Circuit Court for Howard County
Case No. 13-K-17-058271

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 151

September Term, 2018

DOMINIQUE FUNNYRE

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Thieme, Raymond G., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: July 18, 2019

Appellant Dominique Funnyre was charged with possession with intent to distribute marijuana and possession of marijuana in the amount of 10 grams or more. A Howard County jury convicted Funnyre on both counts, and the circuit court sentenced him to five years of imprisonment, with all but six months suspended, followed by three years of supervised probation. In his appeal, Funnyre raises the following questions:

1. Did the trial court err in denying a motion to suppress?

2. Did the trial court err or abuse its discretion in allowing a police officer to testify at trial that he followed Funnyre's car because he believed that he had witnessed two drug transactions?

For the following reasons, we shall affirm.

BACKGROUND

I. The Motions Hearing

At the hearing on Funnyre's motion to suppress, Corporal Jamie Machiesky, of the Special Assignment Section of the Howard County Police Department, was the State's primary witness. Corporal Machiesky, a 14-year veteran, had begun his law enforcement career in the K-9 unit, where he spent approximately eight years and was involved in over a thousand drug scans. He was then reassigned to the Special Assignment Section, a plainclothes unit that patrolled neighborhoods where the police received complaints about lower-level, street-drug activity. He had received general surveillance training in the Special Assignment Section. In total, he had made close to "a hundred or more arrests," many of which involved the observation of street-level drug distribution.

On the evening of September 8, 2017, Corporal Machiesky was monitoring a gas station in Columbia. The station was known as a place where drug distribution occurred.

While he was parked about 50 feet away from the station in an unmarked car, Corporal Machiesky observed a white car arrive and park at a gas pump. Unlike most people, the driver, whom the officer identified as Funnyre, did not immediately get out of the car the vehicle to pump gas. Instead, he was using his phone.

At some point, Funnyre got out of the car, walked into the gas station's convenience store, took a few steps and looked around, and immediately left without purchasing anything. As he walked back to his car, Funnyre appeared to be "looking for somebody." He got back into the driver's seat of his car without purchasing any gas.

Approximately five minutes after Funnyre first arrived at the station, Corporal Machiesky saw a man walking across the parking lot toward Funnyre's car. The man got into Funnyre's car through the passenger side door. After two minutes, the man got back out, walked over to another car that was parked away from the pumps, and left. Corporal Machiesky could not see what had occurred inside of Funnyre's car while the man was inside of it.

After the man left, Funnyre sat in his car with the door open on the driver's side. A few minutes later, a second man approached Funnyre's car and stood next to the trunk on the passenger side. Using his binoculars, Corporal Machiesky saw that this man had cash in his hands, was "looking around," and "looked nervous."

Funnyre got out of his car and went to speak to the man. He then returned to the driver's side door of his car, leaned into it, and began "digging around near the center console." Funnyre walked back to the man and put something in his hand, and the man

gave him cash. After a brief conversation, the man walked away. The corporal could not see what Funnyre had given the man.

On the basis of his training and experience, Corporal Machiesky believed that he had witnessed two drug transactions.

At some point, Funnyre began pumping gas into his car, but the corporal could not recall whether he did so before or after the second man approached him. In any event, after the encounter with the second man had ended, Funnyre got back in his car and drove away from the station. Corporal Machiesky followed him.

After observing that one of Funnyre's tag lights was not working and that he "could only see part of the tag," the officer decided to stop Funnyre. He "called for a K9 officer to respond to the scene based on the observations of suspected drug activity."

Corporal Machiesky approached Funnyre's car, with his badge displayed, and told him that he had been stopped because of the problem with the tag light. After obtaining Funnyre's license and registration, the corporal returned to his car and began to check their status, and to check whether Funnyre was wanted on any outstanding warrants and had any criminal history. He did not recall exactly how long it took to perform those tasks. Nor could he recall when he completed writing the warning for the defective light.

