

Circuit Court for Montgomery County  
Case No. C-15-CR-22-000380

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 166

September Term, 2024

---

MICHAEL HITCHENS

v.

STATE OF MARYLAND

---

Albright,  
Kehoe, S.,  
Harrell, Glenn T., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

Opinion by Kehoe, J.

---

Filed: August 12, 2025

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

This appeal arises from the trial court's admission of two recorded interviews, as prior inconsistent statements. These witness interviews were conducted by the police in relation to their investigation of Appellant, Michael Hitchens ("Mr. Hitchens"). The interview segments were admitted through the detective who conducted the interviews as prior inconsistent statements. Both of the interviews were admitted after the respective witnesses had been examined, cross-examined, and excused. Mr. Hitchens contests their admission arguing that his right to confrontation was violated because the excusal of the witnesses rendered them unavailable for cross-examination as to the statements in their respective interviews. However, Mr. Hitchens did not object at the times the witnesses were excused, so the issue is not preserved for our review.

### **BACKGROUND**

A Montgomery County Police Department ("MCPD") investigation in October of 2020 of a tip received from a neighboring police department of potential prostitution and sex trafficking in their jurisdiction lead to the surveillance of the Comfort Inn Hotel in Gaithersburg, Maryland. During this period, MCPD also received information regarding prostitution activities at a nearby Red Roof Inn. The investigation revealed that Troy Curtis ("Mr. Curtis") had rented a room at the Red Roof Inn, and officers observed two women going in and out of the room and meeting with people in the hotel parking lot. On October 15, 2020, A.T. and Mr. Hitchens were stopped for speeding; a search revealed narcotics, and following A.T.'s arrest she was interviewed by Detective Lanjon Guzman ("Det. Guzman") and another officer of MCPD. A.T. told Det. Guzman that she had a drug

addiction, and that when she did not have money from prostitution, Mr. Hitchens would decline to provide her with drugs. A.T. advised that she would inform Mr. Hitchens or Mr. Curtis when she was seeing prostitution clients “so that I had somebody that knew where I was, what was going on, and that I was safe.” Three months later, Mr. Curtis was arrested and charged with human trafficking in relation to the October 2020 events. In an interview occurring after his arrest, he stated that he was familiar with A.T. and Mr. Hitchens, that he was aware A.T. was addicted to drugs when he met her, that Mr. Hitchens did not have a job “to his knowledge,” and that Mr. Hitchens often stayed in hotels.

Mr. Hitchens was indicted in the Circuit Court for Montgomery County with sex trafficking, conspiracy to commit sex trafficking, and assault. The indictment alleged that there were three victims: A.B., A.T., and C.W. Only A.T. testified at trial. The charges related to A.T. were sex trafficking involving force, threat, or coercion, sex trafficking for financial benefit, and assault in the second degree. The jury acquitted Mr. Hitchens of the charges related to A.B. and C.W., but convicted him of sex trafficking involving force, threat, or coercion regarding A.T., sex trafficking for financial benefit regarding A.T., and conspiracy with Mr. Curtis to engage in sex trafficking under force, threat of force, or coercion. Mr. Curtis also testified. The evidence about which admissibility is contested on this appeal consists of a video recording of A.T.’s interview with Det. Guzman of the MCPD, a record made when the video interview was conducted, and one page of a transcript of the interview with Mr. Curtis.

