

Circuit Court for St. Mary's County
Case No.: C-18-CR-21-000410

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 786

September Term, 2023

RYAN CHERRICO

v.

STATE OF MARYLAND

Leahy,
Ripken,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: April 22, 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).

Following a three-day trial, a jury sitting in the Circuit Court for St. Mary’s County convicted Ryan Cherrico, appellant, of grossly negligent manslaughter by automobile and seven related counts. On June 1, 2023, the court sentenced Cherrico to ten years’ incarceration, all but seven years suspended for grossly negligent manslaughter by automobile. The remaining counts were merged for purposes of sentencing.

On appeal, Cherrico presents two questions for our review,¹ which we have rephrased as follows:

1. Did the circuit court abuse its discretion in admitting into evidence three sets of video surveillance tapes?
2. Was the evidence sufficient to convict Cherrico of the charged offenses?

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

BACKGROUND

The State adduced the following evidence at trial. On the evening of October 26, 2021, Cherrico and his girlfriend, Heather Campbell, were at an apartment on Old Village Road in St. Mary’s County. The apartment was shared by Robert Nelson, Kelly Swayne, and Swayne’s wife, Yvette Sanchez. They were also joined at the apartment by Nelson’s

¹ Cherrico presented the following questions on appeal:

1. Did the trial court abuse its discretion in allowing the admission into evidence of three sets of video surveillance tapes without proper foundation and authentication?
2. Was the evidence insufficient for any rational trier of fact to find beyond a reasonable doubt that it demonstrated either that it was Mr. Cherrico who was driving the red pickup truck that hit and killed Mr. Henry Stauffer, or that, if it was Mr. Cherrico driving the pickup truck, that he was impaired by alcohol when the accident took place and therefore guilty of various of the charged offenses?

girlfriend, Amanda Parsley. When Parsley arrived at around 8:00 p.m., Cherrico was already at the apartment, so she did not know how he got there.

While at the apartment, the group was playing pool, drinking beer, Fireball whiskey, and “having a good time.” Parsley estimated that between Nelson, Cherrico, and Swayne, the three men consumed an entire 30-pack of beer and a pint of Fireball. However, Nelson and Cherrico did most of the drinking, as Parsley testified that Swayne “could have had a beer,” but she was unsure whether Swayne ever “took a shot” of the Fireball.

Campbell left the apartment that night at around 1:00 a.m., but the others stayed and continued to drink and play pool. Parsley testified that she fell asleep at about 3:00 a.m., at which point Nelson and Cherrico were still “around the pool table,” while Swayne and Sanchez had retired to their “living area” for the night. Before she went to sleep, Parsley overheard Cherrico ask Nelson for a ride home, to which Nelson answered “no.” Nelson testified that he also fell asleep soon thereafter.

Nelson had a red Chevrolet Silverado pickup truck that was parked outside the apartment that night. Although the truck was registered to his sister, Nelson was the truck’s primary driver. He testified that there was only one set of keys to the truck, which he kept on the truck’s floorboard. At about 6:00 or 7:00 a.m. on October 27, 2021, Parsley woke up to find that both Cherrico and the red Chevrolet Silverado were missing, so she woke Nelson and asked him if he had let Cherrico take the truck. Nelson testified that he did not give Cherrico permission to take the truck. When he realized both Cherrico and the truck were gone, Nelson called Cherrico’s parents, he texted Cherrico, and he texted “everybody [he] could think of to see if anybody [had] seen [his] truck.”

Meanwhile, at about 7:30 a.m., firefighter and EMT Sean Mack was driving southbound on Point Lookout Road when he noticed a red pickup truck “start to fishtail” behind him. He then noticed a horse and buggy coming toward him on the shoulder of the road and, when he looked back again, saw the red pickup truck drive over the center line into the opposite lane. Anticipating a crash, Mack turned his car around. By the time he turned around, the truck was in a ditch, the horse was standing in the road, and the buggy was nowhere to be seen because it “exploded. It just completely came apart.”

At the same time, Anthony Tulin, who was working at the nearby “SOMD Hearth” store, heard a loud bang. He turned around and saw what he described as an Amish man lying on the ground next to a red pickup truck. Tulin also saw one man exit the driver’s side of the truck. Tulin approached the man and had a brief interaction with him for “[b]etween 5 and 30 seconds, just to make sure that he wasn’t dying[.]” However, the man had his head down and “wasn’t really vocal to [Tulin].”

While this was happening, Mack saw the two men standing on the driver’s side of the truck, one closer to the truck than the other, but stated that his focus was on the man in the buggy. Mack then approached the crash scene and found a man, later identified as Mennonite Henry Stauffer, lying in a ditch. He called 911 and, at the 911 dispatcher’s insistence, performed CPR on Mr. Stauffer to no avail.

Also driving by the accident site that morning was nurse Erica Buckler. Buckler was driving southbound on Point Lookout Road when she noticed a horse standing in the middle of the road. She pulled over in front of the SOMD Hearth store and, having experience with horses, she was able to get the horse off the road. While she was moving

the horse, a Mennonite man ran toward her and asked her to help his uncle, Mr. Stauffer, who was lying in a ditch. Buckler joined Mack in rendering aid to Mr. Stauffer, but, in her words, he “had no signs of life at that time.”