While the corporal was inside his vehicle conducting the checks and preparing the warning, the K-9 officer, Officer Tony Camden, arrived. Corporal Machiesky asked Funnyre to get out of the car to allow for a canine scan. Once Funnyre was out of the car, the corporal asked if he had any weapons on his person, and Funnyre replied that he had a

"work knife." Corporal Machiesky ordered Funnyre to turn and face the car, patted him down, and found the knife.

After retrieving the knife and placing it on top of the car, Corporal Machiesky continued the pat-down. Shortly thereafter, he heard a crunch and felt bumps in Funnyre's left front pocket. He suspected that he had found a bag of marijuana – that the bumps were marijuana buds, and that the crunching sound was the sound of the buds being crushed.

At that time, Corporal Machiesky told Funnyre he was under arrest and placed him in handcuffs. The corporal retrieved the marijuana from Funnyre's pocket. A search incident to the arrest turned up $637.00 in cash from the same pocket.

Meanwhile, the dog alerted to the presence of drugs in Funnyre's car, and Corporal Machiesky and another officer searched it. In the center console, they found a small digital scale and a baggie similar to the marijuana-filled baggie that had been found in Funnyre's pocket. They found a number of similar unused baggies in the trunk.

On cross-examination, Corporal Machiesky stated that he stopped Funnyre for the tag light violation at 8:58 p.m. He agreed that the checks on Funnyre's license and registration eventually came back "clear," but he could not recall whether he had completed the checks when he went back to Funnyre's car and ordered him out of the car for the canine scan. Nor could he recall whether he had written the warning or whether he had Funnyre's license in his hand when he went back to order Funnyre out of his car. He agreed that it was always his intention to have the K-9 unit scan the car. He testified

that he would have patted Funnyre down even if Funnyre did not tell him that he had a weapon.

Officer Camden testified that he received the call to respond to the scene with his canine partner at approximately 8:58 p.m. and that he arrived nine minutes later, at 9:07 p.m. According to Officer Camden, the dog scanned the exterior of the car and alerted at the driver's side window after Funnyre had been removed from the car. The scan began "[l]ess than a minute" after the officer arrived, and the dog alerted in "[m]aybe fifteen seconds."

Once the testimony had concluded, the court heard argument on two issues: (1) whether Corporal Machiesky had reasonable articulable suspicion to suspect that a drug transaction had occurred and (2) whether the traffic stop was lawful and had not been extended for an unreasonable period of time.

The court found that both officers were credible. On the basis of Corporal Machiesky's testimony, the court concluded that he had reasonable articulable suspicion that criminal activity was afoot, which permitted him to conduct an investigative stop even if the tag light had been functioning properly. *See generally Terry v. Ohio*, 392 U.S. 1 (1968). In addition, the court concluded that under *Whren v. United States*, 517 U.S. 806 (1996), the corporal could have stopped Funnyre because of the malfunctioning tag light even if the true purpose of the stop was to investigate whether he was engaged in

criminal activity. Finally, the court concluded that the corporal did not unduly prolong the traffic stop in order to permit the canine search to occur.[1]

II. Trial

At trial, Corporal Machiesky's testimony was similar to his testimony at the motions hearing, but he added that he did not smell the odor of burnt marijuana and that he saw no marijuana cigarettes, rolling papers, smoking devices, matches, or anything else to indicate that Funnyre intended the marijuana for his own personal use. A forensic chemist testified that that the two bags of marijuana recovered by the police weighed 14.14 grams and 17.85 grams, respectively.

The court accepted Sergeant James Capone, Jr., as an expert in the packaging, pricing, distribution, and ingestion of controlled dangerous substances. Sergeant Capone testified that, after hearing all the testimony in this case, it was his opinion that Funnyre possessed the marijuana with the intent to distribute it. He based his opinion on the packaging of the marijuana in plastic baggies, the recovery of similar, unused baggies from Funnyre's car, the digital scale in the center console, Corporal Machiesky's testimony that he had observed two hand-to-hand drug transactions, and the absence of any evidence that Funnyre had been smoking marijuana in the car.

