

Circuit Court for Cecil County  
Case No. C-07-CR-23-000647

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 210

September Term, 2024

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MATTHEW ISAAC BOOHER

v.

STATE OF MARYLAND

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Leahy,  
Kehoe, S.  
Sharer, J. Frederick,  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Leahy, J.

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Filed: June 10, 2026

\* This is an unreported opinion. The 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 conforms to Rule 1-104(a)(2)(B).

On June 20, 2023, when Deputy First Class (“DFC”) Tyler Bondar of the Cecil County Sheriff’s Office attempted to locate Matthew Booher (“Appellant”), who had several outstanding warrants, he was alerted to Appellant’s violent tendencies by the caution codes in the police department’s database. DFC Bondar went to Appellant’s parents’ apartment and Appellant’s father escorted him through the apartment to the garage to find both Appellant and his brother. The encounter quickly turned violent when Appellant charged DFC Bondar with what appeared to be six-to eight-inch hunting knife and DFC Bondar discharged his firearm. An injured Appellant was arrested and transported to a local hospital. DFC Ezekiel Shell, who was charged with looking after Appellant while hospitalized, asked him “[M]an, what happened to you?” Appellant responded by recounting the events leading up to his arrest, thus incriminating himself.

At a pretrial hearing in the Circuit Court for Cecil County, defense counsel presented a Motion in Limine seeking to preclude the State from introducing any evidence regarding Appellant’s criminal past and caution code data. The court determined that the information the deputies knew could be admitted so long as it only went to support the officers’ state of mind.

Appellant was tried before a jury in January 2024. Defense counsel objected to DFC Bondar’s reference to Appellant’s Safe Streets offender status as well as DFC Shell’s testimony concerning his conversation with Appellant in the hospital. The trial court overruled defense counsel’s objections.

The jury found Appellant guilty of assault in the first-degree and carrying a dangerous weapon openly with the intent to injure another. Appellant received a fifteen-year prison sentence for these convictions. On appeal, Appellant submits for our consideration two questions which we slightly rephrase as follows:<sup>1</sup>

1. Did the trial court err by admitting hearsay testimony regarding prior bad acts?
2. Did the trial court err in refusing to strike the testimony of DFC Shell?

We discern no error or abuse of discretion in the actions of the trial court and affirm the court's decisions on both issues. *First*, because defense counsel failed to properly preserve the objection to the testimony concerning Appellant's caution code data by not raising a contemporaneous objection throughout the testimonies of Deputies Bondar and Griffo, the only portion of the contested testimony preserved for our consideration is the reference to Appellant's "Safe Streets offender" status. We hold that the reference to Appellant as a "Safe Streets offender" was admissible hearsay because it came in to establish the deputy's state of mind as he engaged the Appellant.

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<sup>1</sup> The questions as presented in Appellant's brief are:

1. Did the trial court improperly admit prejudicial hearsay by Deputies Tyler Bondar and Dominic Griffo implicating Appellant in other crimes and bad acts?
2. Did the trial court err in refusing to strike the testimony of Deputy Ezekiel Shell?

*Second*, the conversation between DFC Shell and Appellant was not an interrogation and, therefore, we assign no error to the trial court allowing the jury to consider Deputy Shell’s testimony about it. Accordingly, we affirm the judgments.

### **BACKGROUND**

The following account is derived from the evidence adduced at Appellant’s jury trial viewed in the light most favorable to the State. *Molina v. State*, 244 Md. App. 67, 87 (2019). Our summary of the trial record is limited to the background necessary for our discussion of the issues raised by Appellant in this appeal.

#### ***Incident on June 20, 2023***

On June 20, 2023, DFC Bondar went to an apartment as part of a fugitive investigation involving brothers Matthew and James Booher. Both brothers had outstanding warrants, which DFC Bondar reviewed. In addition to reviewing the warrant information for both Appellant and James Booher, DFC Bondar also reviewed the “caution notes” in the police department database which stated that Appellant “was known to be a user of controlled dangerous substance [sic], to resist arrest, to be armed and dangerous, [and] that [Appellant] is a Safe Streets offender[.]” James Booher had similar caution codes in his file.

Upon his arrival at the apartment complex, DFC Bondar saw a Trooper leaving the area and asked that officer to stay and help him set up a perimeter until back-up arrived. A short time later, DFC Dominic Griffo arrived on scene. While establishing the perimeter, DFC Bondar located a parked vehicle near the target apartment that matched the

description of a “gray . . . Toyota Rav4” associated with Appellant and his brother. The deputies decided to go in and speak with Sandra Booher, Matthew’s and James’s mother, and who was also a resident of the apartment. On his way to the apartment, DFC Bondar saw a pickup truck he determined belonged to Matthew and James Booher’s father parked in front of Garage G112. It was reported during the investigation that Appellant and his brother may be in Garage G112. DFC Bondar believed that he could “maybe hear some conversation in the garage” but as he approached the door and knocked, there was no response.

DFC Bondar proceeded to the apartment where he spoke with Sandra Booher who allowed him to check the apartment for Appellant and his brother, but neither was in the apartment. When DFC Bondar asked to search Garage G112, Sandra Booher again consented. DFC Bondar was “escorted up the stairs and to the garage” by the Boohers’ father. The men went to the rear entrance of the garage where the Boohers’ father unlocked the door and DFC Bondar opened the door.