The State called A.T. as a witness on the second day of trial. During her direct examination, A.T. testified that she had given Mr. Hitchens money gained from her prostitution to pay for the hotel room. She also stated that she and Mr. Hitchens would get high together, so she felt she owed him for the drugs. She stated that she was tired and high when she spoke to Det. Guzman, but acknowledged when she spoke to him, she said that she would give Mr. Hitchens all of her money. She acknowledged that she would also give money to Mr. Curtis. After its examination, the State informed the court and Mr. Hitchens that it intended to introduce a recorded interview of A.T. conducted by Det. Guzman:

[THE STATE]: Your Honor, I just wanted to give the Court a heads up. I can do this also without the witness on the stand, but there were a lot of inconsistencies with the statement. The State will be intending to introduce this witness' statement as a prior inconsistency in substantive evidence under 802.1. The subsection will be a different subsection. What I would intend to do with her off the stand, but since she is here, I just wanted to give the Court a heads up if there was an issue with that, but typically I would intend to do a redo of the detective that interviewed her, that we can play the video from before she's off the (unintelligible) that will be the State's intention at this time given the inconsistent testimony.

During cross-examination, A.T. admitted that both she and Mr. Hitchens were addicts. The following exchange took place:

[DEFENSE COUNSEL]: At any time did Mr. Hitchens offer you anything of value, such as money or even a room, if you would prostitute to get that in exchange?

[A.T.]: No. He would be, like -- I mean, everybody needed to pull their own weight. You know what I mean? And the only time that I ever gave him money was because I owed him for half of the room that one night.

She stated that she and Mr. Hitchens had an argument and that she was still angry with him when the police stopped her.

Mr. Hitchens's counsel questioned A.T. about her interview with Det. Guzman:

[DEFENSE COUNSEL]: That was my next question. So you were detained for, you said approximately a couple of hours?

[A.T.]: Yes.

[DEFENSE COUNSEL]: And when you were detained, is it fair to say that there were long periods of time you were just sitting in the room by yourself?

[A.T.]: Yes. It was very cold, and at that time, I was starting to withdraw, so I just really wanted to get it over with.

[DEFENSE COUNSEL]: And that was my next question. How was the climate? It was really cold and freezing?

[A.T.]: Yes, it was really cold.

[DEFENSE COUNSEL]: Okay. And then at that point, the detectives or the officers would ask you questions and then they would leave, and when they leave, they would leave you for long periods of time; is that fair to say?

[A.T.]: Yes.

[DEFENSE COUNSEL]: And then they would come back and ask you questions again; is that fair to say?

[A.T.]: Yes.

[DEFENSE COUNSEL]: At some point, and again, if you know, is it fair to say that the detectives were asking you questions in a way that was leading to ask the questions that they wanted to ask you?

[A.T.]: Yes. I read through the transcripts, and it's obvious that the testimony was being led. You know, they would say things and then they would say, dah, dah, dah, right?

[DEFENSE COUNSEL]: Okay.

[A.T.]: And I would say, yes, uh-huh.

[DEFENSE COUNSEL]: And this is going on within that two-hour time span?

[A.T.]: Yes.

[DEFENSE COUNSEL]: When you were going through, you say started going through withdrawal?

[A.T.]: Yes, I was yawning a lot. I was, like, getting the, you know, shakes and I was, you know – that's also obvious in the transcript.

[DEFENSE COUNSEL]: And it was cold, too?

[A.T.]: Yes. Freezing.

\* \* \* \*

[DEFENSE COUNSEL]: Okay. And you also stated that when you were detained by the officers on October 15th, that at some point you said things that may not have been true because, one, you were upset with Mr. Hitchens, and second, you were saying what you believed the officers wanted you to hear; is that fair to say?

[A.T.]: Yes.

\* \* \* \*

[DEFENSE COUNSEL]: And I just want to be clear, and I apologize if I keep asking the same question - -

[A.T.]: It's okay.

[DEFENSE COUNSEL]:-- over and over again, but at no time, as far as you're concerned, you were offered anything whatsoever to perform prostitution or sex trafficking by Mr. Hitchens?

[A.T.]: No. I did it on my own,

Then, after cross-examination by Mr. Hitchens's counsel and redirect examination by the State, A.T. was excused. Then, the following exchange occurred:

[THE STATE]: So we are going to—Det. Guzman is the one who conducted the interview on October 15th. . . . But we are going to seek to admit the entire video recording interview of the 15th because the State’s position is that the entire interview is a prior inconsistent statement.

