Circuit Court for Baltimore City
Case No. 116040010/11

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0220

September Term, 2017

T'RON DAWKINS

v.

STATE OF MARYLAND

Friedman,
Beachley,
Rodowsky, Lawrence F.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Rodowsky, J.

Filed: April 13, 2018

Appellant, T'ron "Bird" Dawkins, was convicted on November 21, 2016, by a jury sitting in the Circuit Court for Baltimore City, of first-degree murder and related weapons offenses. On March 22, 2017, the court sentenced appellant to life imprisonment plus fifteen years. Appellant noted this timely appeal and presents two issues for our review.

> "1. Did the lower court err in failing to allow Mr. Dawkins to present evidence that the victim was a member of a gang, and that he had a reputation for extortion and other violent acts, to show that 'he had quite a few enemies,' and thus raise the possibility this crime was committed by someone other than Mr. Dawkins?
>
> "2. Did the lower court err in failing to allow Mr. Dawkins to refresh the recollection of a testifying police officer with a police report prepared by a different officer?"

Facts

On the evening of October 13, 2015, an assailant approached a group of people gathered on the 5000 block of Palmer Avenue in Park Heights. Among those gathered were Terrell Jones, the victim in this case, and his self-identified "associate," Troy Gamble. The assailant fired a single shot, which struck the back of Mr. Jones's head, killing him.

The lead detective assigned to the case, Detective Hassan Rasheed, arrived at the scene of the shooting around 10:46 p.m. Detective Rasheed testified that he observed a pool of blood, no more than twenty feet away from which he found a .9 mm shell casing. Crime scene technicians photographed the casing and marked it as evidence.

That night, officers of the Baltimore City Police Department interviewed onlookers at the scene and conducted a door-to-door canvas. The following day, Detective Rasheed

and a member of his squad conducted a more thorough daytime canvas. These investigative measures neither yielded additional evidence nor produced a suspect.

On or around October 15, 2015, Channel Jones—Mr. Jones's fiancé and mother of his four-year-old son—called Mr. Gamble, whom she knew by the pseudonym "Moody." Over objection, Ms. Jones testified that during that telephone conversation, Mr. Gamble told her: "I was standing next to Terrell. Our backs were turned and 'Bird' shot him."

At trial, Sergeant Luis Ruiz and Officer Christen Medeiros testified to the events leading to appellant's initial arrest for unlawful possession of a handgun. At approximately 6:30 p.m. on October 17, 2015, Sergeant Ruiz and Officer Medeiros were on patrol in the 2900 block of West Garrison Blvd. The officers occupied a single vehicle driven by Officer Steven Vinias. As the officers drove westbound, they approached appellant, who, upon noticing them, stood and began quickly walking eastbound in the direction of the officers. Based on appellant's gait, Sergeant Ruiz suspected that appellant was armed with a handgun. Once past the officers' vehicle, appellant approached a tree under which he discarded an object, the outline of which, Sergeant Ruiz testified, was consistent with a handgun.

Officer Medeiros exited the vehicle and followed appellant until he was apprehended by Officer Vinias and Sergeant Ruiz. She then walked to the tree where appellant had discarded the object in question. There, she found a loaded .9 mm semiautomatic Highpoint handgun. As Officer Medeiros returned from the tree, Officer Vinias arrested appellant for unlawful possession of a handgun.

Detective Rasheed first developed appellant as a suspect in the Jones murder on October 17, 2015, when he was alerted by fellow officers about appellant's arrest for possession of a .9 mm Highpoint semiautomatic. A ballistics test revealed that the shell casing recovered from the homicide scene matched the .9 mm Highpoint handgun discarded by appellant.

On December 30, 2015, Officer Eric Greenfield arrested Mr. Gamble for two unrelated offenses. Aware that the Homicide Division had wanted to speak with Mr. Gamble, Officer Greenfield contacted Detective Rasheed. Officer Greenfield then transported Mr. Gamble to Homicide Headquarters. There, Detective Rasheed conducted a taped interview[1] of Mr. Gamble during which the latter identified Jones's shooter as "Bird."