Once the door was open, DFC Bondar saw Appellant standing about five feet away from him. James Booher was in the garage also. DFC Bondar instructed Appellant to “come out” and show his hands. Appellant went farther into the garage and DFC Bondar pursued him. As DFC Bondar was “about to grab him[,]” Appellant “reach[ed] to the ground” and grabbed what appeared to be a hunting knife. Given the Appellant’s “caution codes for being armed and dangerous[,]” DFC Bondar began to “retreat backwards” towards the open door and started to draw his gun from its holster. Appellant and James

“advance[ed] toward[.]” DFC Bondar as he retreated. DFC Bondar saw Appellant hold the knife “outstretched towards [him,] making a pointed stabbing motion[,]” and ordered Appellant to drop the knife.

When DFC Bondar reached the threshold of the door, Appellant “lunged around James” and charged DFC Bondar. DFC Bondar “perceived that [Appellant] was charging [him], trying to stab [him] and trying to kill [him].” He “discharged [his] firearm, striking [Appellant who] fell to the ground.” DFC Bondar retreated into the hallway as James pursued him, now holding “some type of metal pipe.” After Appellant collapsed at the bottom of the stairwell, DFC Griffio joined DFC Bondar, who continued to command James to stop and surrender. Instead, James escaped.

DFC Bondar called for emergency services, handcuffed Appellant per department policy, and applied pressure to his injury. More deputies arrived on the scene, helped Appellant from the stairwell, and eventually took over first aid responsibilities from DFC Bondar. Emergency personnel took Appellant to Christiana Hospital where he underwent surgery to treat his injuries. Following his surgery, Appellant remained in police custody at the hospital. DFC Ezekiel Shell guarded Appellant while he was at the hospital. He was “familiar with” Appellant from the deputy’s “previous career . . . as a correctional officer at the Cecil County Detention Center.” DFC Shell testified that the two men had a “good rapport.” Upon entering Appellant’s hospital room, DFC Shell asked “Man, what happened to you?” According to DFC Shell, Appellant then explained that:

[Appellant] and his brother Jimmy were in the room and they heard officers were coming. And then the officers opened the door, had their guns pointed

at them. [Appellant] grabbed a long silver pipe and told them to move. And then the officer told them to get down on the ground. [Appellant] told them that's not going to happen, to move out of their way. And that's why [Appellant] ran towards him with the pipe. And then the officer discharged their firearm.

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[Appellant] said once he was struck [sic] that he blacked out. And then when he woke up, he was heading towards the stairs and rolling down them. . . . And then he couldn't remember anything further.

Appellant was charged with first-degree assault, attempted second-degree assault on a law enforcement officer, reckless endangerment, failure to obey a reasonable and lawful order, obstruction of justice, resistance/interference with arrest, and wearing and carrying a dangerous weapon with intent to injure.

### *Pre-Trial Conference and Motion in Limine*

On January 22, 2024, the trial court held a pre-trial conference to address issues including pending motions in limine. Defense counsel's amended Motion in Limine asked the trial court to "prohibit the State from introducing any evidence, physical or testimonial[,] with regard to any" outstanding warrants or "prior bad acts of [Appellant], charged or uncharged[,]” stating that the introduction of such evidence would be “more prejudicial than probative.”<sup>2</sup> The Defense's amended Motion in Limine also requested the court to exclude evidence regarding Appellant's “propensity toward violence[,]” claiming

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<sup>2</sup> Defense counsel filed his Amended Motion in Limine on January 22, 2024. Counsel also requested, among other things, that the court “prohibit the . . . testimony of Capt[ain] Stephen Brownhill and/or any other witness in reference to the Cecil County Sheriff's Office's policy on deputy use of deadly force, and it[s] application in [DFC] Bondar's use of such force[.]” **Id.** The trial court denied defense counsel's request to exclude evidence regarding use of deadly force and allowed Captain Brownhill to testify.

that “[a]ny such testimony would be hearsay” in addition to being “more prejudicial than probative.”

During the conference, defense counsel reiterated the request to “not allow any testimony or evidence regarding prior bad acts” of Appellant aside from any “impeachables [the State] intend[ed] to use” if Appellant chose to testify. The State countered that the “open arrest warrants” for Appellant at the time of the incident as well as DFC Bondar’s “previous contacts” with the Booher brothers “go[] to the [s]tate of mind of” DFC Bondar when he “was in the garage and confronted with the situation.” The State offered that the testimony would, “focus[] on what was going on with [DFC Bondar] and what was his belief and what was factored into his assessment of that situation, such that it required him or his belief to use deadly force.” The State contended that the testimony should not be barred by the hearsay rule because the testimony would concern “what information [ ] that deputy possess[ed] at the time he entered that garage and was confronted with the two individuals.”

The trial court ruled that “[o]nly information about [Appellant] as it pertains to [ ] bad acts, [ ] outstanding warrants[,] and [ ] propensity toward violence [ ] that was relied upon by the arresting officer at the time of the alleged incident shall be admissible.” The trial court explained that the evidence of the caution code data would not be “coming in for the truth of what it is[.] It’s just going in for the state of mind to figure out what the officer was at the moment when he went in.” Specifically, the court stated it was “not sure what the officer relied on” or “how much information [the officer] had or didn’t have[,]” but

agreed with the State that the testimony should be admitted. Defense counsel objected to the ruling “based on [his] previous argument[.]”

