Circuit Court for Prince George's County
Case Nos.: C-16-JV-24-000185

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 771

September Term, 2024

IN RE: A.S.

Graeff,
Friedman,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: February 19, 2026

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In a juvenile petition, the State charged A.S., appellant, with armed carjacking, carjacking, armed robbery, robbery, second-degree assault, and theft of property valued between $1,500 and $25,000 for an incident that occurred on October 20, 2023. On May 1, 2024, following a contested juvenile adjudication in the Circuit Court for Prince George's County, the court found appellant involved on the charges of carjacking, armed robbery, robbery, and second-degree assault.[1] At disposition, on June 3, 2024, the court committed appellant for placement. Thereafter, appellant noted a direct appeal to this Court presenting the following questions for our review[2]:

> I. Did the trial court err in admitting hearsay evidence – some of which also violated the Confrontation Clause – by allowing witnesses to testify to facts not within their personal knowledge?
>
> II. Is the evidence sufficient to sustain the court's findings of involvement as to Counts 2 [through] 5 in the petition?

For the reasons set forth below, we shall answer appellant's first question in the affirmative and consequently reverse the circuit court's finding of juvenile involvement. Because an affirmative answer to question II would prevent a re-trial, we address that question as well. We shall answer that question in the negative.

BACKGROUND

Diante Bobo, the victim, testified at trial that, on October 20, 2023, he encountered a person wearing all black clothing and a ski mask who approached him and asked him to

[1] The court granted the defense's motion for judgment of acquittal on the theft count, and acquitted A.S. of the armed carjacking count.

[2] Prior to oral argument, appellant withdrew another question he had raised in his Appellant's Brief dealing with the authentication, *vel non*, of certain photographs.

obtain marijuana for him. Bobo complied. He testified that "before I can get back in my car, [the person wearing the ski mask] pulls a gun on me … [a]nd the rest is history." Bobo gave the person his car keys and the person then drove off in his 2020 black Honda Civic. Bobo said he could only see his assailant's eyes and could not tell his age. He described his assailant as a few inches taller than five feet, six inches, male, skinny, and having brown skin.[3] Bobo testified that the carjacking happened at some point during the day while it was still light outside, but he could not remember what time of day it occurred.

[3] Even though Bobo never identified appellant as his assailant before trial, and provided a vague description of him at trial, more than once, Bobo referred to appellant as the person wearing the ski mask. The following exchange is illustrative of this:

[THE STATE]:	And what happened that day?
[BOBO]:	Went … to go buy some marijuana, seen the Defendant. We made eye contact, and --
[DEFENSE]:	Objection.
THE COURT:	Basis?
[DEFENSE]:	To -- I'm objecting to what appears to be an identification without foundation.
THE COURT:	Overruled. Go ahead.
[BOBO]:	Keep talking? Or --
THE COURT:	Yes, please.
[BOBO]:	So, yeah, I spoke to the Defendant -- well, made eye contact with the Defendant, rolled down the window, and we talked. He said he was looking for some marijuana, and I said I was going to get some more.

Notwithstanding that testimony, the court, when explaining its reasons for finding appellant involved, stated that "Mr. Bobo was not able to identify [appellant.]" In addition, the State and appellant's defense counsel also seemed to believe that Bobo never identified appellant as the perpetrator of the carjacking.

"Somewhere around" October 21, 2023, the police contacted Bobo and informed him that his car had been found and that he could pick it up from a tow yard.

Detective William Loveless testified that he was assigned to investigate a carjacking that had occurred at, or near, 456 Shady Glen Drive in Prince George's County. He responded to the scene and took a statement from Bobo. As the lead investigator on the case, Detective Loveless testified that the carjacking occurred at approximately 2:51 p.m., that he had received word when Bobo's car had been located, and that other police officers had responded to 1414 Southview Drive for a suspicious occupied vehicle on October 21, 2023 at 5:52 a.m.