During an intermission in Detective Rasheed's interview, Detective Curtis McMillan, who neither was involved in the investigation nor knew the identity of the suspect, presented Mr. Gamble with a photographic array containing six photographs, including one of appellant. In administering the photo array, Detective McMillan instructed Mr. Gamble, "If you see somebody that's involved … you put them on this side. If they are not involved, you put them on the other side." Detective McMillan then presented the photographs one by one. Mr. Gamble examined and then discarded the first four photographs. Upon arriving at the fifth photograph, Mr. Gamble paused. He selected

[1]Mr. Gamble was unaware that his police interview was being recorded.

the photograph of appellant, whom he knew as "Bird," as depicting the individual who "killed my friend."[2]

Additional facts will be stated, as required, for the discussion of particular issues.

Discussion

I

Appellant first contends that the trial court erroneously prevented him from cross-examining two State's witnesses (namely, Mr. Gamble and Ms. Jones) about Mr. Jones's alleged gang affiliation and reputation for extortion, arguing that "the evidence … was relevant to show the possibility and motive of another person to commit this offense." The State counters, *inter alia*, that "the evidence at issue was not relevant …."

Procedural History

During a pretrial hearing, appellant moved to exclude a portion of Ms. Jones's taped police statement wherein she disclosed that during their October 15 telephone conversation, Mr. Gamble informed her that "Bird" shot Mr. Jones.[3] During that hearing, appellant contended that excerpts from Ms. Jones's pretrial statement suggested that someone other than he had murdered Mr. Jones.

[2]Mr. Gamble recanted his identification at trial, averring that he had lied to the police when identifying "Bird" as Mr. Jones's shooter. Mr. Gamble further testified that because it was dark and the shooter's face was covered, he was unable to identify the culprit.

[3]The court admitted the hearsay in Ms. Jones's statement, holding that it was admissible under Md. Rule 5-802.1(c) as a statement of identification. That ruling is not at issue on this appeal.

At the end of the first day of trial, before Mr. Gamble or Ms. Jones had testified, appellant alerted the court that, based on Mr. Gamble's and Ms. Jones's police statements, he intended to elicit on cross-examination testimony regarding Mr. Jones's and Mr. Gamble's memberships in Black Guerilla Family (BGF), a criminal gang. Based on Ms. Jones's police statement, appellant also intended to elicit on cross-examination the victim's "reputation for extortion, that he was rough, expressive [*sic*]." The State countered, contending that such testimony was inadmissible character evidence, hearsay, irrelevant, and unfairly prejudicial. The court reserved ruling until the following day.

When debate over the contested testimony resumed the following morning, the focus was on whether it constituted inadmissible "other crimes, wrongs, or acts" character evidence under Maryland Rule 5-404(b).

Appellant acknowledged that no evidence of Mr. Jones's alleged gang affiliation had yet been admitted. Appellant further conceded that he did not intend to pursue a self-defense theory. When the court asked which of Maryland Rule 5-404(b)'s "'MIMIC' exceptions"[4] appellant thought applicable to Mr. Jones's and Mr. Gamble's gang affiliations, appellant's counsel answered "I would argue motive." The State rejoined that

[4]"MIMIC" refers to five of the exceptions to the prohibition against the admission of "other crimes" or "other bad acts" character evidence. These exceptions apply where such evidence is introduced to establish:

1. **M**otive;
2. **I**ntent;
3. **M**istake, absence of;
4. **I**dentity; and
5. **C**ommon scheme or plan.

the 5-404(b) motive exception applies to "motive to commit a crime, not motive to lie." The court agreed, saying: "The State is correct on that point. It's motive to commit the crime, not a motive to lie, not a motive to cover up or finger someone else …."

Dawkins submits that this ruling was erroneous. He interprets the court's exclusion of evidence of the victim's gang affiliation as having been based on the absence from Rule 5-404(b) of any applicable exception to the general prohibition against other crimes or bad acts evidence. He points to the purpose of the rule as explained in *Sessoms v. State*, 357 Md. 274, 281 (2000) ("Because this rule is premised upon protecting an accused from undue prejudice, it does not apply to exclude acts committed by other people, such as an act committed by a witness who later testifies in the criminal proceedings."). This reasoning, Dawkins says, applies to a victim as well. Further, where the defendant offers the evidence it ought not be excluded as prejudicial to the accused. The State agrees that the ban in Rule 5-404(b) applies only to acts of the defendant, citing *Moore v. State*, 390 Md. 343, 383-84 (2005). But the State's position in this Court is simply that gang membership is irrelevant.