*Trial*

The trial proceeded over two days beginning January 24, 2024. The State called DFC Bondar as its first witness. After he identified the Appellant, the following exchange occurred:

[THE STATE]: Now, as far as the information related to the outstanding warrants for both [Appellant] and James Booher, what other information did -- had you obtained before going down to look for them?

[BONDAR]: Aside from their warrants, I familiarized myself with the caution notes available in our databases that [Appellant] **was known to be a user of controlled dangerous substance, to resist arrest, to be armed and dangerous, that he is also a Safe Streets offender** and that James --

[DEFENSE COUNSEL]: **Objection**, Your Honor. May we approach?

THE COURT: Yes.

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[DEFENSE COUNSEL]: **I know the Court’s already ruled on this in regards to (indiscernible) but specifically I’m objecting to the Safe Streets reference.** The jury has no idea what that is. There’s nothing in the evidence about it, but they could use that to make their own extrapolations. I just ask the Court to -- ask that that part be stricken and not considered.

[THE STATE]: It’s still part of the caution code. It still would have had an impact on the officer as far as he is categorized as a type of offender. I’m not going into to having him explain what each category means. It’s just the information was there and he was aware of it prior to going down there on this day.

THE COURT: (Indiscernible). **Based on my prior ruling -- I’ll overrule the (indiscernible) objection.** It’s such a -- if it doesn’t go any deeper into it, just what we have now.

(Emphasis added).

Testimony continued and the state called its next witness, DFC Griffio. When asked by the prosecutor why he went to the Booher apartment on June 20, 2023, DFC Griffio replied that he “was informed that there were subjects who had multiple warrants through multiple different agencies at that address.” Defense counsel did not object. DFC Griffio proceeded to identify one of those individuals as Appellant. He then testified that he “was told that both Booher brothers [had] violent tendencies[.]” Defense counsel objected and the following exchange occurred:

[DEFENSE]: I’m just going to renew my objection with the motion in limine. I mean, clearly it’s hearsay. He was told. He is not basing this on any interaction -- personal interaction with my client.

THE COURT: I understand. The Court will note the objection. (Indiscernible). You know this is not being admitted for the -- the truth of the matter. This is for his statement for the officer when he was entering. So I -- I will note your objection.

[THE STATE]: And as I said before, I’m not going to (indiscernible) –

THE COURT: Right.

[THE STATE]: -- (indiscernible) for getting it out there.

THE COURT: Yeah. We’re just getting out what he -- what he knew –

[THE STATE]: Right. Of what he knew and –

THE COURT: I gotcha.

DFC Griffio went on to testify that the “caution codes” alerted him that the Booher brothers “were both potentially armed and dangerous, . . . ha[d] violent tendencies, and they were both known to abuse drugs.” DFC Griffio stated that this information led him to “believe that if they were using drugs at the time were -- given their violent past, that they might try

to fight, they might try to flee, they might try to resist arrest when approached.” Defense counsel did not object to this testimony.

The State then called Deputy Ezekiel Shell to the stand. DFC Shell testified regarding his rapport with Appellant from his previous job. When asked about Appellant’s response to DFC Shell’s question, “[M]an, what happened to you?” the following exchange occurred:

[SHELL]: And he went down the line and explained what happened.

[THE STATE]: And what did he explain to you had happened?

[SHELL]: He explained to me that him and his brother Jimmy were in the room and they heard officers were coming. And then the officers opened the door, had their guns pointed at them. [Appellant] grabbed a long silver pipe and told them to move. And then the officer told them to get down on the ground. [Appellant] told them that’s not going to happen, to move out of their way. And that’s why [Appellant] ran towards him with the pipe. And then the officer discharged their firearm.

[THE STATE]: Did he say how many times he fired at him?

[SHELL]: He told me approximately two times.

[THE STATE]: And then what happened after that?

[SHELL]: He said once he was struck [sic] that he blacked out. And then when he woke up, he was heading towards the stairs and rolling down them.

[THE STATE]: Okay.

[SHELL]: And then he couldn’t remember anything further.

[THE STATE]: Did you have any further conversation with him that day?

[SHELL]: Not in regards to that matter, just in other stuff.

On cross examination, defense counsel had DFC Shell read from his report recounting the conversation in the hospital. In the report, DFC Shell characterized

Appellant’s statement as “several unsolicited excited, spontaneous utterances regarding his involvement in an incident that occurred on June 20th, 2023[.]” The following colloquy occurred:

[DEFENSE COUNSEL]: Okay. Do you know what an unsolicited excited, spontaneous utterance is?

[SHELL]: I took it as what he explained to me what occurred.

[DEFENSE COUNSEL]: So let’s go word by word. Do you know what unsolicited means?

[SHELL]: Not off the top of my head right now.

[DEFENSE COUNSEL]: Okay. If I told you that unsolicited means that you don’t begin it like you --

[THE STATE]: Objection.

[DEFENSE COUNSEL]: May we approach?

THE COURT: You may approach.

(Sidebar begins at 3:39 p.m.)

[DEFENSE COUNSEL]: **His report stated exactly what he said. Unsolicited, excited, spontaneous utterances. That’s why I didn’t do anything about this as far as a suppression motion. Now he’s fully admitted. He engaged my client. He started it. He didn’t Mirandize him and he was in custody. I want his whole testimony stricken.**

[THE STATE]: That should have been raised long ago. He had the report. He knew it was there. He could have explored it.

