

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 0632

September Term, 2024

RICHARD HORNBERGER

v.

STATE OF MARYLAND

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

JJ.

Opinion by Ripken, J.

Filed: November 17, 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 its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

A jury, sitting in the Circuit Court for Baltimore City, found Richard Hornberger (“Appellant”) guilty of telephone misuse and harassment.^{1,2} The court sentenced Appellant to three years of incarceration for telephone misuse and a consecutive six-month term for harassment, the latter of which was suspended in favor of three years of supervised probation. Appellant noted this timely appeal.

ISSUES PRESENTED FOR REVIEW

Appellant submitted the following issues for our review:³

- I. Whether the circuit court abused its discretion in denying Appellant’s motion for a mistrial.
- II. Whether the circuit court erred in instructing the jury on concealment of evidence.
- III. Whether the evidence is insufficient to sustain Appellant’s convictions.

For the reasons to follow, we shall affirm the judgment of the circuit court.

¹ Section 3-804(a)(2) of the Criminal Law Article of the Maryland Code (2002, 2021 Repl. Vol.) prohibits the use of telephone facilities or equipment to make “repeated calls with the intent to annoy, abuse, torment, harass, or embarrass another[.]”

² Section 3-803(b) of the Criminal Law Article of the Maryland Code (2002, 2021 Repl. Vol.) prohibits individuals from “maliciously engag[ing] in a course of conduct that alarms or seriously annoys” another “[w]ith the intent to harass, alarm, or annoy the other; [a]fter receiving a reasonable warning or request to stop by or on behalf of the other; and [a] without a legal purpose.”

³ Rephrased from:

1. Did the trial court err or abuse discretion by denying the motion for a mistrial?
2. Did the trial court abuse discretion by instructing the jury on concealment of evidence?
3. Is the evidence legally insufficient to sustain Mr. Hornberger’s convictions?

FACTUAL AND PROCEDURAL BACKGROUND⁴

The first witness to be called at trial was the victim, Ms. T.,⁵ a news reporter for a Baltimore television station. In November of 2020, shortly after leaving an event Ms. T. was covering, she received a call on her work phone from an unknown number. When she answered the call, the male voice on the other end called her by name and gave “very graphic” descriptions of his genitalia and sexual acts he wanted to engage in with her. Ms. T. was “shock[ed]” and “horrif[ied].” She told the caller to “stop” and hung up.

Ms. T. continued to receive “harassing” calls from November of 2020 to mid-summer of 2023. She said: “It became a pattern. Almost every time I was on TV, I would get a call right after. . . . I would be [reporting] live . . . and while I was waiting to go live again, my phone would ring.” She stopped answering calls from “unknown” numbers, but the caller left voicemail messages or continued placing repeated calls to Ms. T.’s phone number. At some point, the calls began coming to her personal phone instead of her work phone. She reported the calls to the police in 2022; however, the calls and voicemails continued.

When asked to estimate how many phone calls she received in an average week or month, Ms. T. responded, “[I]t depends. Sometimes it would be six or seven in a row one night, and then it would be two or three times later the next week. So I would say . . .

⁴ The following facts were adduced at trial.

⁵ To protect the privacy of the victim, we will refer to her as “Ms. T.” Neither the victim’s first name nor surname begins with the letter T.

probably dozens a month on average. Sometimes, it was more.” She added: “there would be patterns in various years where [there were] no calls.”

Ms. T. did not save all the messages that were left on her phone. Five voicemail messages from an unknown number that were left on Ms. T.’s phone on June 18, 2022 and June 20, 2022, were admitted into evidence and played for the jury. In each message, the caller addressed Ms. T. by her first and last name and expressed a desire to “rub [her] legs with pantyhose on.” In four of these messages, the caller expressed a desire to “make love” to Ms. T. In one message, according to Ms. T., the caller made sounds that suggested he was masturbating.

Ms. T. received “infrequent” calls from a phone number ending in 8560 (“the 8560 number”). She blocked the number so the calls would not ring through to her phone. She later discovered that the caller was able to leave voicemail messages, which were stored in a “blocked” voicemail sub-folder on her phone. Four messages from the 8560 number, left for Ms. T. between April 21, 2021 and November 30, 2021, were admitted into evidence and played for the jury. The voicemails contained the following messages:⁶

1. “Hey, Mike, don’t forget about the house clean-out next week. Bye.”
2. “Hi, Kim.^[7] This is Mike calling in regards to your shed removal. My price will be \$1200 and that’s to take everything down and out, including the material inside the shed. So, if you’re able to do that, please give me a call at your earliest convenience. Thank you.”