Funnyre did not testify and did not call any witnesses.

[1] The court also concluded that, assuming that Corporal Machiesky had acted precipitously in frisking Funnyre before the dog had alerted to the scent of drugs, the officers would inevitably have discovered the drugs once the dog alerted. On appeal, Funnyre does not raise a challenge to the frisk independent from his challenge to the stop itself and the duration of the ensuing detention.

DISCUSSION

A. Denial of Motion to Suppress

Funnyre principally contends that the motions court erred in denying his motion to suppress the drugs and drug paraphernalia that the officers found on his person and in his car, because, he says, they were the fruit of an unlawful detention. Correctly conceding that the traffic stop for the defective tag light was lawful,[2] Funnyre argues that the duration of the stop was unreasonable under the circumstances (*see*, *e.g.*, *Rodriguez v. United States*, ___ U.S. ___, 135 S. Ct. 1609, 1616 (2015)) and, hence, that it amounted to a second stop (*see*, *e.g.*, *Munafo v. State*, 105 Md. App. 662, 670 (1995)), for which, he says, reasonable suspicion was lacking.

The State disputes that Corporal Machiesky prolonged the stop beyond the time reasonably necessary to achieve its legitimate purposes (i.e. to check the status of the license and registration, to check for outstanding warrants, and to issue a ticket or a warning), but the State devotes only one sentence (in a footnote) to the defense of that position. Instead, the State principally argues that the Funnyre was lawfully stopped because Corporal Machiesky had reasonable articulable suspicion to believe that he was engaged in narcotics distribution. Hence, the State argues that the permissible duration of the stop is not measured by the time reasonably necessary to complete a traffic stop, but by the time reasonably necessary to investigate whether Funnyre was engaged in

[2] *See* Md. Code (1977, 2012 Repl. Vol.), § 22-204(f) of the Transportation Article ("[e]ither a tail lamp or a separate lamp shall be constructed and placed to illuminate, with a white light, the rear registration plate and render it clearly legible from a distance of 50 feet to the rear").

narcotics distribution – i.e. by the time reasonably necessary to get a K-9 unit to the scene and to have the dog scan Funnyre's car. *See Carter v. State*, 143 Md. App. 670, 693 (2002).

"'When reviewing the disposition of a motion to suppress evidence alleged to have been seized in contravention of the Fourth Amendment . . . , we view the evidence adduced at the suppression hearing, and the inferences fairly deducible therefrom, in the light most favorable to the party that prevailed on the motion.'" *Bailey v. State*, 412 Md. 349, 362 (2010) (quoting *Crosby v. State*, 408 Md. 490, 504 (2009)). "'[A]n appellate court reviews for clear error the trial court's findings of fact, and reviews without deference the trial court's application of the law to its findings of fact.'" *Varriale v. State*, 444 Md. 400, 410 (2015) (quoting *Hailes v. State*, 442 Md. 488, 499 (2015)).

A law enforcement officer may stop and briefly detain a person for the purposes of investigation if he or she has a reasonable suspicion supported by articulable facts that criminal activity may be afoot. *Terry v. Ohio*, 392 U.S. at 30; *accord Holt v. State*, 435 Md. 443, 459 (2013). Reasonable suspicion is "'a particularized and objective basis for suspecting the particular person stopped of criminal activity.'" *Illinois v. Wardlow*, 528 U.S. 119, 128 (2000) (quoting *United States v. Cortez*, 449 U.S. 411, 417-18 (1981)). It is a "'common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.'" *Bost v. State*, 406 Md. 341, 356 (2008) (quoting *Stokes v. State*, 362 Md. 407, 415 (2001)); *accord Holt v. State*, 435 Md. at 460. "While the level of required suspicion is less than that required by the probable cause standard, reasonable suspicion nevertheless embraces something more

than an 'inchoate and unparticularized suspicion or hunch.'" *Crosby v. State*, 408 Md. at 507 (quoting *Terry v. Ohio*, 392 U.S. at 27); *accord Holt v. State*, 435 Md. at 460. Even if a person's suspicious conduct is susceptible of an innocent explanation, "*Terry* recognized that the officers could detain the individuals to resolve the ambiguity." *Illinois v. Wardlow*, 528 U.S. at 125.