[DEFENSE COUNSEL]: He just contradicted his report.

[THE STATE]: I don’t care. I’m making my argument, counsel. That was -

THE COURT: You got to let him -- make your argument.

[THE STATE]: That was -- that report was there. The (indiscernible) was there. He wanted the report to refresh the officer’s recollection. I don’t know what he’s refreshing the officer’s recollection about. He testified what the

Defendant's statement was. He didn't file to suppress the motion -- **he didn't file to suppress the statement. At this point the statement comes in.** There's been no motion. (Indiscernible) he asked, do you know what this means, unsolicited. No, I don't. And then he wants to try to get in a definition. No. You know, he answered the question, I don't know what it means. So you know, and continue down this road I'll, you know, strike his entire testimony because of it. That was -- that boat sailed.

[DEFENSE COUNSEL]: Your Honor, that boat didn't sail. **At some point he lied. At some point he lied. He puts in his report unsolicited, exited [sic], spontaneous utterance. And now he just testified that he started the conversation. He was in custody.** Those are exact opposite. I certainly would have filed a suppression motion if the report said what he just testified to. **That he began a custodial interview with my client without advisement of Miranda. That's where I would have had a duty to file a suppression motion.**

[THE STATE]: And I would submit it's not a custodial interrogation. The question is, what happened to you. **It is not a custodial interrogation.** It's very different from the case where the officer walks through talking. And once the Defendant gets in holding (indiscernible), "What's up, Maurice". And the court said in that case that is not an interrogation. You know, certainly they had a relationship. They knew each other from the time that he'd been at the jail and the officer worked at the jail. Based on that, you know, they had a conversation. That's all it is. **This isn't some sit down interrogation that this officer had done. It was a one question, hey, what happened to you, period.**

[DEFENSE COUNSEL]: Hey, what happened to you, asks for a response that is greater than, what's up Maurice. **What happened to you just solicits, begs for a long explanation.** It doesn't -- it's not a normal salutation where you go hey, what's up, how you doing, where you can get an, I'm good, you know.

THE COURT: Listen, **I'm not going to strike his testimony.** I gave you a pinch of leeway to talk about -- I don't know about defining what unsolicited is. I mean, you can ask him what he believes it is. I'm going to give you some leeway.

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THE COURT: I mean, I'll give you a little more leeway. **I'm not striking the testimony.** I agree. If that comes back later for that reason, then we'll deal with it at a later date. I think for now where we are in the trial, I think

it’s inappropriate for me to strike his entire testimony. But again, I’ll give you some room to continue questioning him.

[DEFENSE COUNSEL]: Yes, Your Honor.

(Emphasis added).

The State called an additional witness<sup>3</sup> before concluding their case in chief. After the State rested, defense counsel moved for a judgment of acquittal on all counts. The trial court granted the motion as to Count IV (failure to obey), Count V (obstructing justice), and Count VI (resisting arrest). Defense counsel called one witness, James Booher, Sr., who testified regarding his recollection of the events of June 20. He explained that he took DFC Bondar to the garage and stated that Appellant did not have anything in his hands when Mr. Booher and DFC Bondar entered the garage. Mr. Booher gave a written statement to police after the incident. Following Mr. Booher’s testimony, the defense rested their case.

After the trial court adjusted the charges following the motion for judgment of acquittal, the charges presented to the jury were assault first degree, attempted assault in the second degree involving a law enforcement officer, assault second degree, reckless endangerment, and “dangerous weapon: wear and carry with intent to injure.” After a short deliberation, the jury found Appellant guilty on two counts: assault in the first-degree and “dangerous weapon: wear and carry with the intent to injure.” At his sentencing hearing on April 1, 2024, the court sentenced Appellant to incarceration for fifteen years on the

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<sup>3</sup> The State’s final witness was Captain Steven Brownhill of the Cecil County Sheriff’s Office who offered expert testimony regarding Cecil County Sheriff’s Office’s use of force policy.

assault charge and three years, running concurrently, for the weapons charge to run concurrently.

Appellant timely filed his Notice of Appeal in this matter.

## DISCUSSION

### I.

#### Preservation of the Issues

Before we delve into the merits of Appellant’s arguments on appeal, we address the State’s preservation argument.

#### A. Parties’ Contentions

The State contends that defense counsel failed to properly preserve the issues raised on appeal. The State cites two reasons why Appellant’s argument regarding the caution code testimony is not available for our review. First, the State asserts that defense counsel waived any objection to the testimony related to Appellant’s caution code data, including DFC Bondar’s “Safe Streets offender” reference, because the State’s witnesses had already “repeatedly testified without objection that [Appellant] was a ‘wanted subject’ and that he had outstanding warrants.” According to the State, prior to any objection, DFC Bondar had already testified that Appellant had “done things to earn these caution codes for being armed and dangerous, resist arrest, a violent offender[.]” Second, the State asserts that Appellant cannot rely on the Rule 5-404(b) analysis in its appeal because the issue was not raised below. Quoting *Ayala v. State*, 174 Md. App. 647, 665 (2007), the State contends that when specific grounds are given for an objection, the “party objecting will be held to

those grounds and ordinarily waives any ground not specified that are later raised on appeal.” Because defense counsel did not specifically invoke Rule 5-404(b) in the proceedings below, the State avers that this Court may not consider that rule in the instant appeal.