Officer Billy Carter, of the Prince George's County police department, testified that, early in the morning of October 21, 2023, he responded to a call for a suspicious vehicle at 1414 Southview Drive. Once there, he found appellant, wearing all black and sleeping in a black Honda Civic with what appeared to be a pistol in his lap.[4] Officer Carter called for backup and when they arrived they surrounded the black Honda Civic, shattered the driver's door glass, seized the pistol, and arrested appellant.

The State adduced evidence at trial that, at the time of the offense in this case, appellant was wearing a GPS tracking device on his ankle. An analysis of the GPS pings for that device revealed that appellant was in the specific area of the carjacking at the time it was committed. It also showed that, on October 21, 2023, appellant was at 1414 Southview Drive from 12:50 a.m. until 5:59 a.m. when the police arrested him.

[4] It would turn out that the pistol was an airsoft gun.

Further facts will be supplied below as they become germane to our discussion.

DISCUSSION

I.

Appellant contends that the trial court erroneously admitted hearsay into evidence. We agree. The State contends otherwise and, alternatively, it contends that, even if the testimony was inadmissible hearsay, the admission of it was harmless. We disagree with the State.

On several occasions during his direct examination by the State, Detective Loveless testified to facts that he had apparently learned of from others and to which he had no personal knowledge. One of the facts that Detective Loveless testified to was the time of the offense. The following occurred at trial:

> [PROSECUTOR]: And based on your investigation, what time did the alleged carjacking occur?
>
> [DEFENSE]: Objection.
>
> THE COURT: [Prosecutor], rephrase your question.
>
> [PROSECUTOR]: Okay…. As a detective, you're not the first to respond to the scene; correct?
>
> [LOVELESS]: Correct.
>
> [PROSECUTOR]: About what time did officers respond to Shady Glen Drive?
>
> [DEFENSE]: Objection.
>
> THE COURT: Sustained. If he has personal knowledge.
>
> [PROSECUTOR]: Do you have personal -- do you have personal knowledge as to what time the alleged carjacking occurred?

[DEFENSE]: Objection.

THE COURT: Sustained.

[PROSECUTOR]: Do you have -- Court's brief indulgence. Officer Loveless, you wrote the statement of charges in this case; correct?

[LOVELESS]: Yes.

[PROSECUTOR]: And based on the statement of charges, when did -- based on your personal knowledge, when did officers arrive?

[DEFENSE]: Objection, Your Honor. It's the same question she just asked. But objection.

[PROSECUTOR]: It's not the same question, and it's based on his knowledge as an officer investigating the case to know what time that the incident occurred. That's --

THE COURT: Sustained. [Defense counsel], what's the basis of your objection?

[DEFENSE]: It's calling for hearsay and that he lacks personal knowledge of it if it's not him that responded.

[PROSECUTOR]: Officers are allowed to talk about what other officers did.

THE COURT: Once a foundation has been laid appropriately, [prosecutor].

[PROSECUTOR]: Okay. And as your duties [sic], did you speak to other officers in this case?

[LOVELESS]: Yes. I can't exactly recall which officer I spoke with at the time.

[PROSECUTOR]: But did you speak to any of the officers that responded to the scene in this case?

[LOVELESS]: Yes. They initially called me to confirm --

[DEFENSE]: Objection.

[LOVELESS]: -- that an incident happened.

[DEFENSE]: Objection.

[PROSECUTOR]: I mean --

THE COURT: They called him. He didn't say what they said. So overruled. You can respond. Finish your response, please, Detective.

[PROSECUTOR]: They called -- they called you?

[LOVELESS]: Yes. After they responded to the scene and confirmed the incident happened from speaking with the victim, they called me to respond to the scene.

THE COURT: And that's sustained with regard to any of the hearsay within it with regard to what the officers who responded advised him, without the foundation being laid as to his role in this investigation.

[PROSECUTOR]: Okay. So you spoke to the other patrol officers. What did you do next?

[LOVELESS]: I responded to the scene to speak to the victim and get a written statement from him.

[PROSECUTOR]: Okay. And were you present when that written statement was made?