⁶ The audio from each voicemail was transcribed in the trial transcript. To the extent there are discrepancies between the transcript and the audio from the exhibits, this opinion utilizes the language from the exhibits.

⁷ We note that “Kim” is not the victim’s name.

3. “Hi, [Ms. T.]. This is Jason. You know, I think you’re beautiful and I would like an opportunity to take you out to dinner. So, please reconsider my offer. You’re beautiful, [Ms. T.]. Bye.”
4. “Hey, beautiful. Just calling to see how your day is going. I love you. Have a great day. Bye bye.”

Ms. T. testified that the voice on each message was the same voice heard on the “lewd” voicemail messages.

Ms. T. stated that in late 2022 and 2023, the calls “weren’t as frequent.” However, she indicated that she still received the calls, “and the voicemails were still the same type of voicemails and the same nature, with the same language and expletive content as before.”

In June of 2023, Ms. T. learned that the police investigation revealed Appellant’s name was associated with the calls. Ms. T. filed a petition for a peace order, and a hearing took place in June of 2023. Appellant was present and spoke at the hearing. Ms. T. “immediately” recognized Appellant’s voice as that of “the man who had been making the phone calls.” The court granted Ms. T.’s request for a peace order and the calls subsequently stopped. At trial in this matter Ms. T. identified Appellant as the person she observed speaking at the peace order hearing and testified that it was his voice on the voicemail messages.

During cross-examination of Ms. T., defense counsel elicited that Appellant was in custody at the time of the peace order hearing in June of 2023, and was escorted to and from the hearing in handcuffs. Defense counsel then showed Ms. T. certified records from the Department of Corrections, including phone call logs from December of 2022 to

December of 2023. In response to questioning by defense counsel, Ms. T. stated that her phone number did not appear in the call log that she was shown.

Officer Anthony Zappardino of the Baltimore County Police Department testified that Appellant was a witness to a burglary in December of 2020. Footage from Officer Zappardino’s body worn camera, which included a verbal interaction with Appellant, was introduced into evidence and played for the jury. When Officer Zappardino asked Appellant for his phone number, Appellant provided the 8560 number.

The State’s third and final witness was Ashley Jung, who identified herself at trial as a state employee. Jung testified that she first met Appellant in October of 2020. She and Appellant had a “professional relationship” which involved “weekly phone contact.” Excerpts of four voicemail messages Appellant left on Jung’s phone in January and February of 2022 were introduced into evidence and played for the jury. In each message, Appellant stated his full name, the date, and concluded by saying “feel free to call me at” the 8560 number.

Before the State rested its case, the prosecutor amended the charging document to change the date the offenses began, from November 1, 2020, to instead reflect May 30, 2022—a date that fell within one year of the day the statement of charges was filed. After the State rested its case, defense counsel moved for judgment of acquittal on the ground of a jurisdictional issue, contending that there was no evidence as to where Ms. T. was when she received the calls between May 30, 2022 and May 30, 2023. The court denied the motion.

The defense introduced exhibits as evidence, including (1) a log of outgoing calls made using the Inmate Telephone System from the account associated with Appellant’s State Identification (SID) number⁸ between January 4 and October 1, 2020 and between December 19, 2022 and December 29, 2023;⁹ and (2) certified records which demonstrated that Appellant was incarcerated from April 11, 2022, through December 23, 2023. At the close of all evidence, defense counsel renewed the motion for acquittal on the additional ground that Appellant “was not in a position to be able to make those calls [to Ms. T.] provided that . . . he was in custody.” The court denied the motion.

In closing argument, defense counsel suggested that Appellant “could not have been making the calls” to Ms. T. between May 30, 2022 and May 30, 2023, when the charged offenses were alleged to have occurred because he was incarcerated, and the log of outgoing calls made using his SID number did not include Ms. T.’s phone number. Defense counsel further suggested it would be unreasonable to conclude that Appellant was able to “sneak” a phone into a correctional facility.

The prosecutor responded to defense counsel’s argument in rebuttal, stating, “[Y]es, [Appellant] was incarcerated during this time period. Does that prevent anyone from obtaining methods of making phone calls? No.” The prosecutor suggested that Appellant

⁸ “A SID number is assigned to every individual who is arrested or otherwise acquires a criminal history record in Maryland, and is also used as an identifier in the Department of Public Safety and Correctional Services (DPSCS) management information systems.” *Bryant v. State*, 436 Md. 653, 657 n.1 (2014).