Courts "must look at the 'totality of the circumstances' of each case to see whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing." *United States v. Arvizu*, 534 U.S. 266, 273 (2002) (quoting *United States v. Cortez*, 449 U.S. at 417-18); *see also Bost v. State*, 406 Md. at 356 (stating that "[t]he test is 'the totality of the circumstances,' viewed through the eyes of a reasonable, prudent, police officer"). A court must not isolate each individual circumstance for separate consideration. *See Holt v. State*, 435 Md. at 460; *see also In re David S.*, 367 Md. 523, 535 (2002) (stating that, "[u]nder the totality of circumstances, no one factor is dispositive").

This case involved the observations of encounters between Funnyre and others at a gas station, in an area known for drug distribution. Two similar cases are instructive.

First, in *State v. Dick*, 181 Md. App. 693, 697 (2008), the police were conducting surveillance of a gas station in an area where they had previously made drug arrests. They observed a man pedaling a bicycle in circles and looking around as though he was waiting for someone. *Id*. After 10 or 15 minutes, the cyclist pedaled up the street and made contact with Dick, who was on foot. *Id*. The cyclist handed something to Dick,

Dick handed something to the cyclist, and the cyclist quickly put what he had received into his pocket and rode away. *Id*.

Believing that a hand-to-hand drug transaction had just occurred, two officers pursued the cyclist, and two others stopped Dick. *State v. Dick*, 181 Md. App. at 698. After he had been stopped, Dick attempted to flee, but fell and was arrested. *Id*. During the ensuing search incident to arrest (for which Dick's flight had created probable cause), the police recovered a baggie containing individually packaged baggies of crack cocaine, as well as several hundred dollars in cash. *Id*. at 698-99.

This Court held that the initial stop was supported by reasonable articulable suspicion that criminal activity was afoot:

> The police officers were specialists in drug enforcement. The area and the specific location under surveillance were known for illegal drug activity and, in fact, two of the officers had previously arrested persons at the gas station for such crimes. The location was not a recreational area or meeting place, so that [the cyclist's] persistent bicycle riding and apparent wait for someone was out of the ordinary. The quick hand-to-hand transaction in an area more remote than the gas station, although not positively identified as a drug sale, was more than two men talking. It was recognized by the officers as characteristic of such illegal activity. Although [two of the officers] did not see the transaction themselves, they were not acting upon an anonymous tip, but upon eye-witness information received from fellow officers, who also knew the hallmarks of drug activity. In addition, there were reasons to make a stop. [The officers] did not know which of the two suspects was the buyer or seller or whether either displayed signs of using drugs, and a brief delay, while the other officers confronted [the cyclist], could have provided vital information.

State v. Dick, 181 Md. App. at 705-06 (citations and footnote omitted).

Similarly, in *Hicks v. State*, 189 Md. App. 112 (2009), two officers were conducting surveillance of a gas station, at night, in an area known for drug activity. *Id.*

at 116. They observed that a car was parked at the pumps, but that its engine was not running, its lights were off, and its occupants were not pumping gas. *Id*. at 115. After about 15 minutes, the driver got out of the car and had a brief encounter with a man who had approached the car on foot. *Id*. at 116. The driver and the man exchanged something in a quick, hand-to-hand transaction, and the man walked away. *Id*. The officers approached the car, asked the two occupants what they were doing, and ordered them out of the vehicle. *Id.* at 117. Hicks, the passenger, refused to cooperate, assaulted one of the officers, and unsuccessfully attempted to flee. *Id.* In a search incident to Hicks's arrest (for which the assault and attempted flight created probable cause), the police found a handgun. *Id*. at 118. As in *Dick*, this Court held that the initial stop was supported by reasonable articulable suspicion to believe that criminal activity was afoot:

