Circuit Court for Anne Arundel County
Case No. C-02-CR-17-001988

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 81

September Term, 2018

BRIAN TERRANCE JONES

v.

STATE OF MARYLAND

Meredith,
Reed,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: June 18, 2020

After a trial in the Circuit Court for Anne Arundel County on January 25, 2018, a jury convicted Brian Terrance Jones ("Appellant") of kidnapping, two counts of second-degree assault of Kimberly Sims ("Ms. Sims"), one count of second-degree assault of Kesha Adams ("Ms. Adams"), reckless endangerment, and disorderly conduct. At his sentencing hearing on March 9, 2018, the circuit court imposed the following concurrent sentences of incarceration: thirty (30) years for kidnapping; three (3) years for the second-degree assaults of Ms. Sims; six (6) months for the second degree assault of Ms. Adams; six (6) months for reckless endangerment; and sixty (60) days for disorderly conduct. This appeal followed.

In his appeal, Appellant presents a single question for our review:

I. Did the trial court err and/or abuse its direction in admitting evidence of Appellant's alleged prior bad acts?

For the following reasons, we affirm.

FACTUAL & PROCEDURAL BACKGROUND

On August 5, 2017, Appellant was accused of kidnapping, assaulting, and recklessly endangering his long-term girlfriend, Ms. Sims. At trial, Ms. Sims denied the allegations and testified on behalf of Appellant. To rebut Ms. Sims' testimony, the State relied on the testimony of Ms. Adams, who witnessed the alleged events and who was also allegedly assaulted by Appellant.

At trial, Ms. Adams testified that she had formerly been best friends with Ms. Sims and had known Ms. Sims for over twenty years. Ms. Adams stated that Ms. Sims and Appellant had been in a relationship for approximately fifteen to sixteen years and had two

children together. During the State's direct examination of Adams, the following colloquy occurred:

> [The State:] Prior to that pregnancy where you were both pregnant at the same time do you know how long Ms. Sims had been dating the defendant?
>
> [Ms. Adams:] About 13 years.
>
> [The State:] When she was pregnant 12 years ago do you know –
>
> [Ms. Adams:] Oh, 12 years ago? About three to four years prior to that.
>
> [The State:] Okay. For how long would you say their relationship was what you just described, where you weren't seeing each other as often?
>
> [Ms. Adams:] Once we became pregnant[,] I only got to see [Ms. Sims] – she would only come to my house –
>
> [Defense Counsel]: Objection.
>
> [The Court]: Basis?
>
> [Defense Counsel]: May we approach?
>
> [The Court]: Sure.
>
> (Counsel approached the bench, and the following ensued:)
>
> [Defense Counsel]: When she says she's not allowed to see her the implication to me is that [Appellant] was not allowing it. Which I think is referring to prior instances. Which I have not been given any notice about.
>
> [The Court]: Is that what she's saying? That he didn't allow that?

[The State]: She hasn't said that but I can ask her. But regardless, it's not [Rule 5-]404(b),[1] it's not a prior bad act if she was not allowed to be around her friend. And I think it's especially (indiscernible) of what we just talked about for credibility. For – I mean, if we want to save all of this for rehabilitation I think it's coming in anyway, but –

[The Court]: Yes, I agree. I agree. It's over with. You may ask it.

[The State]: Thanks.

(Counsel returned to the trial tables, and the following ensued in open court:)

[The State:] So, Ms. Adams, excuse me. We were talking about for how long starting 12 years ago your relationship was as you just described where you weren't really around Ms. Sims.

[Ms. Adams:] Correct.

[The State:] How long was that?

[Ms. Adams:] Probably once our kids probably was like two. I moved – was living in P.G., [Ms. Sims] would come up there here and there to get away.

[Defense Counsel]: Objection.

[The Court]: Overruled. Next question.

[The State:] Now, you're saying you weren't really around each other. Do you know was that on her end or your choice?