[LOVELESS]: Yes.

* * *

[PROSECUTOR]: I'm now showing you what has been marked as State's Exhibit 2. Do you recognize that … document?

[LOVELESS]: Yes.

[PROSECUTOR]: And what is that document?

[LOVELESS]: It's a written statement given to me by Mr. Bobo.

* * *

[PROSECUTOR]: And in the top right-hand corner, there's a time. Is that the time that the statement was written?

[LOVELESS]: Yes. That was the time the statement was written.

[PROSECUTOR]: And what time was the statement written?

[DEFENSE]: Objection.

THE COURT: Was he present at the time the statement was written?

[PROSECUTOR]: Yes.

THE COURT: Okay.

[PROSECUTOR]: At the time he did it was known.

THE COURT: Okay. So if he has personal knowledge as to what time or -- that the statement was written, he can testify. Was Respondent's Exhibit 2 admitted into evidence?

[DEFENSE]: No.

[COURT]: Okay. All right. Continue, [prosecutor].

[PROSECUTOR]: What time was the statement written?

[LOVELESS]: 1510.

[PROSECUTOR]: And that's military time. What time would that be for layman like me?

[LOVELESS]: 3:10 p.m.

[PROSECUTOR]: 3:10 p.m. And as part of your investigation, did you ask other officers what time the -- they responded to the scene?

[DEFENSE]: Objection.

THE COURT: Overruled. She can ask him if he asked them.

[LOVELESS]: I did not ask them. I got that information from the CAD report.

[PROSECUTOR]: And what is the CAD report?

[LOVELESS]: CAD report is the call for service from when the victim calls in alleging a crime.

[PROSECUTOR]: And 3:10 p.m. was after?

[LOVELESS]: Yes.

[DEFENSE]: Objection.

THE COURT: It's leading. Rephrase your question.

[PROSECUTOR]: Okay. When he wrote his statement, from your knowledge, had the carjacking already occurred?

[LOVELESS]: Yes.

[PROSECUTOR]: And based on your investigation and the CAD report, what time did the carjacking occur?

[DEFENSE]: Objection.

THE COURT: Based on his investigation and the CAD report, what time did the carjacking occur? Overruled.

[DEFENSE]: Your Honor, I would just -- she's still asking him to testify to hearsay. That's something that he did not personally observe and he's testifying to some document that's not in evidence that is a statement being brought in for the truth of what time the carjacking occurred. I would ask that he not be permitted to testify to that.

THE COURT: Overruled. Based on your investigation, Detective Loveless, go ahead.

[LOVELESS]: At approximately 1451 hours. That would be 2:51 p.m.

[DEFENSE]: I'd renew my objection, Your Honor.

THE COURT: Okay. Noted.

Appellant also contends Detective Loveless testified to inadmissible hearsay on the subject of the black Honda Civic that appellant was found sleeping in, including whether that car was, in fact, Bobo's black 2020 Honda Civic. The following occurred at trial:

[PROSECUTOR]: As part of your investigation, did you receive word that the car was located?

[LOVELESS]: Yes.

[DEFENSE]: Objection.

THE COURT: Overruled.

[PROSECUTOR]: Based on your investigation, when was the car --

[DEFENSE]: Objection.

THE COURT: Sustained. Based on hearsay.

[PROSECUTOR]: Well, Your Honor, officers are allowed to testify --

THE COURT]: Approach the bench, please.

(At 2:58 p.m., counsel approached bench, and the following occurred:)

[PROSECUTOR]: As a detective, he goes around, and he talks to the other officers about what they did in the case, as well as work he did. So, you know, officers are allowed to testify to what other officers did to assist in his investigation.

THE COURT: [Defense counsel]?

[DEFENSE]: There's no detective exception rules. I mean, I would like to see what rule she has to what she's talking about, because there's no -- there's no detective exception rule.

[PROSECUTOR]: I will try to -- I will try to pull it up, but there is a[n] exception. The officers are allowed to testify to what other officers have done.