To counter these arguments, Appellant points to defense counsel’s objection that led the trial court to “reaffirm its ruling” on defense counsel’s amended Motion in Limine. According to Appellant, this objection and the resulting ruling by the trial court preserves the issues for appeal. Appellant explains that counsel did not object to every mention of Appellant’s outstanding warrants or caution code data because some of the questions were allowed within the boundaries established by caselaw.

Regarding the testimony of DFC Shell, the State claims that defense counsel did not promptly object and therefore waived Appellant’s right to challenge the testimony. The State asserts the contemporaneous objection requirement was not satisfied because defense counsel only objected to the testimony on cross-examination and not when the same testimony was offered on direct examination. On reply, defense counsel asserts that the admission of DFC Shell’s testimony on both direct and cross-examination regarding Appellant’s statement is properly before this Court because the issue was raised and decided by the trial court when the court denied Appellant’s request to strike DFC Shell’s testimony. For this reason, Appellant contends, defense counsel’s objection was timely and adequate for preserving the issue.

## B. Legal Framework

Objections to evidence offered during a criminal trial are governed by Maryland Rule 4-323. Simply stated, “[a]n 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.” Md. Rule 4-323 (a). The rule goes on to state that,

[a]t the request of a party or on its own initiative, the court may grant a continuing objection to a line of questions by an opposing party. For purposes of review by the trial court or on appeal, the continuing objection is effective only as to questions clearly within its scope.

Md. Rule 4-323(b).

Our decisional law provides contours to this rule, the foundation of which is the “presumption that [appellate courts] will not review any issue that has not been preserved via objection at trial.”<sup>4</sup> *Conyers v. State*, 345 Md. 525, 563 (1997); *see also State v. Jones*, 138 Md. App. 178, 229 (2001), *aff’d*, 379 Md. 704 (2004) (collecting cases). To preserve an issue for appellate review, the opposing party “must object on *each occasion* where the challenged evidence is offered by the proponent.” *Mason v. State*, 258 Md. App. 266, 307 (2023) (emphasis added). Filing, arguing, and losing a motion in limine regarding the contested evidence does not relieve the party contesting the evidence of their duty to object if it is later offered at trial. *Hickman v. State*, 76 Md. App. 111, 117 (1988); *see also*

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<sup>4</sup> This is, of course, notwithstanding Md. Rule 8-131(a) which allows an appellate court to reach an issue not raised below “if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal.”

*Klaunberg 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.”).

The objection to the admission of the evidence must be made contemporaneously, *Fone v. State*, 233 Md. App. 88, 112-13 (2017), and “must come quickly enough to allow the trial court to prevent mistakes or cure [the mistakes] in real time[.]” *Prince v. State*, 216 Md. App. 178, 194 (2014). Additionally, a party may seek a continuing objection to make objecting to repeated offerings of evidence easier.<sup>5</sup> *State v. Robertson*, 463 Md. 342, 366-67 (2019).<sup>6</sup> Establishing a continuing objection requires the party to make the specific request of the court hearing the evidence. *See Hutton v. State*, 339 Md. 480, 488 n. 6 (1995) (noting that the party “asked for, and received, a continuing objection as to” a specific topic of testimony); *see also* L. McLain, 5 *Maryland Evidence*, § 103:12 (Oct. 2025) (explaining that “[g]enerally, one must object each time the improper material is offered into evidence” but, “[u]nder certain circumstances, clearly making a ‘continuing

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<sup>5</sup> As explained in *Maryland Evidence*, establishing a continuing objection requires acknowledgement from the court hearing the evidence: “At the request of a party or on its own initiative, the court may grant a continuing objection to a line of questions by an opposing party. For purposes of review by the trial court or on appeal, the continuing objection is effective only as to questions clearly within its scope.” L. McLain, 5 *Maryland Evidence*, § 103:12 (Oct. 2025) (quotations omitted).

<sup>6</sup> Our Supreme Court in *Robertson* noted that, in certain circumstances, “[c]ontinuing objections [would be] futile and [would] likely ‘spotlight for the jury the remarks’” the objecting party is trying to keep out of evidence. 463 Md. at 367 (quoting *Johnson v. State*, 325 Md. 511, 514-15 (1992)).

objection’ to a particular line of questioning—from the time that questioning was initiated—will suffice.”). When a party establishes a continuing objection, that party must be careful to renew the objection if the same evidence is introduced on other grounds later in the proceeding. *Hall v. State*, 119 Md. App. 377, 390-91 (1998).

### C. Analysis

Applying the above framework to the matter before us, we conclude that defense counsel preserved for appellate review the “Safe Streets offender” testimony portion of the first issue and the entirety of the second issue regarding DFC Shell’s testimony. We explain.