When Mr. Gamble was actually called by the State, it introduced his redacted police statement. It included the following:

> "We [Mr. Jones and the witness] talk[ed] like and he said – he – all he told me was he got into it with some dudes on [Oakley]."

After Mr. Gamble was excused as a witness, appellant renewed his motion to ask Ms. Jones about Mr. Jones's character, contending that Mr. Gamble's references to Mr. Jones's having "got[ten] into it with some dudes on [Oakley]" opened the door to

appellant's inquiring about illicit activities—*other* than gang membership—in which Mr. Jones had been involved.

The court excluded this evidence of Mr. Jones's character for lack of a foundation in that the statement from Ms. Jones did not refer to prior acts of violence by Mr. Jones. In so ruling, the court drew upon *Thomas v. State*, 301 Md. 294 (1984), in which the accused claimed self-defense in justification of murder. Appellant contends that, because he does not assert self-defense, prior acts of violence need not be established. Rather, appellant points out that, under Rule 5-404(a)(2)(B), the "accused may offer evidence of an alleged crime victim's pertinent trait of character." In its appellate brief, the State concedes that "because Dawkins never asserted that he acted in self-defense, the analysis in *Thomas* is not germane in this appeal." In any event, the State maintains that evidence of Jones's reputation for extortion is irrelevant, *i.e.*, it is not a pertinent trait of character.

Standard of Review

> "It is frequently stated that the issue of whether a particular item of evidence should be admitted or excluded 'is committed to the considerable and sound discretion of the trial court,' and that the 'abuse of discretion' standard of review is applicable to 'the trial court's determination of relevancy.' *See e.g. Merzbacher v. State*, 346 Md. 391, 404-05, 697 A.2d 432, 439 (1997). Maryland Rule 5-402, however, makes it clear that the trial court does not have discretion to admit irrelevant evidence. … [T]he 'de novo' standard of review is applicable to the trial judge's conclusion of law that the evidence at issue is or is not 'of consequence to the determination of the action.' *Parker v. State*, 408 Md. 428, 437, 970 A.2d 320, 325 (2009), (citations omitted) (quoting *J.L. Matthews, Inc. v.* [*Maryland*]-*Nat'l Capital Park & Planning Comm'n*, 368 Md. 71, 92, 792 A.2d 288, 300 (2002))."

Ruffin Hotel Corp. of Md., Inc. v. Gasper, 418 Md. 594, 619-20 (2011) (footnote omitted). *See also State v. Simms*, 420 Md. 705, 724-25 (2011); *Francis v. Johnson*, 219 Md. App. 531, 551 (2014), *cert. denied*, 442 Md. 516 (2015).

Relevance

Evidence that Mr. Jones was a member of BGF was not relevant and was not admissible. We agree with the analysis by the court in *People v. Soto*, 157 Cal. App. 3d 694 (Cal. App. 2d Dist. 1984), where the court said of the murder victim, Rosa:

> "Rosa's prior gang membership was of no relevance whatsoever. Even if she had belonged to a gang at or near the time of her death, that fact alone would have no tendency in reason to prove the identity of her killer. 'Membership in an organization [including a gang] does not lead reasonably to any inference as to the conduct of a member on a given occasion.' (*People v. Perez* (1981) 114 Cal. App. 3d 470, 477, 170 Cal. Rptr. 619.) It follows plainly that one's membership in a gang can hardly lead reasonably to any inference as to the conduct of *other* members on a given occasion."

Id. at 712-13 (emphasis retained).

Similarly, evidence of Mr. Jones's reputation for having engaged in extortion is irrelevant and is not admissible. Absent a claim of self-defense, the character of a homicide victim is generally irrelevant. *Thomas*, 301 Md. at 320. *See also* 1 Barbara E. Bergman & Nancy Hollander, *Wharton's Criminal Evidence* § 4:23 (15th ed. 1997). Appellant neither pled nor raised self-defense in the death of Mr. Jones. Rather, he sought to elicit testimony regarding the victim's character as evidence of third-party guilt.