> [The] vehicle was parked for about 15 minutes in front of fuel pumps, but with no indication that the occupants were buying gasoline. The officers knew that the area was known for "a lot of drug activity." It was late at night. [One officer] observed [the driver] exit his car, [and] engage in what he believed, based on his training and experience, to be a "hand to hand" drug transaction. There was no conversation between [the driver] and the pedestrian and [the driver] immediately returned to his vehicle. The totality of these circumstances support[s] a reasonable suspicion of drug-related activity and the officers properly detained [the driver] and [Hicks], who had been sitting in [the driver's] vehicle for at least 15 minutes, for the purpose of conducting a *Terry* investigation.

Id. at 122-23.

Dick and *Hicks* support the circuit court's conclusion in this case that there was reasonable articulable suspicion to justify Funnyre's detention. Corporal Machiesky was an experienced police officer who had been involved in hundreds of drug arrests. The gas station was known as place where drug distribution regularly occurred. Funnyre did

not appear to have gone to the station for the primary purpose of buying gas. First, he parked his car at the pumps, but sat there for some time without pumping gas. Then he walked into the convenience store, immediately walked out without purchasing anything, and appeared to be looking for someone as he walked back to his car, which he got back into without pumping any gas. After about five minutes, a man got into Funnyre's car, remained there for about two minutes, and got out and walked away. Thereafter, Funnyre remained in his car until he was approached by another man, who appeared nervous and had cash in his hands. Funnyre got out and talked to the man, went back to his car and dug around in the center console, handed something to the man, and took the man's cash. On the basis of his extensive training and experience, Corporal Machiesky believed he had observed two drug sales.

These factors do not conclusively prove that Funnyre was selling drugs: they are susceptible to innocent interpretations. As Funnyre argues, for example, the first man could have been Funnyre's friend, and Funnyre could have been making change for the second. Furthermore, the corporal could not see what happened while the first man was in Funnyre's car, he could not see what Funnyre gave the second man in exchange for the cash, and he could not hear either of the conversations.

Nonetheless, the applicable standard does not require conclusive proof or even probable cause to believe that Funnyre was selling drugs; it requires only a "'particularized and objective basis' for suspecting legal wrongdoing." *United States v. Arvizu*, 534 U.S. at 273 (quoting *United States v. Cortez*, 449 U.S. at 417-18). In this case, as in *Hicks* and *Dick*, we are satisfied that Corporal Machiesky satisfactorily

particularized a significant number of objective bases upon which an experienced law enforcement officer could reasonably suspect that that Funnyre was involved in the distribution of illegal drugs. The circuit court, therefore, properly denied the motion to suppress.

B. Irrelevant Testimony; Inadmissible Expert Testimony

Funnyre asserts that the trial court erred by allowing Corporal Machiesky to testify that he followed Funnyre's car because he believed that he had witnessed two drug transactions. Specifically, Funnyre argues the testimony was inadmissible because it was irrelevant and because it amounted to expert testimony that Corporal Machiesky had not been qualified to give. The State responds that Funnyre did not preserve this argument. The State adds that the evidence was admissible to explain the officer's actions and that any error was harmless beyond a reasonable doubt because other cumulative evidence was admitted on the same topic.

This issue concerns the following testimony from Corporal Machiesky's direct examination:

> Q. . . . . Why did you decide to follow the Defendant's car?
>
> [DEFENSE COUNSEL]: Objection.
>
> THE COURT: No, I'll allow it.
>
> BY [THE PROSECUTOR]:
>
> A. At that point I was – believed that I had witnessed two drug transactions.
>
> Q. Why is that?