[Ms. Adams:] It was on her end.

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[1] Rule 5-404(b) states:

Evidence of other crimes, wrongs, or acts including delinquent acts as defined by Code, Courts Article, § 3-8A-01 is not admissible to prove the character of a person in order to show action in conformity therewith. Such evidence, however, may be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity, or absence of mistake or accident.

[The State:] And, if you know, why did that change where you weren't around each other during that time?

[Defense Counsel]: Objection.

[The Court]: Ladies and gentlemen, this is being offered for the limited purpose to show what was going on in Ms. Adams'[s] mind. Not for the truth of the assertion but only to show why she did or did not do what she did at a particular time. Okay, next question.

[The State:] So, if you know, why did that happen?

[Ms. Adams:] It was her choice.

* * *

[The State:] Did there come a time on August 5th of last year that you went out somewhere with – you and [Ms. Sims] went out together?

[Ms. Adams:] Yes.

[The State:] How did that come about?

[Ms. Adams:] She texted me and wanted to go out.

[The State:] And so what happened after she texted you that?

[Ms. Adams:] I replied back and said I'm not messin' with you if [Appellant] is gonna be following us.

[Defense Counsel]: Objection.

[The Court]: Overruled.

[The State:] And why did you say that?

[Ms. Adams:] Because every time we go out –

[Defense Counsel]: Objection.

[The Court]: Again, ladies and gentlemen, this is being admitted – the response to this question – for the limited purpose of what's in Ms.

> Adams' mind but not for the truth of the assertion. So you may ask the question.
>
> [The State:] You can go ahead and answer.
>
> [Ms. Adams:] Every time we go out we have to either switch cars, hide cars, lay her down in the back seat –
>
> [Defense Counsel]: Objection.
>
> [Ms. Adams]: – to go out.
>
> [The Court]: Overruled. Next question.

Ms. Adams then testified regarding the events on the date in question. According to Ms. Adams' testimony, Ms. Sims picked her up at her Glen Burnie residence around 9:30 pm on August 5, 2017 and went to a bar known as Dietrich's. Approximately half an hour after arriving at the bar, Ms. Adams saw that Appellant was in the bar. Appellant then approached Ms. Sims and, with an angry demeanor, leaned down and whispered something to her. Shortly thereafter, Ms. Sims exited the bar, followed by Appellant.

When Ms. Adams exited the bar to smoke, she testified that she saw Appellant and Ms. Sims "arguing back and forth." Ms. Adams stated that she was "ready to go," and she and Ms. Sims departed, with Ms. Sims driving. As the two approached a business known as Judy's Island Grill, Ms. Adams offered to drive, and Ms. Sims drove her car into the parking lot. When Ms. Sims exited the car, Appellant "pulled up." Ms. Sims approached Appellant and Appellant stated: "[W]hat you guys goin' out to be whores?" Ms. Adams stated that she was "ready to go home," and Ms. Sims re-entered the car.

While Ms. Adams was driving down Dorsey Road towards I-97, she felt a car make minimal contact with hers while stopped at a traffic light. Upon looking in the rearview

mirror, Ms. Adams saw that Appellant was in the vehicle behind hers. Ms. Adams immediately called 911 and was instructed by the dispatcher to get to a well-lit area. As Ms. Adams drove toward a convenience store, she saw Appellant driving his vehicle "[b]ehind [her], on the side of [her], back and forth." When Ms. Adams pulled into the parking lot of the convenience store, Appellant pulled into the lot's other entrance and "turned his lights off." Fearing that Appellant would soon ram her vehicle with his, Ms. Adams exited the parking lot and drove toward the "commissioner's office."