THE COURT: So I think -- I don't know what his role is in this investigation.

[PROSECUTOR]: He's a -- oh, okay. Okay. I will -- I'll put that on.

[DEFENSE]: I'd also -- I'd also just point out that there's no motion to suppress that's now pending. So I don't know if that's why he's -- if that's what we're talking about, then he -- if there was a motion to suppress but he wanted to testify to his report, his actions, or something like that,

that's not the case. He was suggesting facts. The State's trying to admit hearsay matters.

After the bench conference concluded, the State elicited that Detective Loveless was the lead investigator in the case and that he wrote the statement of charges.

[PROSECUTOR]: And who wrote the statement of charges?

[LOVELESS]: I did.

* * *

[PROSECUTOR]: And you gave the address of Southview Drive, I believe, of where it was located. What time --

[DEFENSE]: Objection.

* * *

THE COURT: He … testified … that the patrol officers responded to 1414 Southview Drive for a suspicious occupied vehicle. That's -- that was his statement. So overruled.

[PROSECUTOR]: At what time?

[LOVELESS]: At approximately 0552, which would be 5:52 a.m.

[DEFENSE]: I'd object again, Your Honor, that that's hearsay and not within his personal knowledge.

THE COURT: Okay. Overruled.

* * *

[PROSECUTOR]: You stated that the car was found at 1414 Southview Drive as a suspicious occupied vehicle. What -- and you stated that the vehicle in this case was found?

[LOVELESS]: Yes.

[PROSECUTOR]: Okay. Was -- under what circumstances --

[DEFENSE]: Objection.

THE COURT: Sustained.

[PROSECUTOR]: Okay. Court's brief indulgence. Your Honor, it's not -- Your Honor, it's not being offered to --

THE COURT: Approach the bench, please.

(At 3:07 p.m., counsel approached bench, and the following occurred:)

[PROSECUTOR]: It's not being offered for the truth of the matter asserted. It's being offered to further the investigation. It's not being, you know -- and I'll try to find the exact case, but in order -- I mean, as the investigative officer, he's not there doing everything. His officers are helping him.

So if -- you know, this just established that there was someone who was removed from the vehicle. That's not for the truth of the matter asserted that this person is responsible for the carjacking. That's -- you know, it may -- it's just one piece of the puzzle.

THE COURT: [Defense counsel]?

[DEFENSE]: If it's not for the truth of the matter asserted, then it's not relevant because there's nothing else (inaudible) true facts on what occurred or did not occur.

[PROSECUTOR]: It would be relevant, because it's just -- it's just one more layer to the -- to the next piece of evidence. It's --

THE COURT: And so the objection was sustained because you said "under what circumstances."

[PROSECUTOR]: Oh, okay.

THE COURT: So as the investigating -- the lead officer, that's -- that's why the objection was sustained.

[PROSECUTOR]: Okay.

[DEFENSE]: Your Honor, I would just say either she has the officers here for an incident that she's trying to get testimony to or she doesn't. But if she doesn't, then it's not just hearsay. It's a (inaudible) violation because we've just heard about testimony about what happened at some

point, and then I can't question him about it because he wasn't there.[5]

So it's -- I mean, it's just hearsay. There's no – there's no exception. There's no detective exception to the hearsay rules. I don't even know what case we're arguing about right now. (Inaudible.)

[PROSECUTOR]: Well, it's because I hadn't finished the question before you objected.

THE COURT: So [defense counsel] is correct with regard to this witness testifying to certain things that you are attempting to elicit through him. As a lead detective, there are certain things that lead detectives can testify to for the totality of the investigation. However, there are certain things that the actual acting officers would need to provide testimony to because it is a hearsay issue.

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." Md. Rule 5-801(c). Hearsay evidence is inadmissible unless the hearsay falls under one of the many exceptions to the hearsay rule. Md. Rules 5-802, 5-802.1, 5-803, 5-804.