> A. The first individual getting in to [sic] the car briefly and getting out is indicative of a drug transaction based on my experience and what I've seen in the past.
>
> The second interaction I believe is a hand to hand drug transaction based on my experience and what I've seen that [sic] in the past also.
>
> So, based on those two things I'm following that vehicle to investigate this further.

[T2. 132]

The State argues that Funnyre's objection is unpreserved because, although defense counsel objected to the question asking why the officer followed Funnyre's car, he did not object again after the prosecutor proceeded to ask why he thought he witnessed a drug transaction. We concur.

"[A] party opposing the admission of evidence 'shall' object 'at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent.'" *State v. Jones*, 138 Md. App. 178, 218 (2001) (quoting Md. Rule 4-323(a)); *accord Fone v. State*, 233 Md. App. 88, 112-13 (2017); *Wimbish v. State*, 201 Md. App. 239, 260 (2011); *Ware v. State*, 170 Md. App. 1, 19 (2006). "If not, the objection is waived and the issue is not preserved for review." *Fone v. State*, 233 Md. App. at 113; *accord Wimbish v. State*, 201 Md. App. at 260; *Ware v. State*, 170 Md. App. at 19; *State v. Jones*, 138 Md. App. at 218. "Furthermore, objections must be reasserted unless an objection is made to a continuing line of questions." *Ware v. State*, 170 Md. App. at 19 (citing *Brown v. State*, 90 Md. App. 220, 225 (1992)); *accord Fone v. State*, 233 Md. App. at 113; *Wimbish v. State*, 201 Md. App. at 261. "[T]o preserve an objection, a party must either 'object each time a question concerning the [matter is] posed or . . . request a continuing

objection to the entire line of questioning.'" *Wimbish v. State*, 201 Md. App. at 261 (quoting *Brown v. State*, 90 Md. App. at 225); *accord Fone v. State*, 233 Md. App. at 113

In this case, Funnyre's counsel did not object when the State asked Corporal Machiesky to explain why he believed that he had witnessed two drug transactions. Consequently, he cannot complain that the court may have erroneously overruled his objection to the previous question, which elicited the testimony regarding the corporal's belief that he had witnessed two drug transactions. "[T]he objection is waived and the issue is not preserved for review." *Fone v. State*, 233 Md. App. at 113.

But even if the objection were preserved, we would not find error, let alone reversible error.

Funnyre argues, first, the evidence was irrelevant. "Evidence is relevant if it tends 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.'" *Walter v. State*, 239 Md. App. 168, 198 (2018) (quoting Md. Rule 5-401). "A court may admit relevant evidence, but it has no discretion to admit evidence that is irrelevant. *Id.* "A ruling that evidence is legally relevant is a conclusion of law, which we review de novo." *Id.*

In our view, the testimony in question had at least some relevance, because it explained why Corporal Machiesky elected to pursue Funnyre. In that regard, this case bears some resemblance to *Frobouck v. State*, 212 Md. App. 262, 283 (2013), in which an officer testified over objection that he was initially dispatched to the defendant's property "for a suspected marijuana grow." *Id.* at 281. Although the objection was based

on hearsay rather than relevance, this Court recognized that the testimony was admitted for a legitimate non-hearsay purpose: "to explain *briefly* what brought the officers to the scene in the first place." *Id.* at 283 (emphasis in original). In thus recognizing that the testimony had a legitimate non-hearsay purpose, this Court implicitly recognized that the testimony had a purpose – i.e., that it was relevant. So too was Corporal Machiesky's brief explanation in this case.[3]

In addition to attacking the relevance of Corporal Machiesky's testimony that he pursued Funnyre because he believed that he had witnessed two drug transactions, Funnyre argues that the testimony was an expert opinion that the corporal had not been qualified to give. Funnyre relies principally on *Ragland v. State*, 385 Md. 706, 726 (2005), in which the Court of Appeals held that a trial court abused its discretion in permitting two police officers to offer what purported to be lay opinion, based on their training and experience as officers, that they had witnessed drug transactions.