Appellant's contention is nearly identical to that of the appellant in *Worthington v. State*, 38 Md. App. 487, *cert. denied*, 282 Md. 740 (1978). At issue in that case was the trial court's decision to restrict the scope of appellant's cross-examination to exclude

testimony regarding a $1,600 debt Michael Bray, the assault victim in that case, owed to one Jack Williams. That debt was incurred as the result of Bray's illegal gambling activities. Over the State's objection, the appellant explained that he sought "to establish that there are a lot of people who would like to hit him [the victim] in the head." *Id*. at 496. The trial court sustained the State's objection, ruling: "[T]hat's just a red herring unless it's connected with something. … [J]ust to say that now there are five other people wandering around the city of Baltimore that might want to do him harm is no evidence that they did." *Id*. at 496-97. We affirmed the trial court's ruling, holding that the elicited testimony was irrelevant. We explained:

> "While it is conceivable that the existence of animosity by some members of the community toward Bray could raise an inference that they, rather than appellant, were the perpetrators of Bray's injuries, … such a connection is, in the absence of real evidence pointing toward appellant's theory, totally speculative and tenuous."

Id. at 498.

II

Appellant next contends that the trial court erroneously prevented him from refreshing Sergeant Ruiz's recollection, as to whether the police vehicle was marked or unmarked, with a statement of probable cause (the Statement) prepared by another officer. The State counters that because appellant "affirmed that he was offering the police report to confirm or dispel the truth of the matter contained therein," the Statement was not offered merely to refresh Sergeant Ruiz's recollection and was hearsay. "Further," the State continues, "because the officer had not testified that he could not recall whether the police

vehicle was marked or unmarked, it was not appropriate to attempt to refresh his memory." Finding no error, we affirm the court's ruling.

"Refreshing Sergeant Ruiz's Recollection"

At trial, Sergeant Ruiz testified that the vehicle driven by Officer Vinias on the evening of October 17, 2015, was an "[*u*]*nmarked* black Hyundai Sonata." On cross-examination, appellant purportedly sought to refresh Sergeant Ruiz's recollection as to the appearance of the police vehicle with the Statement authored by Officer Vinias, who had *not* been called to testify. The court did not permit appellant to do so, ruling that use of the Statement would violate the rule against hearsay.

> "[DEFENSE COUNSEL]: Showing the State what I've marked as Defense Exhibit Number 1.
>
> "[THE STATE]: Object. May we approach?
>
> "THE COURT: Of course you may.
>
> ….
>
> "THE COURT: Is that the statement of probable cause?
>
> "[DEFENSE COUNSEL]: It is. I'm not going to introduce it into evidence. I just want to refresh his recollection. I know he didn't write it. It says here that it's a marked police car. So –
>
> "THE COURT: Okay. It was written by Officer Vinias. He, meaning he, this witness, has a copy of it. He reviewed it before he testified today.
>
> "[DEFENSE COUNSEL]: And he testified that it was an unmarked Hyundai.
>
> "THE COURT: Okay. And *are you offering his testimony to confirm or dispel the truth of the matter contained therein?*

"[DEFENSE COUNSEL]: *Yes.*

"[THE STATE]: Hearsay. It's not – you can't use another person's statement to impeach this officer. She can call the other officer if she wishes. But –

"[DEFENSE COUNSEL]: Or he can stay and I'll … call him on my own.

….

"[THE STATE]: It's not his statement ….

"THE COURT: Officer Vinias is eventually being called; correct?

"[THE STATE]: No.

"THE COURT: He's not? Oh, because it's just his name is being mentioned. He's not going to be a witness.

"[DEFENSE COUNSEL]: I can just ask – I could ask him if – well, I mean, I don't – *trying to make a witness say that he would be surprised that a statement of probable cause indicates he was in a marked car.*

….

"[THE STATE]: That's hearsay.

"THE COURT: Not his statement."

(Emphasis added).

Officer Medeiros testified the following day. Her testimony regarding the appearance of the officers' vehicle conflicted with Sergeant Ruiz's. She thrice testified that the vehicle driven by Officer Vinias on the evening of October 17, 2015, was a *marked* police car, and twice identified it as a Chevy Caprice. The remainder of Officer Medeiros's testimony was substantially consistent with Sergeant Ruiz's account.

De Facto Evidence

The record does not reflect appellant's having used the Statement merely to refresh Sergeant Ruiz's recollection. Accordingly, we find no abuse of discretion.