As Ms. Adams drove down the road, Ms. Sims requested that Ms. Adams let her out of the vehicle. When Ms. Adams attempted to slow down, Ms. Sims "jump[ed] out [of] the car." Ms. Adams explained that she then made a U-turn and saw Appellant's car in the parking lot of a tire replacement business. Ms. Adams testified that she saw Appellant "dragging [Ms. Sims], hitting her, and [throwing] her into the front passenger seat." Ms. Adams further testified that Ms. Sims jumped out of Appellant's vehicle momentarily, but Appellant "came back around, beat her again, . . . threw her in the back seat," and drove away. Ms. Adams then proceeded home but was asked by the 911 dispatcher to meet a police officer at a business known as Roy's Kwik Korner. Upon meeting with the officer, Ms. Adams told him what had occurred.

After Ms. Adams testified about the events of August 5, 2017, the following colloquy occurred:

> [The State]: How would you describe your relationship with [Sims] in the days and weeks following this incident?
>
> [Ms. Adams:] Me and [Ms. Sims] stopped speaking. It was not 'til probably a month afterwards she would start calling me only on

> Fridays and Saturdays more like after she's coming home from like a bar or something she will call my phone. For the first probably two, three weeks I wouldn't answer. And then finally I saw her out in public at our local bar and I didn't speak to her. And then she walked past me and came past and was, you know, just talking to me like our old friendship was. But it caused a lot of drama due to a lot of hearsay. And, you know, everybody picking sides of the situation.
>
> [The State:] And when you say picking sides, if you have personal knowledge that you're basing it on, what was your impression of how [Sims] felt about you having reported this to the police?
>
> [Ms. Adams:] She didn't actually come out and tell me. It was actually a mutual friend of ours at the time. When I came into an establishment the first thing she said was, [Ms. Sims] got a lawyer and . . . said that this is not happening . . . . And you're gonna get in trouble and I'm gonna be at court. So, you know, right then and there I was hurt. And I'm like, you know, I don't never speak about anything with [Ms. Sims] and her situation to nobody. Because at the end of the day she's still gonna be back in her situation.
>
> [Defense Counsel]: Objection.
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> [The Court]: Sustained.
>
> [The State:] Well, when you say I don't speak about [Ms. Sims] and her situation, without any details what situation are you referring to?
>
> [Ms. Adams:] The domestic violence.
>
> [Defense Counsel]: Objection.
>
> [The Court]: Overruled.

The State also relied on the testimony of Anne Arundel County Police Detective Charles Smith ("Detective Smith"), who testified that he was the officer who met with Ms. Adams at Roy's Kwik Korner. After speaking with Ms. Adams, Detective Smith went to the Ms. Sims' address and attempted to speak with her about what had transpired. Detective

Smith testified that Ms. Sims "did not want anything to do with it," was "uncooperative," and stated, "that she was not pressing charges."

Finally, the State called Anne Arundel County Police Detective Brin Cunningham, who testified that on August 8, 2017, she called Ms. Sims to "follow up." Ms. Sims stated that "she didn't know who [Appellant] was," and "made it pretty clear that she didn't want to talk to" the detective.

Following the close of the State's case, Appellant called Ms. Sims, who testified that while she and Ms. Adams were at Dietrich's, they were joined by Appellant, who "was welcome." Ms. Sims and Appellant then engaged in "silly drunken talk" and "back and forth kind of flirting." When the bar closed, Ms. Sims testified that she and Ms. Adams "got in the car" and "decided . . . to go somewhere else." When Ms. Sims saw Appellant, she "chang[ed her] mind and was like, you know, let's all go somewhere else." Ms. Sims explained that she "decided that [she] could not drive" and "pulled over," and Appellant "pulled behind" her, and the two decided to "ditch" Ms. Adams.

When Ms. Adams "got in the driver's side," Ms. Sims elaborated that she said the following to Ms. Adams: "[H]ey, change of plans. You're gonna drive yourself home . . . and then I'm going with [Appellant]." Ms. Sims stated that Ms. Adams got angry, and while Appellant was following her, Ms. Adams "slammed on the brakes" and claimed that Appellant "ran into the car." When Ms. Adams "called the police," Ms. Sims testified that she "told [Ms. Adams] to let [her] out of the car." Ms. Sims then "got in the car with" Appellant. Ms. Sims denied that Appellant "use[d] any force to get [her] to go to the car" or "pull[ed her] hair at any time." When defense counsel asked Ms. Sims whether Ms.