Ragland does not control the outcome of this case. Unlike the officers in *Ragland*, Corporal Machiesky did not express an opinion, expert or lay, that Funnyre had been

[3] In arguing that the corporal's brief explanation was categorically irrelevant, Funnyre relies on *Zemo v. State*, 101 Md. App. 303 (1994). In that case an officer testified over the course of 15 pages of transcript (*id.* at 307) "that he received evidence about the crime from a confidential informant, that the informant's information put him on the trail of [Zemo] and other suspects, that other parts of the informant's information were corroborated and turned out to be correct, and that, acting on the informant's information, he arrested [Zemo]." *Id.* at 306. This Court reversed the conviction on the ground that the State had put forward "a sustained and deliberate line of inquiry that . . . had no other purpose than to put before the jury an entire body of information that was none of the jury's business." *Id*. In *Frobouck v. State*, 212 Md. App. at 283, this Court distinguished *Zemo* because of the "brief," one-sentence nature of the officer's explanation. The same distinction applies in this case.

engaged in drug distribution. In fact, the State did not even elicit Corporal Machiesky's testimony (that he "believed" that he had "witnessed two drug transactions") for the purpose of proving that two drug transactions had actually occurred. Instead, viewed in context, it is apparent that the State elicited that particular piece of testimony for the purpose of explaining why the corporal did what he did – i.e., to explain why he elected to pursue Funnyre.

In this regard, Corporal Machiesky's testimony is akin to the testimony that this Court upheld in *Fullbright v. State*, 168 Md. App. 168 (2006). In that case, an officer testified that he did not submit a bloody knife for fingerprint analysis because, based on of his experience and training, he believed that it was difficult to recover latent prints from wet objects. *Id.* at 175-76. In holding that the trial court did not err in allowing the officer's testimony, this Court distinguished *Ragland* on the ground that the testimony "was not opinion evidence, expert or lay, because the State did not offer his testimony for its truth." *Id.* at 181. In contrast to *Ragland*, where "the State introduced the officers' opinions that the events they observed constituted a drug transaction in order to prove that those events were *in fact* a drug transaction," the State in *Fullbright* did not introduce the officer's testimony to prove that "it was *in fact* hard to get good fingerprints off of wet objects." *Id.* at 181-82 (emphasis in original). Rather, the State introduced the testimony for the sole purpose of explaining why the officer did what he did. *Id.* at 182.

Similarly, in this case, the State did not introduce Corporal Machiesky's testimony to prove that Funnyre had engaged in drug transactions, but only to explain why he

pursued Funnyre. Because the testimony did not amount to impermissible expert opinion, the circuit court did not err in allowing it.

In any event, even if the court had erred in admitting the corporal's testimony, which it did not, we would hold any such error to be harmless beyond a reasonable doubt. *Dorsey v. State*, 276 Md. 638, 659 (1976). Here, the jury heard not only from Corporal Machiesky, but from the State's expert, Sergeant Capone. Citing Corporal Machiesky's account of the encounters with the two men in the gas station parking lot, Sergeant Capone testified, without objection, that they involved "common methods" that drug dealers employ to meet their customers and distribute their product. In other words, the sergeant's testimony was cumulative of Corporal Machiesky's testimony that he believed that he had seen two drug transactions. "This Court and the Court of Appeals have found the erroneous admission of evidence to be harmless if evidence to the same effect was introduced, without objection, at another time during the trial." *Yates v. State*, 202 Md. App. 700, 709 (2011), *accord Robeson v. State*, 285 Md. 498, 507 (1979); *Berry v. State*, 155 Md. App. 144, 170 (2004).

JUDGMENTS OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED; COSTS TO BE ASSESSED TO APPELLANT.