⁹ The log indicated that the search criteria sought Appellant’s calls between January 1, 2020 and December 31, 2023; the ranges identified above reflect the absence of any calls between October 1, 2020 and December 19, 2022.

could have gained access to a contraband phone or found “other ways” to make calls from prison.

The jury found Appellant guilty of telephone misuse and harassment. This timely appeal followed. We incorporate additional facts as they become relevant to the analysis.

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN DECLINING TO GRANT A MISTRIAL.

A. Additional Facts

Prior to trial, Appellant filed a motion in limine to exclude the testimony of Ashley Jung. Appellant informed the Court that Jung was his probation agent, and urged that, if Jung was permitted to identify him at trial, he would be unable to effectively cross-examine her without “bringing in unfairly prejudicial information.” The court granted the motion in part and ordered that Jung would not be permitted to testify that she was a probation agent or that Appellant was required to report to her. The court directed the prosecutor to advise Jung to limit the description of how she knew Appellant to an indication that she had a professional relationship with Appellant as a result of her duties as an employee of the State.

On three occasions during direct examination of Jung, the prosecutor addressed Jung as “Agent Jung.” After the third instance, defense counsel objected and asked to approach the bench. The court granted the request and called the parties to the bench, where the following ensued:

THE COURT [to the prosecutor]: You addressed the witness as “agent.”
Don’t do that.

[PROSECUTOR]: I sincerely apologize. That was a slip of the tongue.

[DEFENSE COUNSEL]: And, Your Honor, for the record, given the extensive pretrial motions that we had on this very topic, I would be asking for a mistrial on the basis of it being prejudicial. . . . The whole basis was for this to not be prejudicial. That’s why the motion was granted at that time and . . . there is no curative instruction that could be provided to limit . . . [the] prejudicial impact[.]

The court denied the defense motion for a mistrial.

B. Party Contentions

Appellant asserts that “[i]n light of the testimony that [he] frequently telephoned Ms. Jung and left voicemail messages for her, [] the prosecutor’s references to ‘Agent Jung’ could readily have conveyed the suggestion that [Appellant] was under supervision due to his involvement in other crimes.” The State maintains that the prosecutor’s “inadvertent references” to Jung as “Agent Jung” did not require a mistrial because the prosecutor never referred to Jung as a probation agent, and, even if the jury made that inference, no mistrial was warranted because the defense had already informed the jury that Appellant had been in custody.

C. Standard of Review

“[G]ranting a motion for a mistrial lies within the discretion of the trial judge.” *Bynes v. State*, 237 Md. App. 439, 457 (2018) (quoting *Hunt v. State*, 321 Md. 387, 422 (1990)) (emphasis omitted). “The trial judge, who hears the entire case and can weigh the danger of prejudice arising from improper testimony, is in the best position to determine if the extraordinary remedy of a mistrial is appropriate.” *Id.* (quoting *Hunt*, 321 Md. at 422) (emphasis omitted). “We will not reverse a trial court’s denial of a motion for mistrial

unless the defendant was so clearly prejudiced that the denial constituted an abuse of discretion.” *Id.* (quoting *Hunt*, 321 Md. at 422).

D. Analysis

“A mistrial is no ordinary remedy[.]” *Winston v. State*, 235 Md. App. 540, 569 (2018) (quoting *Cooley v. State*, 385 Md. 165, 173 (2005)). It is, instead, “‘an extreme sanction’ to which courts sometimes must resort ‘when such overwhelming prejudice has occurred that no other remedy will suffice to cure the prejudice[.]’” *Id.* (quoting *Burks v. State*, 96 Md. App. 173, 187 (1993)).

We agree with the State that the trial court did not abuse its discretion in finding that the references to “Agent” Jung did not warrant the “extreme sanction” of a mistrial. Jung was never identified as a probation agent, and even if the jury inferred the nature of her relationship with Appellant, it was not overwhelmingly prejudicial. The jury had already heard evidence that Appellant had been incarcerated during defense counsel’s cross-examination of Ms. T. On these facts, the prosecutor’s limited and apparently inadvertent use of the title “Agent” when addressing Jung did not result in “overwhelming prejudice.” The court did not abuse its discretion in declining to grant a mistrial.