First, we clarify that only the hearsay objection to the “Safe Streets” comment is properly before us on appeal as framed by defense counsel’s limited objection: “but specifically I’m objecting to the Safe Streets reference.” Although counsel did object to DFC Griffo’s testimony of “violent tendencies” once, he did not repeat the objection nor did he seek a continuing objection. To properly object and preserve that issue for appellate review, defense counsel needed to make contemporaneous objections on the record or request a continuing objection. Similarly, we agree with the State that Appellant’s challenge based on Maryland Rule 5-404(b) is not preserved. The record does not show that defense counsel invoked Rule 5-404(b) or otherwise argued that the caution code testimony was inadmissible propensity evidence at oral argument during the pre-trial conference where the amended Motion in Limine was considered. Nor did counsel raise Rule 5-404(b) when later objecting to the court’s ruling on the Motion in Limine and the

subsequent admission of the officer’s testimony regarding the caution code testimony at trial. The only basis for objecting to the admission of the evidence raised by Appellant below was the objection based on hearsay.<sup>7</sup> Thus, because defense counsel offered no further objections to testimony offered by State’s witnesses regarding Appellant’s prior warrants and violent tendencies and there is no record of defense asserting a continuing objection, we consider only Appellant’s preserved hearsay objection to the “Safe Streets” testimony in this appeal.

We conclude, on the other hand, that the entirety of the second issue regarding DFC Shell’s testimony is preserved for appellate review. As indicated by Rule 4-323(a) and as applied through the cases discussed above, an objection to evidence offered in a criminal proceeding is not waived so long as the objection is offered “as soon thereafter as the grounds for objection become apparent.” Rule 4-323(a). That is precisely what occurred in this instance. When defense counsel was able to elicit testimony suggesting that the “excited, spontaneous utterances” mentioned in the deputy’s report may have been the result of a custodial interrogation, counsel lodged his objection. When defense counsel requested that the trial court strike the testimony, the request was denied. Accordingly, we shall consider whether the trial court erred in denying that request.

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<sup>7</sup> The amended motion in limine broadly requests the court to prohibit the State from introducing evidence, “either physical, or testimonial with regard to references regarding. . .” among other things, “any outstanding warrants,” “Defendant’s propensity toward violence,” “any controlled dangerous substance,” and “any prior bad acts, whether those acts be charged or uncharged.” The amended motion did not identify the caution code data as prior bad acts evidence that should not be allowed under Md. Rule 5-404(b), and the argument was not made at the hearing.

## II.

### “Safe Streets Offender” Testimony

#### A. Parties Contentions

Appellant contends that the trial court erred in allowing the testimony by Deputies Bondar and Griffio regarding Appellant’s caution code data, specifically the statement related to Appellant being a “Safe Streets offender[,]” because the testimony was inadmissible hearsay. Quoting from *Graves v. State*, 334 Md. 30, 38-39 (1994), Appellant asserts that when an arresting officer explains his actions based upon information received, “if he becomes more specific by repeating definite complaints of a particular crime by the accused, this is so likely to be misused by the jury as evidence of the fact asserted that it should be excluded as hearsay.”

The State avers the testimony illustrated the officers’ state of mind, making the testimony admissible non-hearsay. Further, the State offers that, even if the trial court did err when admitting the “Safe Streets” testimony, the cumulative impact of the other caution code testimony to which the defense did not object renders the admission of the “Safe Streets” testimony harmless.

#### B. Legal Framework

When reviewing a trial court’s rulings on the admissibility of evidence, this Court ordinarily evaluates the record for abuse of discretion. *Bernadyn v. State*, 390 Md. 1, 7, (2005) (citing *Hopkins v. Maryland*, 352 Md. 146, 158 (1998)). When reviewing whether

hearsay evidence was properly admitted, we apply a different standard and review the record without deference to the trial court. *Parker v. State*, 408 Md. 428, 436 (2009).

Under Maryland Rule 5-801, hearsay is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Unless the statement is otherwise allowed under the Maryland Rules of Evidence or “permitted by applicable constitutional provisions or statutes, hearsay is not admissible.” Md. Rule 5-802. In determining whether statements made to a police officer constitute inadmissible hearsay when they are offered to show the officer’s state of mind, courts may look to the specificity of the testimony as a guidepost for the testimony’s admission. In *Parker v. State*, the Supreme Court of Maryland explained:

[i]n criminal cases, the arresting or investigating officer will often explain his going to the scene of the crime or his interview with the defendant, or a search or seizure, by stating that he did so ‘upon information received’ and this of course will not be objectionable as hearsay, *but if he becomes more specific by repeating definite complaints of a particular crime by the accused, this is so likely to be misused by the jury as evidence of the fact asserted that it should be excluded as hearsay.*

408 Md. 428, 440 (2009) (quoting *Graves*, 334 Md. at 39-40) (emphasis in original). In applying hearsay rules to officer testimony, this Court “has stated that ‘statements made by witnesses to police officers, recounted in court by the police to explain the course of the investigation, are frequently not hearsay at all.’ And, police officers may testify concerning the receipt of information that caused them to take certain actions in an investigation.” *Freeman v. State*, 259 Md. App. 212, 250 (2023), *aff’d*, 487 Md. 420 (2024) (quoting *Ashford v. State*, 147 Md. App. 1, 76, *cert. denied*, 372 Md. 430 (2002)). Accordingly,

officers are allowed “to explain briefly what brought [them] to the scene in the first place” so long as the testimony does not involve a “‘sustained and deliberate’ line of questioning” which serves “no legitimate purpose.” *Frobouck v. State*, 212 Md. App. 262, 283 (2013) (quoting *Zemo v. State*, 101 Md. App. 303, 306 (1994)).