"[W]hether a witness's recollection may be refreshed … depends upon the particular circumstances present in each case, and therefore, is committed to the sound discretion of the trial judge." *Oken v. State*, 327 Md. 628, 672 (1992) (citations omitted). *See also Butler v. State*, 107 Md. App. 345, 354 (1995).

"Present recollection refreshed or revived is the use of a writing or object to refresh a witness'[s] recollection so that person may testify about prior events from present recollection." *Farewell v. State*, 150 Md. App. 540, 576, *cert. denied*, 376 Md. 544 (2003) (citation omitted). Counsel generally may employ any document or device to refresh a witness's recollection of facts material to the case. *Id*. Given that "it is the testimony of the witness, not the memory stimulant, that is admitted into evidence," *Newman v. State*, 65 Md. App. 85, 94 (1985), *cert. denied*, 305 Md. 419 (1986), rules of evidence are inapplicable when refreshing a witness's recollection. Accordingly, when determining whether counsel may refresh a witness's recollection, the form, content, origin, and accuracy of the memory stimulant are immaterial. *Askins v. State*, 13 Md. App. 702, 711 (1971), *cert. denied*, 264 Md. 745 (1972) ("[T]he predominant view today seems to be that within the sound discretion of the trial judge any memorandum or other object may be used as a stimulus to present memory, without restriction by rule as to authorship, guarantee of correctness, or time of making." (citations omitted)).

Though counsel enjoys wide berth when seeking to refresh a witness's recollection, any attempt to do so must be reasonably calculated to elicit relevant testimony. Counsel may not, under the guise of refreshing a witness's recollection, deliberately attempt either (i) "'to arouse the passions of the jurors, so that an objective appraisal of the evidence [i]s unlikely'" or (ii) to introduce that memory stimulant as *de facto* evidence. *Germain v. State*, 363 Md. 511, 537 (2001) (citation omitted). *See also Elmer v. State*, 353 Md. 1, 13 (1999) ("It is misconduct for a lawyer to inject inadmissible matters before a jury by asking a question that suggests its own otherwise inadmissible answer, 'hoping that the jury will draw the intended meaning from the question itself ....'" (citation omitted)). "'If the record show[s] that the refreshing material was deliberately [so] used …, there would be reversible error.'" *Germain*, 363 Md. at 537 (quoting *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 234 (1940)).

The resolution of appellant's contention turns on whether appellant sought to use the Statement to refresh Sergeant Ruiz's recollection or, as the State contends, offered the Statement as *de facto* evidence to impeach Sergeant Ruiz's credibility. If offered for the former purpose, the fact that Sergeant Ruiz did not author the Statement would be immaterial.[5] If offered for the latter purpose, the Statement would constitute inadmissible hearsay.

[5]If appellant had intended to use the Statement to refresh Sergeant Ruiz's recollection, he would have been free to do so *notwithstanding the fact that the Statement had been prepared by another officer*. *Baker v. State*, 35 Md. App. 593, 601-02 (1977)

(Continued…)

The relationship between a recollection-refreshing memorandum and hearsay is one of mutual exclusion. The latter is, by definition, *offered* to prove the *truth* of the matter asserted. Md. Rule 5-801(c) ("'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."). A recollection-refreshing memorandum, by contrast, neither is *offered* as evidence nor is its *accuracy* ever material to its use. *Baker v. State*, 35 Md. App. 593, 602 (1977) ("'[An] object may be used as a stimulus to present memory, without restriction by … guaranty of correctness ….'" (citation omitted)).

While appellant did not formally seek to admit the Statement as *de jure* evidence, he nevertheless offered its contents as *de facto* evidence. So too did appellant, by his own acknowledgment, offer the Statement "*to confirm or dispel the truth of the matter contained therein*." (Emphasis added). In light of the foregoing, and given that the Statement was not made by a testifying declarant, it constituted hearsay. Finding neither an exemption nor an exception for which the Statement qualifies, it constituted *inadmissible* hearsay.

A Retentive Recollection

Whether refreshing a witness's recollection is necessary and appropriate is a decision best left to the sound discretion of the trial judge. *Butler*, 107 Md. App. at 354; 6

("When the writing in question is to be utilized simply 'to awaken a slumbering recollection of an event' in the mind of the witness, the writing may be … a memorandum made by one other than the witness, even if never before read by the witness or vouched for by him." (footnote omitted)).