II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN INSTRUCTING THE JURY ON CONCEALMENT OF EVIDENCE.

A. Additional Facts

Over defense objection, the court instructed the jury on concealment of evidence, consistent with Maryland Criminal Pattern Jury Instruction 3:26:

Now, you have heard evidence that [Appellant] concealed evidence in this case. Concealment of evidence is not enough by itself to establish

guilt, but may be considered as evidence of guilt. Concealment or destruction of evidence may be motivated by a variety of factors, some of which are fully consistent with innocence. You must first decide whether [Appellant] concealed evidence in this case. If you find that [Appellant] concealed evidence in this case, then you must decide whether that evidence shows a consciousness of guilt.

In closing argument, the prosecutor suggested that Appellant used false names when calling Ms. T. from the 8560 number to avoid identification. The prosecutor argued: “[Appellant] doesn’t say, ‘Hi, this is Richard.’ He uses different names each time. Why is he doing that? He’s trying to conceal his identity. Why is he concealing his identity? Because he doesn’t want to be found out.”

B. Party Contentions

Appellant contends that the evidence at trial did not support a concealment of evidence instruction because the content of the messages placed from the 8560 number “suggests that the caller intended to place the calls to individuals other than [Ms. T.]” The State maintains that the evidence supported a finding that Appellant “knew that [Ms. T.] did not want him to call her[,]” and that Appellant “left the voicemails to provide contrived, facially innocent reasons for the calls from his phone number.”

C. Standard of Review

A trial court “must give a requested jury instruction when ‘(1) the requested instruction is a correct statement of the law; (2) the requested instruction is applicable under the facts of the case; and (3) the content of the requested instruction was not fairly covered elsewhere in the jury instruction actually given.’” *Rainey v. State*, 480 Md. 230, 255 (2022)

(quoting *Ware v. State*, 348 Md. 19, 58 (1997)). We review the trial court’s decision to give a requested jury instruction for abuse of discretion. *Id.*

“A requested jury instruction is applicable if the evidence is sufficient to permit a jury to find its factual predicate.” *Id.* (quoting *Bazzle v. State*, 426 Md. 541, 550 (2012)). “The threshold determination of whether the evidence is sufficient to generate the desired instruction is a question of law for the judge.” *Bazzle*, 426 Md. at 550 (quoting *Dishman v. State*, 352 Md. 279, 292 (1998)). “[T]he threshold is low, as a [party] needs only to produce ‘some evidence’ that supports the requested instruction[.]” *Id.* at 551 (citing *Dykes v. State*, 319 Md. 206, 216–17 (1990)). “‘*Some evidence*’ is not strictured by the test of a specific standard. It calls for no more than what it says—‘some,’ as that word is understood in common, everyday usage.” *Id.* (quoting *Dykes*, 319 Md. at 216–17). In reviewing whether there was “some evidence” to support the instruction, “we view the facts in the light most favorable to the requesting party,” which in this case is the State. *Page v. State*, 222 Md. App. 648, 668–69 (2015) (citing *Hoerauf v. State*, 178 Md. App. 292, 326 (2008)).

D. Analysis

Circumstantial evidence of a defendant’s conduct may be admissible, “not as conclusive evidence of guilt, but as a circumstance tending to show a consciousness of guilt.” *Ford v. State*, 462 Md. 3, 47 (2018) (quoting *Decker v. State*, 408 Md. 631, 640 (2009)). One form of consciousness of guilt evidence is concealment of evidence. *See id.* “[C]oncealment of evidence may be demonstrated by a wide spectrum of behaviors.” *Rainey*, 480 Md. at 259. To generate a concealment of evidence instruction, there must be “some evidence” to support four inferences: (1) the defendant’s behavior suggests a desire

to conceal evidence; (2) the desire to conceal evidence suggests a consciousness of guilt; (3) the consciousness of guilt relates to the charged crimes; and (4) the consciousness of guilt suggests actual guilt of the charged crimes. *See id.* at 257, 260. Although these factors demonstrate that there must be some connection between the concealing behavior and the charged crimes, such evidence “need not be contemporaneous with the crime to be evidence of the defendant’s consciousness of guilt.” *Ford*, 462 Md. at 47 (quoting *Decker*, 408 Md. at 641).