A circuit court's legal determinations as to whether a statement constitutes hearsay or is admissible pursuant to a hearsay exception are reviewed de novo, while its underlying factual findings are reviewed for clear error. *Gordon v. State*, 431 Md. 527, 536-38 (2013); *Bernadyn v. State*, 390 Md. 1, 8 (2005).

As alluded to earlier, Bobo, the victim in this case, could not recall many details about the carjacking, including exactly when and where it occurred. As a result, the State needed to connect the timing and location of the GPS pings from appellant's ankle monitor

[5] Given the context, it seems clear enough to us that the "inaudible" word was "confrontation."

to the timing and location of the carjacking. To make that connection, the State elicited, and the court admitted, testimony from Detective Loveless that the crime occurred at 2:51 p.m. That testimony was hearsay because what time the offense occurred was second-hand information that Detective Loveless repeated in court to prove the truth of the matter asserted, i.e., that the offense occurred at 2:51 p.m. We are not persuaded by the State's assertion that the evidence was adduced not for its truth and therefore not hearsay. If the State was correct, then the testimony would have been irrelevant.

The State needed to prove that the black Honda Civic that appellant was found sleeping in belonged to Bobo. In order to make that connection, the State elicited testimony from Detective Loveless that he "receive[d] word" that "the car was located" by patrol officers who had responded to 1414 Southview Drive for a "suspicious occupied vehicle." Again, Detective Loveless repeated facts which were told to him by an out-of-court declarant and the information was used for its truth. It was used to prove that the car appellant was found sleeping in was Bobo's car. Once again, we are not persuaded by the State's assertion that the evidence was adduced not for its truth and therefore not hearsay.

As noted earlier, the State also argues that any error in admitting the challenged testimony was harmless. An error is harmless if "a reviewing court, upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict[.]" *Dorsey v. State*, 276 Md. 638, 659 (1976). "Such reviewing court must thus be satisfied that there is no reasonable possibility that the evidence complained of – whether erroneously admitted or excluded – may have contributed to the rendition of the guilty verdict." *Id*.

In addition, when a trial court states that it is relying on an improperly admitted piece of evidence, we take the trial judge at their word just as much as we believe a trial judge who states that they are not relying on a piece of inadmissible evidence that the judge is otherwise aware of. *Nixon v. State*, 140 Md. App. 170, 189 (2001). *See Davis v. State*, 7 Md. App. 667, 670-71 (1969) ("[W]e cannot ignore the trial judge's statement that he relied on the improper evidence to support the verdict, thus we cannot say that the error was not prejudicial[.]").

When explaining its reasoning for its verdict in this case, the trial court said, *inter alia*, the following:

> With regard to the remaining counts in this case, the [c]ourt has had the opportunity to listen to the testimony of Mr. Bobo, but more specifically, Detective Loveless, who is the lead investigator in this case. He indicated that he's given all the facts and he charged [appellant] in this case.
>
> And as the lead investigator, he knew where the car was located because Patrol advised him. The vehicle was located at 1414 Southview Drive, and that's where the call was made for the suspicious occupied vehicle. And in the vehicle, [appellant] was found.
>
> In this case, I do find that the State has met their burden of proof to demonstrate the carjacking aspect of this case. The GPS pings do place [appellant] at the scene of the incident and Mr. Bobo was not able to identify him; however, based on the direct and circumstantial evidence in this case, the [c]ourt does find that the State has met the burden of proof with regard to carjacking.

From the forgoing, it is clear enough to us that the court relied on both hearsay assertions in finding appellant involved in the carjacking. Thus, because we are not persuaded beyond a reasonable doubt that the erroneously admitted evidence did not

contribute to the verdict, we must reverse the judgment of the circuit court and remand this case to it for further proceedings.[6]

II.

Appellant next argues that the evidence was legally insufficient to support the court's finding appellant involved in the offenses with which he was charged.