Lynn McLain, *Maryland Evidence* § 612:1, at 744-45 (3d ed. 2013) ("Because whether there appears to have been some memory lapse depends upon the circumstances of each case, it is in the court's discretion whether to permit refreshing recollection." (footnote omitted)).

Where a witness has not expressly indicated that his or her memory is exhausted, a trial court may at its discretion either grant or deny counsel's request to refresh that witness's recollection. *Compare Oken*, 327 Md. at 670-74 (holding that the trial court did not abuse its discretion by permitting the State to refresh the recollection of a witness who had made a factual mistake when testifying notwithstanding his having testified that he was "sure" about the mistaken testimony at issue.), *with Dorsey Bros., Inc. v. Anderson*, 264 Md. 446, 453 (1972) (holding that the trial court did not abuse its discretion by prohibiting counsel from using newspaper articles during cross-examination, purportedly to refresh witness's recollection, where the witness (i) had already testified on the subject and (ii) "did not display the need to jog his memory").

In this case, Sergeant Ruiz's testimony in and of itself neither suggested that his memory was incorrect nor indicated that his recollection was incomplete. Accordingly, even if appellant had sought only to refresh Sergeant Ruiz's recollection, we nevertheless would hold that the court properly exercised its discretion.

Harmless Error

Both this Court and the Court of Appeals repeatedly have held that the erroneous admission of evidence constitutes harmless error where such evidence was cumulative of

properly admitted evidence. *See, e.g.*, *Dove v. State*, 415 Md. 727, 744 (2010); *White v. State*, 7 Md. App. 416, 421 (1969); *Richardson v. State*, 7 Md. App. 334, 340 (1969). Just as the erroneous admission of cumulative evidence constitutes harmless error, so too does the erroneous exclusion of otherwise cumulative evidence. *See Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 254 (4th Cir. 2016) ("[W]e could hardly find prejudice where the excluded evidence was merely cumulative …."); *Hall v. Arthur*, 141 F.3d 844, 850 (8th Cir. 1998) ("The exclusion of cumulative evidence, of course, is merely harmless error."); *United States v. Warren*, 42 F.3d 647, 656 (D.C. Cir. 1994) (holding that an erroneously excluded statement was harmless error where "cumulative of other evidence heard by the jury" and "evidence of [appellant's] guilt was strong").

"Evidence is cumulative when, beyond a reasonable doubt, we are convinced that 'there was sufficient evidence, independent of the [evidence] complained of, to support the appellant['s] conviction[].'" *Dove*, 415 Md. at 743-44 (quoting *Richardson*, 7 Md. App. at 343). "In other words, cumulative evidence tends to prove the same point as other evidence presented during the trial …." *Dove*, 415 Md. at 744.

Here, the relevant excerpt from the Statement was wholly duplicative of Officer Medeiros's testimony. When the State initially asked what type of car Sergeant Ruiz, Officer Vinias, and she occupied on October 17, 2015, Officer Medeiros responded: "It was a Chevy Caprice *fully marked with lights, sticker, siren*." (Emphasis added). "When they seen [sic] *our marked car*," Officer Medeiros testified, "he [appellant] stood up." (Emphasis added). On cross examination, Officer Medeiros affirmed that the vehicle was

a Chevy Caprice and again reiterated that it was "a *fully marked car … [m]arked 'Baltimore City Police*.'" (Emphasis added). Appellant even underscored the conflicting accounts at closing, saying:

> "Officer Ruiz also said that they were in an unmarked Hyundai, that the windows weren't tinted, that he was sitting in the back looking out seeing this whole thing out of a back window in the dark.
>
> "Officer … Medeiros said that it was a marked car and that it was a Chevy Caprice. … [T]hey can't even agree on a car there."

Given that the description of the vehicle in the Statement was duplicative of Officer Medeiros's trial testimony and that the jury would have been keenly aware of the disparity between Sergeant Ruiz's and Officer Medeiros's descriptions of the vehicle, we are convinced beyond a reasonable doubt that, had the court abused its discretion, such error would have been harmless.

For the foregoing reasons, we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED.

COSTS TO BE PAID BY THE APPELLANT.