Here, there was evidence that Appellant called Ms. T. from unknown numbers in 2022, and previously left voice messages from the 8560 number which were addressed to other individuals or in which he used a name other than his own. This evidence supports an inference that Appellant blocked the number of the device he used to place the calls so those calls could not be traced to him, evidencing a desire to conceal evidence of Appellant’s identity as the individual leaving unwanted messages for Ms. T. The evidence similarly supports an inference that the desire to conceal evidence of Appellant’s identity suggested a consciousness of guilt because if Appellant believed the calls were innocent or wanted, he would not have needed to conceal the number from which the call was placed. The evidence supports an inference that the consciousness of guilt related to the charged crimes and suggests actual guilt of the charged crimes, because Appellant blocking the number of the device from which he placed the calls so they could not be traced to him and leaving a trail of messages obscuring his identity from the 8560 number suggests he knew the calls to Ms. T. were unwanted. In our view, the State introduced “some evidence” that would support the inferences discussed in *Rainey*, 480 Md. at 257, 260.

To the extent Appellant asserts that the contents of the messages from the 8560 number could not support a jury instruction on the concealment of evidence because they were innocuous and primarily addressed to individuals other than Ms. T., we note that the party seeking an instruction need only to produce “some evidence” supporting the requested instruction, and in conducting a review of that evidence, “we view the facts in the light most favorable to the requesting party. *Bazzle*, 426 Md. at 551. That there may have been “some innocent, or alternate, explanation for the conduct” does not preclude the jury from weighing the inferences and being instructed on consciousness of guilt evidence. *See Harrod v. State*, 261 Md. App. 499, 517 (2024); *see also Rainey*, 480 Md. at 261 n.11 (stating that the existence of other innocent explanations conduct attributed to consciousness of guilt “cannot prevent the circuit court from giving a jury instruction, so long as there is sufficient evidence to generate the instruction, and the other conditions of Md. Rule 4-325 are satisfied”).

The court did not err in instructing the jury on concealment of evidence.

III. THE EVIDENCE WAS SUFFICIENT TO SUSTAIN APPELLANT’S CONVICTIONS.

A. Party Contentions

Appellant contends the evidence was insufficient to establish criminal agency because he was in custody during the pertinent time period, and logs of outgoing calls made using his SID number did not include any calls to Ms. T.’s phone. The State maintains that evidence of Appellant’s incarceration and phone logs during the relevant time “did not compel acquittal” as the State provided evidence that Appellant’s voice was the same voice heard in the unwanted messages left on Ms. T.’s phone in the form of voicemail.

B. Standard of Review

“When reviewing the sufficiency of the evidence to support a conviction, we view the evidence in the light most favorable to the State and assess whether ‘any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *State v. Krikstan*, 483 Md. 43, 63 (2023) (quoting *Walker v. State*, 432 Md. 587, 614 (2013)). “[T]he test is not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded any rational fact finder.” *Benton v. State*, 224 Md. App. 612, 629 (2015) (quoting *Painter v. State*, 157 Md. App. 1 (2004)) (emphasis in original). This standard “applies to all criminal cases, including those resting upon circumstantial evidence, since, generally, proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts.” *State v. Smith*, 374 Md. 527, 534 (2003) (citation omitted).

“Our role is not to review the record in a manner that would constitute a figurative retrial of the case.” *Krikstan*, 483 Md. at 63 (citation omitted). “Weighing the credibility of witnesses and resolving any conflicts in the evidence are tasks proper for the factfinder.” *Smith*, 374 Md. 527, 533–34 (2003) (quoting *State v. Stanley*, 351 Md. 733, 750 (1998)). Accordingly, “[w]e must give deference to all reasonable inferences [that] the fact-finder draws, regardless of whether [we] would have chosen a different reasonable inference.” *Donati v. State*, 215 Md. App. 686, 718 (2014) (quoting *Cox v. State*, 421 Md. 630, 657 (2011) (internal quotation marks and further citation omitted)).

C. Analysis

It is immaterial to our review of the sufficiency of the evidence that Appellant was incarcerated during the time when the charged offenses (as amended) occurred. *See Cerrato-Molina v. State*, 223 Md. App. 329, 351 (2015) (in reviewing a claim that the evidence was insufficient, we do not consider evidence tending to support the defense theory of the case, as exculpatory inferences are not part of the version of the evidence most favorable to the State.) This is because as a reviewing court, “we take that version of the evidence most favorable to the State and assume for all of its constituent elements, regardless of their evidentiary origins, maximum credibility and maximum weight.” *Id.* Therefore, “[a]t the end of the case and with respect to the burden of production, the exculpatory inferences do not exist[,]” because “[t]hey are not a part of that version of the evidence most favorable to the State’s case.” *Id.* Notably, as the prosecutor suggested in closing argument, the jury could rationally infer that Appellant’s incarceration did not render it impossible for him to make phone calls from a contraband phone.

