appellant sought to introduce evidence of a long-standing pattern of abusive and violent behavior on Mr. Jackson Sr.'s part, directed towards appellant and towards appellant's mother while in appellant's presence. The evidence was relevant to appellant's state of mind. These were prior acts of violence which had, allegedly, occurred in the defendant's presence, and they were coupled with evidence of an overt act of violence—the strangulation of the defendant. The jury should have been permitted to consider evidence that the defendant reasonably could have perceived a deadly motive. Further, the general, opinion-based questions defense counsel directed to Ms. Martin were relevant propensity evidence tending to show that Mr. Jackson Sr. was the first aggressor, and were relevant on either theory. The proffered evidence was relevant to establish self-defense under either theory of appellant's state of mind or the first aggressor theory.

The State maintains that if there was error, such error was harmless. Harmless error occurs when “a reviewing court, upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict.”

*Dorsey v. State*, 276 Md. 638, 659 (1976). Consequently, “errors that do not contribute to a defendant’s guilty verdict do not warrant reversal.” *State v. Jordan*, 480 Md. 490, 506 (2022). The State has the burden of establishing beyond a reasonable doubt that an error was harmless. *Dionas v. State*, 436 Md. 97, 108 (2013).

We hold that the exclusion of this evidence was not harmless error. This character evidence was central to appellant’s case that he was justified in killing his father in self-defense. The Supreme Court of Maryland has asserted that “it is an unusual occasion where the erroneous exclusion of evidence contradicting material elements of the State’s theory of the crime will be found to be harmless error.” *Bellamy v. State*, 403 Md. 308, 333 (2008). Evidence of decedent’s violent character throughout appellant’s relationship undermines the State’s position that the killing was not in self-defense. The Supreme Court of Maryland has held that “where credibility is an issue and, thus, the jury’s assessment of who is telling the truth is critical, an error affecting the jury’s ability to assess a witness’ credibility is not harmless error.” *Dionas*, 436 Md. at 110. Here, where the case turned on whether the jury believed the defendant’s version of events surrounding the killing and the evidence tended to corroborate the defendant’s version. We cannot say that the error did not contribute to the verdict.

**JUDGMENTS OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
REVERSED. CASE REMANDED  
TO THAT COURT FOR A NEW  
TRIAL. COSTS TO BE PAID BY  
THE MAYOR AND CITY  
COUNCIL OF BALTIMORE.**