THE COURT: And what’s the defendant’s response?

[DEFENSE COUNSEL]: Yes, Your Honor. We’re going to object to both. I was just waiting to object.

THE COURT: Okay. I need to see the video.

[DEFENSE COUNSEL]: Well, I can—

[THE STATE]: I have the transcript. So this is why I was saying, I don’t know who is next. I understand this might take some time to review. I don’t know if the defense has objected to the whole thing or portions of it because that’s something we could go through ourselves. But I can also have that detective because it would come in through him. He was going to be our next witness, but based on how she testified, which we didn’t know how that was going to go, I can have him come back tomorrow and we can put on other witnesses so this can be resolved. But we have enough witnesses to get us through the end of the day regardless.

Mr. Hitchens’s counsel then explained the nature of his objection:

[DEFENSE COUNSEL]: . . . I think she admitted—I think she did admit that she said one thing today and said something—when she said something else when she was interviewed, and she explained why. She said she was in the room for two hours, that she was desperate, that she was going through withdrawals, that the room was cold. So she explained why she made an inconsistent statement. So now with the State now after her testimony, if anything, and I will still would’ve think it’s objectionable.

If the State wanted to impeach her testimony, that should have been done while she was here, because now the defense is at a disadvantage. I can’t cross-examine the video tape, but she already stated, I believe for the record, why she made those inconsistent statements. She then corrected and said, well, I’m clean now, this is what really happened. And I understand it’s not helpful, that it didn’t help the State’s case, her testimony, I understand that. But she explained why she made those statements. She was high. Then she said she was mad at my client. So I think that’s already been explained why she made those inconsistent statements, number one.

\* \* \*

In addition, Your Honor, the interview, if the State wants to play the whole interview, it's full of inadmissible evidence anyway. . . . for example, Ms. Tucker doing the interview is discussing what other girls told her that my client did. Obviously, that's not even admissible here . . .

And I've always, just for the record, not just this case, but in other cases, I always make this objection anyway because I do believe that a lot of times—I've seen it enough times in different jurisdictions that I do believe that that's what detectives do when they interview suspects or interview victims, they're essentially saying their case while it's being recorded with the anticipation that a jury might even hear it. So again, that's done without the benefit of them being cross-examined, and even the witness stated that they were trying to lead it. . . .

So to play that whole video is prejudicial, number one, because now, like I said before, I can't cross-examine the video. I was able to cross-examine the person who made the statements, and she explained why she made those statements anyway. So now to play those, the same interview without her even being here . . .

The State did not seek to enter the video into evidence until two days later, the fourth day of trial, during its examination of Det. Guzman. The court and the parties had determined already which parts of the video and transcript would be appropriate to admit. After the State established a foundation for the evidence, the following colloquy took place:

[THE STATE]: Your Honor, pursuant to discussions that previously at this point, State would move 139 into evidence, and we will supplement it with a physical copy of what we discussed earlier.

[DEFENSE COUNSEL]: Just not continuous.

THE COURT: Is 139 the video?

[THE STATE]: Yes.

THE COURT: 139 is admitted.



The State called Mr. Curtis as a witness. Mr. Curtis testified that Mr. Hitchens was his cousin. He knew A.B. and C.W. He was less familiar with A.T. He, his girlfriend, his father and stepmother, Mr. Hitchens, A.T., C.W., and A.B. came to Montgomery County and stayed at the Comfort Inn. He was aware that A.B. and C.W. had prostituted themselves. He denied awareness that Mr. Hitchens had been supplying A.B., C.W., and A.T. with drugs. Near the conclusion of his direct testimony, the following exchange took place:

[THE STATE]: So we have some of the same issues with this testimony that we had with [A.T.]'s. I have the specific portions that are related to specifically what he said inconsistently on the stand. I think everyone's in agreement that he doesn't need to be on the stand for them to be introduced. But I don't know if this is, like, another issue we want take up outside the presence of the jury. It doesn't have to be right now. But I have pointed areas in the transcript where I think he's being inconsistent. Whenever we take a break to talk about [A.T.]'s statement, I guess we can talk about it then, and then I can redact it and we can go forth.