At trial, there was evidence that Ms. T. received unsolicited and unwanted calls from unknown numbers. There was evidence that Ms. T. requested that the calls stop. Further, there was evidence that the calls continued even after Ms. T. requested they cease; and based on the contents of the voicemail recordings, there was evidence that there was no lawful purpose for the calls. There was also evidence that Appellant had used telephonic equipment to make these calls, and that the voice in the voicemail recordings belonged to Appellant. Thus, there was sufficient evidence to convict Appellant of telephone misuse and harassment. The evidence that Appellant was incarcerated during the period covering

the charged offenses is immaterial to the consideration of sufficiency because that evidence is “not a part of that version of the evidence most favorable to the State’s case.” *See Cerrato-Molina*, 223 Md. App. at 351.

We turn to Appellant’s remaining contentions. In the section of his brief addressing sufficiency of the evidence, Appellant makes the following additional claims: (1) there were no eyewitnesses to any criminal conduct; (2) the court erred in admitting the 2021 voicemail messages because they were “outside of the time period covered by the [amended] charging document”; and (3) the voicemail recordings “lacked authentication” because the State did not introduce testimony from a “voice recognition expert or voice analyst.”

The first argument is unpreserved. *See Winston v. State*, 235 Md. App. 540, 574–75 (2018) (“a defendant may not tell the trial court that the evidence was insufficient for one reason, but then urge a different reason for the insufficiency on appeal in challenging the denial of a motion for judgment of acquittal.”). The sole ground identified by Appellant as justifying acquittal included alleged absence of evidence concerning the jurisdiction of Baltimore City, and Appellant’s inability to have made the calls due to his incarceration. Thus, his claim that the evidence is insufficient due to the absence of eyewitness testimony is unpreserved. *See Winston*, 235 Md. App. at 574–75. Even if preserved, the argument lacks merit. *See Palmer v. State*, 266 Md. App. 693, 708 (2025) (“Circumstantial evidence alone is sufficient to support a conviction, provided the circumstances support rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused.”) (internal quotation marks, alteration, and citation omitted).

The remaining two contentions are unpreserved challenges to the admission of evidence. We note that on review of the sufficiency of the evidence, we examine whether the evidence before the trial court was sufficient; to the extent challenged evidence was held to be inadmissible separately on appeal, that does not mean the appellate court can assume the evidence was insufficient. *See Emory v. State*, 101 Md. App. 585, 629–31 (1994) (citing *Lockhart v. Nelson*, 488 U.S. 33, 40–42 (1988)).

Even if preserved, appellant’s admissibility challenges are groundless. Although the 2021 voicemail messages were made outside the time covered by the charged offenses, they were admitted primarily for the purpose of establishing Appellant’s identity as the caller, and Appellant has not explained why the circuit court’s admission of these recordings was in error. *See* Md. Rule 5-404(b); *see also Poole v. State*, 207 Md. App. 614, 633 (2012) (declining to address inadequately briefed or supported argument).

Finally, the voicemail recordings were authenticated by Ms. T., and neither the rule nor Maryland case law suggests that expert testimony is required to authenticate such evidence. Maryland Rule 5-901(b)(5) provides as an example of appropriate voice authentication “[i]dentification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, based upon the witness having heard the voice at any time under circumstances connecting it with the alleged speaker.” *See Donati*, 215 Md. App. at 740–41 (holding that the circuit court did not abuse its discretion in admitting voice identification testimony of police officer who recognized defendant’s voice in a 911 recording from previous verbal interactions); *see also Winston*, 235 Md. App. at 566 (holding that testimony of witnesses familiar with defendants’ voices were adequate to

identify or authenticate the voices in recordings of jailhouse phone calls). Here, Ms. T. testified that she heard Appellant's voice at the peace order hearing and identified his voice as that heard in the voicemail recordings. Based on Ms. T.'s identification, "there can be no serious dispute" that the voicemail recordings were authenticated. *See Winston*, 235 Md. App. at 566.

There was sufficient evidence to convict Appellant of telephone misuse and harassment. Accordingly, we affirm the convictions on each count.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**