Adams "is a truthful person," Ms .Sims replied: "I love [Ms. Adams] to death but she's not honest at all."

Following defense counsel's direct examination of Ms. Sims, the parties approached the bench and the State asked the court to address "some things . . . relevant to impeachment." After the court excused the jury, the State explained that on September 24, 2016, Ms. Sims filed a petition for a protective order with the court, which contained the following statements:

> [Appellant] and I are not together. He keeps following me and calling my job. He said he will make my life really bad if I do not get back with him. He is making threats[.] The reason I am here is because I am really afraid for my life. . . . . He continues to make threats saying if I am not with him then I will be sorry. He came into my job today and said he would punch me[.] He sits out front of my job and calls . . . me [names]. I truly am afraid of him. He knows I am afraid and he uses it against me. I just want to be able to stay at my own house without being afraid.

The State argued that these statements were admissible pursuant to Rule 5-616(b)(3)[2] as "extrinsic impeachment evidence of [Ms. Sims'] motive to testify falsely." The court noted that "it also does implicate, perhaps to a lesser extent, . . . impeachment," because Ms. Sims "was . . . also called . . . as a character witness to an extent about the truthfulness or lack of truthfulness of . . . Ms. Adams." Defense counsel objected on the grounds that the "risk of unfair prejudice with this kind of evidence is extreme," and Ms. Sims did not present "any evidence that she has actually been influenced by that."

After hearing arguments from both sides, the circuit court decided:

[2] Rule 5-616(b)(3) states: "Extrinsic evidence of bias, prejudice, interest, or other motive to testify falsely may be admitted whether or not the witness has been examined about the impeaching fact and has failed to admit it."

All right. So the [c]ourt concludes that certainly it's permissible under 5-616(b)(3) to admit the extrinsic evidence. But the [c]ourt still feels compelled as the [d]efense argues to engage in what really would be similar to a 404(b) analysis . . . where the [c]ourt has to still weigh the scope. And that's done first by determining the reliability of it and I take it the case [sic] has in its possession in this case a protective order – or protective orders, is it plural actually?

[The State]: One.

[The Court]: One. A protective order that was pulled from the filing here in Circuit Court. Is that correct?

[The State]: Yes, Your Honor.

[The Court]: All right. So that hurtles over the clear and convincing prong. The relevance is really impeachment and I am prepared to give a limiting instruction to the jury for the limited purpose for which they are to consider that. And the State didn't choose to put this in their case in chief, under a 404(b) analysis it could have. But really now at this point the relevance becomes just that, the impact it has for the factfinder on a motive for the witness perhaps to testify truthfully or falsely.

That being said, the [c]ourt obviously recognized that the third prong of the 5-403[3] analysis is still in play which is how much. And I didn't hear the State, as I said a moment ago, ask for everything but rather to propose more specifically that it is redacted to the extent that he's come to her workplace and threatened her I believe in the past. Although at this point I'm paraphrasing.

So with that, that is my ruling.

[3] Rule 5-403 states: "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

Defense counsel then objected to the entire line of questioning. The State subsequently cross-examined Ms. Sims with the statements in the petition and read them to the jury during closing argument.

At the conclusion of the trial, the jury convicted Appellant of kidnapping, reckless endangering, and assaulting Ms. Sims in the second degree; assaulting Ms. Sims and Ms. Adams in the second degree with his vehicle; and engaging in disorderly conduct. At his sentencing hearing on March 9, 2018, the circuit court imposed the following concurrent sentences of incarceration: thirty (30) years for kidnapping; three (3) years for the second degree assaults of Ms. Sims; six (6) months for the second degree assault of Ms. Adams; six (6) months for reckless endangerment; and sixty (60) days for disorderly conduct. This appeal followed.