THE COURT: Okay. But --

[THE STATE]: I just don't know, logistically, how you want to do it.

[THE COURT]: We're going to have the same issues that I have with [A.T.]'s. You can't --

[THE STATE]: I'm not --

THE COURT: -- seek to introduce something that you haven't asked him about.

[THE STATE]: I agree. And I'm not intending to introduce his whole statement. The pointed parts of it, I have the transcript, and we can go through it line by line. But that might take a little bit of bit time, so we can do it after his testimony or whenever we want to take up [A.T.]'s.

[THE STATE]<sup>1</sup>: (Unintelligible) in the actual transcript, not the video, right? So it might be a little easier to follow than [A.T.]’s video, but.

[THE STATE]: Yes. I have the transcript portion, so we can go through the transcript lines that I seek to introduce. But I don't --

THE COURT: Well, that's a problem. Because for [A.T.], it’s recorded. For him, has he had a chance to look at that transcript? Because there were some inconsistencies between the transcript and [A.T.]’s and [A.T.]’s (unintelligible).

[THE STATE]: Sure.

THE COURT: So I don’t think that's going to come in.

[THE STATE]: I mean, I’m happy to do the video. It’s just going to take a lot longer. If we can all agree that the transcript is what it is, it’s a recording of it, defense ---

THE COURT: I’m not going to agree [to] that since there are inconsistencies between the A.T. transcripts and the video.

[THE STATE]: Oh, I know. I’m saying that I know the specific lines that I’m trying to introduce. So we can look that up in the audio.

THE COURT: Uh-huh.

[THE STATE]: And if we all agree -- and I can do it with defense, too -- if we agree that the transcript says what the audio says, I just think it's easier and quicker to move in, like, specific lines of the transcript, since we're not moving to admit his entire testimony.

THE COURT: Uh-huh.

[THE STATE]: If we can all agree that’s what the audio says, and we can just move it in that way. I just wanted to flag for the Court that we might need 5 minutes or ten 10 to go over this is all.

---

<sup>1</sup> This statement was made by the State’s second chair.

Cross-examination and redirect examination opportunities were exercised, and Mr. Curtis was excused. Then, the court and the parties discussed line-by-line the portions of the transcript that the State sought to admit. The defense objected:

[DEFENSE COUNSEL]: And obviously, Your Honor, we're going to object to most of this. Again, these aren't questions that were even—especially that one—I think asked of him, even on the stand. So I don't know if it's considered inconsistent, following *Nance*. It would be one thing if they were asking these specific questions, as far as having a girl from time to time and things of that nature. So again, we believe this is a way to substitute what he said or didn't say. It wasn't asked for the interview.

Additionally, Your Honor, as I was objecting in the [A.T.] issue, the same thing with the officers. A lot of these questions, the officers asking leading questions, pretty much giving that question that suggests the answer. And again, Your Honor, for the jury to hear that, again, we would be objecting. And again, at least the questions that I've heard so far, many of these weren't even asked specifically on the stand, anyway.

I guess you can make assumptions and things of that nature. And even some of the statements that the State even stated, stated as in the context of a larger question. But it'd be, I think, misleading, unless we played a whole tape. But we can't do that because there's a lot of objectionable things of that nature in the whole interview. But just to play little bits and pieces here and there, I believe that we are going down a slippery slope. Because to explain some of these—I think, in many cases, you have to get into the other questions that were asked prior to that. And then that gets into hearsay. Also, a lot of questions in here are answers by Mr. Curtis that doesn't even lay the foundation how he knows this. He just said, yes, he does this. He doesn't say how.