### **C. Analysis**

Before this court is the question of whether the trial court erred in not striking DFC Bondar’s testimony that Appellant was a “Safe Streets offender.” To determine whether the trial court evaluated the reference and its potential prejudicial impact properly, we must look at two decisions the trial court made.

First, on the first day of trial, January 24, 2024, the court announced its ruling on Appellant’s motion in limine which was presented and argued during the pretrial conference. The court denied the motion, explaining that such information was “admissible[,]” and stated that it “agree[d ] with what [State’s counsel] said about [the information] being allowed in” and that it did not believe the information was “necessarily coming in for the truth of what it is. It’s just going in for the [officer’s] state of mind[.]” Defense counsel objected to the court’s decision “based on [his] previous argument[,]” made during the pretrial conference.

Second, the court denied defense counsel’s request to strike the “Safe Streets offender” reference made by DFC Bondar on the stand. As described above, defense counsel objected only to the Safe Street offender remark because, as he explained to the court, “[t]he jury has no idea what that is.” In denying the request to strike, the trial court

specifically invoked the decision the court made following the parties’ arguments on the motion in limine during the pretrial conference. In so doing, the trial court effectively stated that the grounds upon which the first decision stood supported the second decision, as well.

We conclude that DFC Bondar’s testimony regarding the caution codes and other generic information he received from the police database was not inadmissible hearsay. The fact that DFC Bondar was serving arrest warrants was central to the underlying case and it is the reason why DFC Bondar went to the home of Appellant and his brother. The testimony did not stray into specifics of past crimes as the Supreme Court of Maryland cautioned against in *Parker v. State*. Instead, the testimony of DFC Bondar about the caution codes for serving the warrant focused on providing the jury with only enough information to provide context for his state of mind—why it was reasonable for him to have his gun drawn when Appellant threatened him with a knife on June 20, 2023.

Based on our *de novo* review of the record, we agree with the trial court that DFC Bondar’s reference to Appellant having been a “Safe Streets offender” was admitted for the purpose of showing DFC Bondar’s state of mind at the time he confronted Appellant based on the information contained in the caution codes. Still, we must consider whether the statement so particularized a crime by Appellant that it was “likely to be misused by the jury as evidence of the fact asserted that it should be excluded as hearsay.” *Parker*, 408 at 440 (quoting *Graves*, 334 Md. at 39-40). In so doing, we recognize that the evidence’s potential for unfair prejudice that substantially outweighs its probative value is a

discretionary determination of the trial court under Maryland Rule 5-403. We conclude that DFC Bondar’s statement that the caution code indicated Appellant was a “Safe Streets Offender” was not particularized to any crime, especially because, as the trial court indicated, the term was not further defined or discussed. Certainly, DFC Bondar’s other statements based on the caution codes for which no objection was preserved—including that Appellant was known to resist arrest, was potentially armed, and was a drug user—were far more specific and potentially more prejudicial.

Accordingly, we find that the trial court did not err in overruling defense counsel’s objection to the “Safe Streets offender” reference because the testimony fell within the hearsay “state of mind” exception.

### **III.**

#### **Shell Testimony**

##### **A. Parties Contentions**

Appellant argues that the trial court erred by not striking DFC Shell’s testimony because the conversation between Appellant and DFC Shell was functionally a custodial interrogation which occurred in violation of Appellant’s *Miranda* rights. Because Appellant’s “statements were elicited in violation of *Miranda*,” Appellant alleges, “the [trial] court erred in refusing to strike the deputy’s testimony” when defense counsel objected. Appellant points to the fact that jurors requested a transcript of DFC Shell’s testimony during their deliberations as proof of the harm caused by the court’s error.

The State responds that the inquiry by DFC Shell was not an interrogation but a general greeting and a “casual expression of concern for Appellant’s well-being.” Therefore, the State contends that the trial court did not err when the court declined to strike DFC Shell’s testimony.

### **B. Legal Framework**

In Maryland, “[o]ur standard of review on the admissibility of evidence depends on 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 Servs., Inc.*, 447 Md. 31, 48 (2016) (quoting *Parker v. State*, 408 Md. 428, 437 (2009)). Alternatively, “[t]he *de novo* standard of review applies ‘[w]hen the trial judge’s ruling involves a legal question.’” *Id.*

As the Supreme Court of Maryland explained in *Lee v. State*, “[t]he *Miranda* Court<sup>8</sup> put into place ‘certain procedural safeguards that require police to advise criminal suspects of their rights under the Fifth and Fourteenth Amendments before commencing custodial interrogation.’” 418 Md. 136, 149 (2011) (quoting *Florida v. Powell*, 559 U.S. 50, 59 (2010)). Critical to the issue before this Court is the phrase “custodial interrogation.”

Under *Miranda*, “[c]ustodial interrogation’ means ‘questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.’” *Allen v. State*, 158 Md. App. 194, 229 (2004), *aff’d*, 387 Md. 389 (2005) (quoting *Yarborough v. Alvarado*, 541 U.S. 652, 661

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<sup>8</sup> *Miranda v. Arizona*, 384 U.S. 436 (1996).

(2004)). We typically “contemplate[] that a suspect will be under arrest [ ] in a jailhouse or station house setting.” *Reynolds v. State*, 88 Md. App. 197, 209 (1991), *aff’d*, 327 Md. 494 (1992), *cert. denied*, 506 U.S. 1054 (1993). Yet a custodial interrogation may take place elsewhere because, “custody may be found when ‘a reasonable person [would] have felt he or she was not at liberty to terminate the interrogation and leave.’” *Allen*, 158 Md. App. at 230 (quoting *Thompson v. Keohane*, 516 U.S. 99, 112 (1995)).