When faced with a challenge to the sufficiency of the evidence in a juvenile delinquency case, as in any criminal case, we determine "'whether after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *In re Kevin T.*, 222 Md. App. 671, 676-77 (2015) (quoting *In re Anthony W.*, 388 Md. 251, 261 (2005)). Thus, the question on review is whether there is evidence, adduced either directly or by rational inference, that enabled the trier of fact to be convinced beyond a reasonable doubt that the juvenile committed the act. *In re George V.*, 87 Md. App. 188, 193 (1991).

A theme that runs through appellant's argument that evidence is legally insufficient seems to be that we should not consider in our sufficiency analysis any evidence that was

[6] On appeal, appellant challenges the admissibility of the testimony concerning the date upon which the GPS tracking device was placed on appellant's ankle and challenges the admissibility of State's Exhibit #3 which is an Excel spreadsheet containing GPS data collected from appellant's ankle monitor during the relevant time period. In addition, he argues that certain hearsay statements violated his Sixth Amendment right to confrontation.

Given our disposition of this case, we need not address these issues. With respect to the constitutional challenges specifically, Maryland's Supreme Court "has regularly adhered to the principle that we will not reach a constitutional issue when a case can properly be disposed of on a non-constitutional ground." *State v. Lancaster*, 332 Md. 385, 403 n.13 (1993).

improperly admitted at trial. Appellant has provided us with no authority for this proposition. Nevertheless, the weight of the authority appears to be to the contrary.

In *Marlin v. State*, 192 Md. App. 134, 152 n.5 (2010), this Court, noted that "evidence improperly admitted at a trial may be considered in evaluating the sufficiency of evidence on appeal." In *Emory v. State*, 101 Md. App. 585, 629-30 (1994), we said:

> At the moment, however, we are assessing the legal sufficiency of the evidence not at the trial that *will be*, but at the trial that *was*. This is one of those rare occasions when the propriety of the evidence has nothing to do with the weight we may give it or, indeed, with whether we may give it any weight. We measure that legal sufficiency on the basis of all of the evidence in the case, that which was improperly admitted just as surely as that which was properly admitted. *Lockhart v. Nelson*, 488 U.S. 33 (1988).

As a result, we shall examine all of the evidence adduced at trial in our analysis of the legal sufficiency of appellant's involvement in the offenses.

As noted earlier in this opinion, Bobo testified that a skinny, brown-skinned male, about five-foot, eight-inches tall, wearing a ski mask and all black clothing, took his black 2020 Honda Civic at gunpoint. On direct examination, he said that appellant was his attacker.[7] He testified that the offense took place near his drug-dealer's house, and also that he spoke with police officers near there around 3:00 p.m. on the day of the offense. Bobo wrote a statement at Detective Loveless's request at 3:10 p.m.

Detective Loveless testified that patrol officers had recovered Bobo's car at 1414 Southview Drive. Officer Carter testified that he found appellant at that address, wearing

[7] It is of no moment to our sufficiency analysis that neither the court nor the parties apparently believed Bobo on this point.

all black and with a pistol in his lap, asleep in a black Honda Civic at around 5:30 a.m. on the morning after Bobo was attacked.[8]

GPS data evidence was adduced at trial which showed that appellant's ankle bracelet was in the vicinity of the offense at or around the time it was committed. The GPS evidence also showed that appellant's ankle bracelet was stationary from about 1:00 a.m. to about 6:00 a.m. at 1414 Southview Drive where the police arrested him.

We think that, in viewing the foregoing evidence in the light most favorable to the State, a rational factfinder could draw the inference that appellant was the person who carjacked Bobo. Thus, the evidence is legally sufficient.

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY REVERSED. CASE REMANDED FOR FURTHER PROCEEDINGS. COSTS TO BE PAID BY APPELLEE.

[8] "'We have long and consistently held that exclusive possession of recently stolen goods, absent a satisfactory explanation, permits the drawing of an inference of fact strong enough to sustain a conviction that the possessor was the thief.'" *Molter v. State*, 201 Md. App. 155, 163 (2011) (emphasis omitted) (quoting *Brewer v. Mele*, 267 Md. 437, 449 (1972)).