On the witness stand, he stated he never saw my client to X, Y, Z. Now, in here, he might say yes. But he doesn't even state how he knows. He just said yes. Again, answering leading questions by the officers.

So again, Your Honor, as of now, we would object.

Likewise the State did not seek to admit this evidence until its examination of Det.

Guzman, on the fourth day of trial. At that time, this discussion occurred:

[THE STATE]: Subject to arguments made previously, I move State's 150 [portions of the Mr. Curtis's interview] into evidence.

THE COURT: Any objection?

[DEFENSE COUNSEL]: Same objection, Your Honor.

THE COURT: All right. 150 is admitted.

The transcript of Mr. Curtis's police interview revealed the following exchange:

MR. CURTIS: Well, it's kind of like this, they do what they do, right? And then they have X, Y, Z. So, I have \$300. So, [Mr. Hitchens] in this instance isn't taking the whole \$300 and like all right you work for me.

OFFICER SASSI: Yeah.

MR. CURTIS: [Mr. Hitchens] or anyone else is more so like okay, you got \$300 what's up? All right, well, well you got the room for me so I owe you \$80, like here's your \$80 that I owe you and can I buy X, Y, Z? You know?

OFFICER SASSI: Buy meaning drugs?

MR. CURTIS: Right. That's basically what it is. So, he feeds them drugs.

The jury convicted Mr. Hitchens of the aforementioned crimes. Mr. Hitchens timely noted his appeal.

### **QUESTIONS PRESENTED**

Mr. Hitchens presents two questions on appeal:

1. Did the Trial Court violate the Appellant's rights under both the Confrontation Clause of the Constitution of the United States of America and Article 21 of the Maryland Declaration of Rights by permitting the State to introduce as substantive evidence a redacted prior out-of-court video statement of witness A.T. where A.T. was not confronted with the Statement on direct examination, was excused prior to the introduction of the prior out-of-court video statement, and was unavailable for cross examination regarding the prior out-of-court video statement?

2. Did the Trial court violate the Appellant's rights under both the Confrontation Clause of the Constitution of the United States of American and Article 21 of the Maryland Declaration of Rights by permitting the State to introduce as substantive evidence a redacted transcript of witness/co-Defendant Troy Curtis's recorded statement to the police after Mr. Curtis was not presented the prior out-of-court statement during his direct examination, was excused prior to the introduction of the prior out-of-court statement via another witness, and was never made available for cross examination regarding the statement?

These issues are not preserved for our review. We affirm the judgment of the trial court.

### DISCUSSION

Mr. Hitchens argues that the records of A.T.'s and Mr. Curtis's interviews should not have been admitted because their admission violated his right of confrontation. The State sought to introduce the interviews of A.T. and Mr. Curtis as prior inconsistent statements. In this regard Mr. Hitchens cites *Nance v. State*, stating that the questions posed to these witnesses during their respective interviews were leading. 331 Md. 549 (1993). He also relies on Maryland Rule 5-802.1(e) which provides:

The following statements previously made by a witness who testifies at the trial or hearing and who is subject to cross-examination concerning the statement are not excluded by the hearsay rule: . . . .

(e) A statement that is in the form of a memorandum or record concerning a matter about which the witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, if the statement was made or adopted by the witness when the matter was fresh in the witness's memory and reflects that knowledge correctly. If admitted, the statement may be read into evidence but the memorandum or record may not itself be received as an exhibit unless offered by an adverse party.

The essence of Mr. Hitchens's argument is that the "subject to cross-examination provision" of Maryland Rule 5-802.1(e) is that the prior inconsistent statement can only be

admitted during the examination of the subject witness. He contends that only strict adherence to this formulation ensures that a defendant's right under the confrontation clause, i.e., the right to cross-examine a witness, is preserved. It should be noted that during her testimony, Mr. Hitchens's counsel asked A.T. a number of questions about what transpired during her interview by Det. Guzman.