The interrogation element of “custodial interrogation” may take different forms as well. As the Supreme Court explained in *Rhode Island v. Innis*, 446 U.S. 291, 292 (1980), “the term ‘interrogation’ under *Miranda* refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are *reasonably likely to elicit an incriminating response* from the suspect.” (Emphasis added); see *Argueta v. State*, 136 Md. App. 273, 283 (2001). This Court characterizes interrogation as “a police officer asking a question of a suspect about the suspect’s involvement in a crime.” *Smith v. State*, 186 Md. App. 498, 539 (2009), *aff’d*, 414 Md. 357 (2010). Our holding in *Smith* follows the guidance by the Supreme Court in *Innis*, that *Miranda* is not implicated by *every* question asked by an officer of a person in custody, only those inquiries where an incriminating response is “reasonably likely[.]” *Innis*, 446 U.S. at 301.

In addition to the above considerations, the court may also look to the “totality of the circumstances surrounding” the interaction between the law enforcement officer and the person in custody to determine if the officer’s question crossed the threshold into an

interrogation. *Rodriguez v. State*, 191 Md. App. 196, 221-22 (2010) (holding that an officer asking questions “irrelevant to the criminal investigation” did not constitute an interrogation after considering the “totality of the circumstances”); *Hughes v. State*, 346 Md. 80, 95-96 (1997) (When asking questions of people in custody, “the critical inquiry is whether the police officer, based on the totality of the circumstances, knew or should have known that the question was reasonably likely to elicit an incriminating response.”).

Taken together, the foregoing authority teaches that, depending on the circumstances, an officer may ask questions of someone in custody without having those questions reach the level of a “custodial interrogation” for *Miranda* purposes. If the question does not focus on the detained person’s involvement in a crime or if the officer cannot reasonably anticipate that the person in custody’s response will be incriminating, the question is not likely to violate the person’s constitutional rights. *Innis*, 446 U.S. at 301; *Smith*, 186 Md. App. at 540-41.

### **C. Analysis**

DFC Shell did not subject Appellant, whom he knew personally, to an interrogation when he asked, “Man, what happened to you?” First, we must acknowledge that Appellant was in custody. Although Appellant was not in a typical location for an interrogation, he was in custody at the time of the conversation because he was under arrest and under the supervision of Cecil County deputies. However, after considering the totality of the circumstances, DFC Shell’s inquiry was not soliciting information about Appellant’s involvement in any criminal activity. Instead, DFC Shell’s question was merely a greeting

and acknowledgment that Appellant was obviously injured. *See Rodriguez*, 191 Md. App. at 221-22.

The circumstances presented allow us to draw the conclusion that DFC Shell was not interrogating Appellant. *See Rodriguez*, 191 Md. App. at 221-22. We observe that Appellant and DFC Shell were not strangers. As DFC Shell explained, the two men had a good rapport following their interactions when Appellant was previously incarcerated. At the time DFC Shell greeted Appellant, DFC Shell was charged with supervising Appellant, not with participating in the investigation through interrogating Appellant.

Our jurisprudence further supports our conclusion. Analyzing whether an officer was greeting a person in custody or prompting an interrogation is not a novel issue. In *Prioleau v. State*, the Supreme Court of Maryland considered whether a detective asking Prioleau “What’s up, Maurice?” constituted an interrogation or if it was, as the detective claimed, a simple greeting. 411 Md. 629, 632 (2009). At the time Prioleau was asked the question by the detective, he was in a “wrist lock” and in the process of being escorted to the entrance of a house. *Id.* at 634. The detective stated that, after he asked “What’s up, Maurice?”, Prioleau “blurted out” an incriminating statement. *Id.* at 636. The detective did not ask any further questions of Prioleau. *Id.* The Supreme Court of Maryland agreed with the Appellate Court that “the phrase ‘what’s up’ is generally understood to be a greeting, and that [the detective] did not intend the phrase to relate to anything ‘illegal[.]’” *Id.* at 644. Therefore, the question “was not the functional equivalent of interrogation[.]” *Id.*

DFC Shell’s inquiry closely aligns the “What’s up, Maurice?” inquiry made in *Prioleau* where the Supreme Court of Maryland found that such a greeting did not constitute an interrogation. 411 Md. at 632. DFC Shell’s question is addressed to Appellant’s physical state, not his involvement in any criminal activity. For this reason, DFC Shell could not have reasonably anticipated an incriminating response from his question to Appellant—one of the requirements for surmounting the custodial interrogation threshold. *Innis*, 446 U.S. at 301 (“[T]he definition of interrogation can extend only to words or actions on the part of police officers that they *should have known* were reasonably likely to elicit an incriminating response.”).

For all of the above reasons, we hold that the circuit court did not abuse its discretion in admitting DFC Shell’s testimony regarding Appellant’s answer to his question, “Man, what happened to you?” Appellant’s statement was not made during a custodial interrogation by DFC Shell and, therefore, its admission into evidence was subject to the discretion of the trial judge. We have no reason to disturb the decision of the trial judge and, accordingly, we affirm.

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