STANDARD OF REVIEW

Our review of the trial court's decision to admit evidence involves two steps of analysis. "'First, we consider whether the evidence is legally relevant, a conclusion of law which we review *de novo.*'" *Brethren Mut. Ins. Co. v. Suchoza*, 212 Md. App. 43, 52 (2013) (quoting *Wash. Metro. Area Transit Auth. v. Washington*, 210 Md. App. 439, 451 (2013)). To qualify as relevant, evidence must tend "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." Md. Rule 5–401. Evidence that is relevant is admissible, and the trial court does not have discretion to admit evidence that is not relevant. Md. Rule 5–402; *see also State v. Simms*, 420 Md. 705, 724 (2011). After determining whether the evidence in question is relevant, we look to whether the court "'abused its discretion by

admitting relevant evidence which should have been excluded'" as unfairly prejudicial. *Brethren Mut. Ins. Co.*, 212 Md. App. at 52 (quoting *Wash. Metro. Area Transit Auth.*, 210 Md. App. at 451).

Two characteristics of relevant evidence are "'materiality and probative value.'" *Williams v. State*, 342 Md. 724, 737 (1996) (quoting *State v. Joynes*, 314 Md. 113, 119 (1988)). Evidence is material if it bears on a fact of consequence to an issue in the case. *Williams*, 342 Md. at 736–37 (quoting *Joynes*, 314 Md. at 119). Probative value relates to the strength of the connection between the evidence and the issue, to the tendency of the evidence "to establish the proposition that it is offered to prove." *Joynes*, 314 Md. at 119).

It is not enough, though, for evidence to be relevant. Under Maryland Rule 5–403, the trial court should exclude relevant evidence if the probative value of the evidence "'is substantially outweighed by the danger of unfair prejudice.'" *See Carter v. State*, 374 Md. 693, 705 (2003) (quoting *Andrews v. State*, 372 Md. 1, 19 (2002)). "Evidence is prejudicial when it tends to have some adverse effect ... beyond tending to prove the fact or issue that justified its admission." *King v. State*, 407 Md. 682, 704 (2009). We determine whether a particular piece of evidence is unfairly prejudicial by balancing the inflammatory character of the evidence against the utility the evidence will provide to the jurors' evaluation of the issues in the case. In order to admit evidence of a "highly incendiary nature," the evidence must greatly aid the "jury's understanding of why the defendant was the person who committed the particular crime charged." *Gutierrez v. State*, 423 Md. 476, 495, 499

(2011) (declining to admit evidence describing the defendant's gang as more violent than other gangs).

DISCUSSION

A. Parties' Contentions

Appellant contends that the trial court erred and abused its discretion in allowing the testimony and presentation of three pieces of impeachment evidence. First, Appellant asserts that the trial court erred in allowing Ms. Adams to testify that Appellant did not allow Ms. Sims to see Ms. Adams during her pregnancy, forcing Ms. Sims to sneak around. Appellant argues that the "court failed to make a finding that any of this evidence was within a category of special relevance enumerated in" Rule 5-404(b). Second, with respect to Ms. Adams' testimony that Ms. Sims was in a "domestic violence situation," Appellant states that the circuit "made no finding on the record that this evidence had special relevance and gave no limiting instruction." Finally, with respect to "the redacted protective order petition," Appellant contends that court erred by "fail[ing] to give any sort of limiting instruction."

The State asserts that the trial court exercised sound discretion in allowing Ms. Adams to testify regarding the nature of her relationship with Ms. Sims and Appellant because such testimony was not within the scope of Md. Rule 5-404(b). In so doing, the State contends that Appellant's objection was untimely due to his failure to object to Ms. Adams' earlier testimony regarding the background of her relationship with Ms. Sims. Furthermore, the State argues that Ms. Adam's testimony was outside of the scope of Rule 5-404(b) because it did not constitute "other crimes, wrongs, or acts." Instead, the State

believes Ms. Adams' testimony simply portrays Appellant and Ms. Sims' relationship as "unflattering."