Maryland Rule 4-323 sets forth the contemporaneous objection rule with respect to criminal actions, and in pertinent part provides:

- (a) *Objections to evidence.* An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived. . . .

When previous rulings result in the admission of evidence, the contemporaneous objection rule continues to apply, and the party objecting to the admission of evidence must object “quickly enough to allow the trial court to prevent mistake or cure them in real time.” *Prince v. State*, 216 Md. App. 178, 194 (2014); *see also Klauenberg v. State*, 355 Md. 528, 539 (1999) (“[W]hen a motion *in limine* to exclude evidence is denied, the issue of the admissibility of the evidence that was the subject of the motion is not preserved for appellate review unless a contemporaneous objection is made at the time the evidence is later introduced at trial.”); *Reed v. State*, 353 Md. 628, 643 (1999) (“When a pretrial ruling results in the admission of evidence, the contemporaneous objection rule, Maryland Rule 4-323(a), shall continue to apply. Contemporaneous objections to the admission of evidence normally must be made when the evidence is offered at trial.”). “[T]here is no

bright-line rule to determine when an objection should be made.” *Prince*, 216 Md. App. at 194 (citing *Holmes v. State*, 63 Md. App. 159, 164 (1985)). However,

[t]he requirement of a *contemporaneous objection* is a necessary and salutary one, designed to assure both fairness and efficiency in the conduct of trials. A party cannot be permitted to sit back and allow the opposing party to establish its case, or any part of its case, through unchallenged evidence and then, when it may be too late for the opposing party to recover, to seek to strike the evidence. The “sporting theory” of trial does not go that far.

*Id.* (quoting *Perry v. State*, 357 Md. 37, 77 (1999)). (emphasis in original).

The objections to the evidence in this case were insufficient to preserve the issue for appeal. With regard to the interview of A.T., Mr. Hitchens objected when it was initially discussed that the State would seek to admit the interview. As to the statements of Mr. Curtis, Mr. Hitchens objected when the State initially alerted the court of its intention to admit the interview, and again when the evidence was offered. However, Mr. Hitchens did not object when either A.T. or Mr. Curtis were excused. Had Mr. Hitchens objected at that time, the court could have addressed the nature of Mr. Hitchens’s opportunity to cross-examine the witnesses regarding their prior inconsistent out-of-court statements and ensured that such opportunity was available by not excusing A.T. and Mr. Curtis. “The rules for preservation of issues have a salutary purpose of preventing unfairness and requiring that all issue be raised in and decided by the trial court, and these rules must be followed in all cases including capital cases.” *Conyers v. State*, 354 Md. 132, 150 (1999).

We stated:

A proper objection is required so that the proponent of the evidence has an opportunity to “rephrase the question or proffer so as to remove any objectionable defects, if possible.” *Hall v. State*, 119 Md. App. 377, 389[

](1998). A timely objection also enables the trial court to attempt to cure any error, which helps avoid unnecessary appeals. *Id.* at 389–90[ ]. Thus, an appellate court may review the admissibility of evidence only when an objection is properly made. *Klaunenberg*, 255 Md. at 545[ ].

*State v. Jones*, 138 Md. App. 178, 218 (2001). The State provided Mr. Hitchens ample notice that it would introduce the interview footage and transcripts, and that its intent was to do so during the testimony of the interviewer, rather than the interviewee, before the court allowed the witnesses to leave. The witnesses were excused without objection from Mr. Hitchens. The alleged defect of failure to confront could have been removed if Mr. Hitchens had preserved his opportunity to cross-examine the relevant witnesses by requesting they not be excused.

### CONCLUSION

Mr. Hitchens did not preserve his appeal by failing to make timely objections that would have allowed the court to cure any alleged error.

**JUDGMENT OF THE CIRCUIT  
COURT FOR MONTGOMERY  
COUNTY AFFIRMED. COSTS TO  
BE PAID BY APPELLANT.**