

Circuit Court for Kent County  
Case No. C-14-CR-22-000158

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 626

September Term, 2023

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ANTONIO MONTREAL GROSS

v.

STATE OF MARYLAND

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Graeff,  
Arthur,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: May 10, 2024

\* This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a jury trial in the Circuit Court for Kent County, Antonio Montreal Gross, appellant, was convicted of possession with intent to distribute fentanyl, possession with intent to distribute fentanyl within 1,000 feet of a school, and possession of cocaine. On appeal, he contends that the court abused its discretion in admitting certain items because the State failed to establish a sufficient chain of custody. For the reasons that follow, we shall affirm.

At trial, the State presented evidence that the police executed a search warrant on appellant while he was standing in the breezeway between two buildings at the Calvert Heights Apartments complex in Chestertown. After appellant was handcuffed, a cigarette pack was recovered next to his feet, and a black sock was recovered from the back of his pants. Plastic baggies and gel caps containing both fentanyl and cocaine were located inside both of these items.

As to the cigarette pack, Detective Michael Piasecki testified that he picked it up off the ground and put it into his left pocket. He subsequently handed it to Lieutenant Scott Duhammel. Corporal James Walker testified that he briefly took the cigarette pack from Duhammel, looked inside, and then handed it back. Duhammel testified that he then placed it in the back of his vehicle. While it was in the back the vehicle, Piasecki briefly “picked [the cigarette pack] up and just flipped it open to see what was inside of it and set it back down.” Duhammel then secured the cigarette pack in his vehicle.<sup>1</sup> Thereafter, Duhammel

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<sup>1</sup> Video from Piasecki’s body-worn camera shows Duhammel placing the cigarette pack inside the trunk area of his SUV. Initially, the trunk door is left open. But both Piasecki and Duhammel are present until Duhammel closes the trunk. Notably, the video does not show anyone else accessing the trunk area or the cigarette pack during that time.

took it back to the Task Force office where he removed its contents, packaged them “in heat sealed individual packages and then inside a large heat seal envelope” and then sent them to the State Police lab for examination.

As to the black sock, Detective Ryan Price testified that he removed the sock from appellant’s back pocket after he was handcuffed and then immediately handed it to Lieutenant Steven Linz. In turn, Linz testified that he gave the sock to Duhammel, who then set it on a step in front of appellant and went to retrieve a camera. To prevent appellant from tampering with the sock, Linz picked it up and moved several feet away. He testified that he observed the sock until Duhammel came back and took possession of it, and that no one touched it during that time. Duhammel testified that after he returned with the camera, he “secured” the sock and that no one else examined it thereafter. As with the contents of the cigarette pack, Duhammel removed and packaged the contents of the sock when he got back to the Task Force office and then sent them to the lab for examination.

On appeal, appellant contends that the State failed to establish a sufficient chain of custody for both items because it did “not negate a reasonable probability of tampering[.]” Specifically, appellant notes that (1) there were other people in the area at the time of his arrest; (2) the officers did not keep the items on their person the entire time; (3) the charging document did not indicate that a gel cap had been found in the cigarette pack; and (4) there were some discrepancies between the chain of custody forms and the officers’ testimony, specifically that Linz and Price did not sign the forms.

As an initial matter, several of these claims are not preserved for appellate review. Specifically, with respect to the cigarette pack, appellant’s only objection at trial was that

the chain of custody form stated that Piasecki handed it to Walker first, whereas the evidence at trial indicated that he handed it to Duhammel first. As to the sock, appellant’s only objections were that Linz and Price did not sign the chain of custody form, despite handling the sock, and that the sock was “left on the ground unsupervised for a period of time.”

But even if we assume all of appellant’s claims on appeal are preserved, we would find no abuse of discretion in the trial court’s admission of the black sock and cigarette pack. “In most cases, an adequate chain of custody is established through the testimony of key witnesses who were responsible for the safekeeping of the evidence, i.e., those who can negate a possibility of tampering . . . and thus preclude a likelihood that the thing’s condition was changed.” *Easter v. State*, 223 Md. App. 65, 75 (2015) (citations and quotation marks omitted). “The chain of custody need not be established beyond a reasonable doubt – the State need prove only that there is a ‘reasonable probability that no tampering occurred.’” *Johnson v. State*, 240 Md. App. 200, 211 (2019) (citation omitted). Moreover, “gaps or weaknesses in the chain of custody generally go to the weight of the evidence and do not require exclusion of the evidence as a matter of law.” *Easter*, 223 Md. App. at 75.

Here, there was sufficient evidence from which the jury could reasonably conclude that the items contained in the black sock and cigarette pack had not been tampered with. Notably, there were no significant gaps in the chain of custody as the State’s witnesses at trial accounted for the whereabouts of those items at all relevant times after they were recovered. And the fact that officers did not keep the items on their persons the entire time

did not necessarily indicate that tampering was likely to have occurred as there was testimony from the officers that they were observing those items even when they did not have them under their immediate physical control. Finally, any inconsistencies between the chain of custody forms and the testimony of the witnesses, while permitting a defense argument as to the credibility of the evidence, did not require a ruling as a matter of law that the chain of custody had not been established. Consequently, we shall affirm the judgments of the circuit court.

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