The State also contends that Ms. Adams' testimony regarding Ms. Sims' "domestic violence" situation was properly allowed by the trial court. Here, the State argues that Ms. Adams' testimony did not qualify as testimony of "other crimes, wrongs, or acts." Additionally, the State clarifies that the "domestic violence" statement was made in relation to the August 5th incident, not in reference to Appellant's relationship with Ms. Sims as a whole. As such, the State asserts that Ms. Adams' testimony "was couched in the circumstances of the incident and did not describe any 'other' acts." Finally, the State argues that even if such testimony was inadmissible, the trial court's decision to allow the testimony was harmless error because the August 5th incident was referred to as "domestic violence" throughout the trial without objection.

Third, the State disagrees with Appellant regarding the admissibility of Ms. Sims' past petition for a protective order. The State outlines that the impeachment value of the petition was not substantially outweighed by a danger for unfair prejudice against Appellant, especially because the jury was instructed to only use the petition in assessing the credibility of Ms. Sims' testimony. Agreeing with the trial court's determination that the petition "hurtles over the clear and convincing prong," and that the testimony regarding the petition was within the limits set by the court, the State urges this court to find that the trial court did not err in allowing the petition to be considered by the jury in a limited fashion.

B. Analysis

Maryland Rule 5–404(b) limits evidence of a defendant's prior "bad act[s]," and specifically precludes bad acts evidence offered "in order to show action in conformity" with the defendant's character. Md. Rule 5–404(b); *see also Klauenberg v. State*, 355 Md. 528, 546 (1999). A "bad act" is an act or conduct "that tends to impugn or reflect adversely upon one's character, taking into consideration the facts of the underlying lawsuit." *Klauenberg*, 355 Md. at 549. This rule plays a role similar to the prohibition against unfairly prejudicial evidence, *i.e.*, to prevent the jury from "'developing a predisposition of guilt'" based on unrelated conduct of the defendant. *Sinclair v. State*, 214 Md. App. 309, 334 (2013) (quoting *State v. Faulkner*, 314 Md. 630, 633 (1989)).

Although "bad act" evidence is inadmissible to prove a defendant's criminal character, Rule 5–404(b) does allow "bad act" evidence that has "special relevance—that it 'is substantially relevant to some contested issue.'" *Wynn v. State*, 351 Md. 307, 316 (1998) (quoting *State v. Taylor*, 347 Md. 363, 368 (1997)). "Bad act" evidence has a "special relevance if it shows notice, intent, preparation, common scheme or plan, knowledge, identity, or absence of mistake or accident." *Wynn*, 351 Md. at 316; Md. Rule 5–404(b). Whether "bad act" evidence demonstrates one of these alternate purposes is a "'legal determination and does not involve any exercise of discretion'" by the trial court; we review this determination *de novo. Wynn*, 351 Md. at 317 (quoting *Faulkner*, 314 Md. at 634).

This leads to a two-step analysis. If we determine that the "bad act" evidence in question has special relevance, then we balance the probative value of and need for the

evidence against the likelihood of undue prejudice. *Wynn*, 351 Md. at 317 "'This segment of the analysis implicates the exercise of the trial court's discretion,'" and we will only reverse the court's balancing determination if the court abused its discretion. *Id.* (quoting *Faulkner*, 314 Md. at 634–35, 552 A.2d 896).

In reviewing each of the three issues presented by Appellant regarding the evidence admitted at trial, *Snyder v. State*, 361 Md. 580 (2000), is instructive. Snyder was charged with the murder of his wife, whose body was found on February 14, 1986. *Id.* at 586-87.

> [At] trial, and over [Snyder's] objection, the State presented testimony regarding [Snyder's] and the victim's relationship leading up to the murder. A friend of the victim testified that she had a telephone conversation with the victim the night before the murder and that the victim stated in that conversation that she "just had a fight" with [Snyder], during which [Snyder] "told her that she was a dead woman." The friend also stated that, at the time of this conversation, the victim "was crying and real excited." "She was upset." "She was scared." The State elicited additional testimony, also over [Snyder's] objection, from the daughters of [Snyder] regarding a physical dispute between the victim and [Snyder] that occurred on July 30, 1985.
>
> * * *
>
> [Snyder] was . . . convicted and sentenced to life imprisonment. He appealed the conviction to [this] Court . . . , where he argued, *inter alia*, that the trial court erred by admitting the evidence concerning the July 30, 1985 physical dispute . . . . [We] affirmed the conviction . . . . With regard to [Snyder's] relationship with his wife, [we] reasoned that evidence of [Snyder's] "stormy" relationship with her was properly admitted because, the evidence was:
>
> > "not offered to establish a propensity for violent conduct. The State was entitled to establish that [Snyder] had . . . a personal motive . . . to murder the victim."

Id. at 587-89.

On appeal to the Court of Appeals, Snyder contended "that the trial court erroneously admitted evidence of the 'stormy' relationship between [himself] and the victim to prove his motive to commit the murder." *Id.* at 601. Rejecting the contention, the Court recognized that "[e]vidence of previous quarrels and difficulties between a victim and a defendant is generally admissible to show motive." *Id.* at 605 (citation omitted). The Court concluded that the "testimony indicating that there was disharmony in the household" was "probative of a continuing hostility and animosity, on the part of [Snyder], toward the victim and, therefore, of a motive to murder, not simply the propensity to commit murder." *Id.* at 608-09 (footnote omitted). The Court further concluded that "evidence that [Snyder] hit his wife was not too remote to lack a logical relationship to motive," and was "logically related to motive to show that [Snyder] made declarations reflecting on his wife . . . to show a long course of ill treatment; to show that they quarreled, and that he maltreated her."[4] *Id.* at 610-11 (internal citations, quotations, and brackets omitted). *Accord Jackson v. State*, 230 Md. App. 450, 460-61 (2016).

We reach a similar conclusion here. Ms. Adams' testimony regarding both the relationship history of Appellant and Ms. Sims, as well as her "domestic violence" statement, indicates that there was disharmony in Appellant and Ms. Sims' household. Such disharmony is probative of continuing hostility and animosity on the part of Appellant toward Ms. Sims and, therefore, a motive to assault. In addition, the statements in the petition for a protective order were not too remote to lack a logical relationship to motive

[4] The Court of Appeals reversed this Court's judgment on other grounds. *See Snyder*, 361 Md. at 589-601.

and were logically related to motive to show that Appellant made declarations reflecting on Ms. Sims to show a long course of ill treatment, that they quarreled, and that Appellant maltreated Ms. Sims. Hence, the evidence was admissible as evidence of motive pursuant to Rule 5-404(b).

Appellant contends that "this case is distinguishable from other cases in which evidence of prior abuse of a victim was admissible to prove the defendant's motive," because "the trial judge admitted the evidence for the purpose of bolstering . . . [Ms. Adams'] credibility and revealing . . . [Ms. Sims'] potential bias." But, "an appellate court can affirm when the record in a case adequately demonstrates that the decision of the trial court was correct, although on a ground not relied upon by the trial court and perhaps not even raised by the parties." *Yaffe v. Scarlett Place*, 205 Md. App. 429, 440 (2012) (internal citation and quotations omitted). Also, with respect to the statements in the petition for a protective order, the court expressly recognized that the evidence would have been admissible pursuant to Rule 5-404(b) had the State chosen to offer it in its case in chief. Hence, *Snyder* is applicable, and the court did not err or abuse its discretion in admitting the challenged evidence.

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