Surveillance footage from the home of James Cooksey, Jr., (the “Cooksey residence”) showed that at 7:34 a.m.,² a white man wearing a gray sweatshirt, light blue jeans, and black shoes was walking southbound on Point Lookout Road toward Miller’s Cabinets. Between 7:35 and 7:36 a.m.,³ footage from Miller’s Cabinets showed the same man walking southbound toward Third Base. Then, at 7:47 a.m.,⁴ footage from Third Base’s rear outdoor camera showed a person emerging from the woods behind the store. At 7:48 a.m., footage from Third Base’s side outdoor camera showed a white man wearing a gray T-shirt, light blue jeans, and black shoes walking toward the front of the store. At 7:49 a.m., multiple cameras captured this man entering the store through its front entrance, and at 7:50 a.m., State Trooper Matthew Davis entered Third Base and confronted the man, who identified himself as Ryan Cherrico.

Trooper Davis observed what appeared to be fresh blood on Cherrico’s pants, a fresh wound to his right cheek that was bleeding, and mud splattered on the bottoms and backs of his shoes. Trooper Davis also testified that Cherrico’s breath and person smelled of alcohol, his speech was slow and slurred, and he was somewhat disheveled. Cherrico

² The time displayed on the footage was 7:39 a.m. However, the time on the Cooksey video was five minutes ahead.

³ The Miller’s Cabinets video was only off by about one minute.

⁴ The time displayed on the footage was 7:25 a.m. However, the time on the Third Base video was twenty-two minutes behind. This applies to all cameras at Third Base.

claimed that the blood on his face was from his severe acne, and that his foot was bleeding because he had stepped on a nail.

At this point, Sergeant Joshua Krum and Officer Artina Alvey had responded to the crash site. Sergeant Krum was the first officer to respond to the scene. When he arrived, Sergeant Krum questioned Mack, Buckler, and Tulin, and he broadcast the description he collected from the three witnesses of whom they believed to be the red pickup truck driver. The description was that of a “White male” in his “40s or so, maybe 50s[,]” who was “wearing an orange sweatshirt or some type of sweatshirt with blue jeans that was wavering back and forth and that seemed unsteady on their feet.” Thinking Cherrico matched the broadcast description, Trooper Davis contacted the St. Mary’s Sheriff’s Office and told them of his discovery. Sergeant Krum sent Officer Alvey to Third Base to assist Trooper Davis.

At Third Base, Officer Alvey met both Trooper Davis and Cherrico, who at this point was handcuffed. Officer Alvey testified that Cherrico’s speech was delayed and his eyes were glossy, but that she did not smell any odor of alcohol on him. After Officer Alvey read Cherrico his *Miranda* rights, he told her that Donovan Woody had dropped him off at Third Base that morning. However, Woody denied driving Cherrico there that morning, and the surveillance footage from Third Base shows Woody arriving in a black car about a minute before Cherrico emerges from the woods behind the store.

Meanwhile, at the crash site, Sergeant Krum ran the license plate on the red pickup truck and it came back as registered to Nelson’s sister. Sergeant Krum also looked inside the truck and found a wallet by the windshield that belonged to Nelson. When Nelson was

shown a picture of the truck at trial, he positively identified it as his Chevrolet Silverado truck.

At 1:50 p.m., crime lab technician Jessica Barnard responded to the crash scene and processed the red pickup truck for latent prints but did not recover any. Barnard found hair and blood on the outside of the windshield, and she also took swabs of the steering wheel, gear shift, and interior driver's side door handle. Then, forensic technician Angela Spessard examined the swabs for analysis. She determined that DNA recovered from the steering wheel and the interior driver's side door handle were consistent with a mixture of DNA matching that of Nelson and Cherrico, but DNA from the gear shift was inconclusive.

Cherrico was charged on October 31, 2021, with grossly negligent manslaughter by automobile and related charges. A trial was held in the Circuit Court for St. Mary's County from May 24-27, 2022, but on May 27, a mistrial was declared. On August 24, 2022, the circuit court held a hearing on Cherrico's motions to dismiss for lack of speedy trial and for failure to comply with Maryland Rule 4-271, but those motions were denied.

Cherrico was then retried from September 27-29, 2022. On the final day of trial, Cherrico moved for a judgment of acquittal, arguing that the evidence was insufficient to convict on any count. The circuit court denied that motion. Later, Cherrico renewed his motion for a judgment of acquittal, again arguing that the evidence was insufficient to convict on any count. The circuit court denied Cherrico's renewed motion.

On September 29, 2022, he was convicted of grossly negligent manslaughter by automobile, causing the death of another by operation of a motor vehicle in a criminally negligent manner, homicide by motor vehicle while impaired by alcohol, driving a vehicle

while impaired by alcohol, reckless driving, negligent driving, failure to stop after an accident involving damage to an attended vehicle, failure of the driver involved in an accident to render reasonable assistance to an injured person, and failure of the driver in an accident to report bodily injury, death, attended vehicle damage, or property damage to the nearest police. The jury acquitted Cherrico of driving under the influence of alcohol.

On June 1, 2023, Cherrico was sentenced to ten years’ incarceration, all but seven years suspended for grossly negligent manslaughter by automobile. He filed a timely notice of appeal on June 20, 2023.

We shall include additional facts as relevant to our discussion.

STANDARD OF REVIEW

“An appellate court reviews for abuse of discretion a trial court’s determination as to whether an exhibit was properly authenticated.” *Mooney v. State*, 487 Md. 701, 717 (2024). A trial court abuses its discretion when “no reasonable person would take the view adopted by the trial court,” or when the ruling is “clearly against the logic and effect of facts and inferences before the court[.]” *King v. State*, 407 Md. 682, 697 (2009) (quoting *North v. North*, 102 Md. App. 1, 13 (1994)) (cleaned up).

We review sufficiency of evidence rulings to determine whether “*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *State v. McGagh*, 472 Md. 168, 194 (2021) (quoting *State v. Manion*, 442 Md. 419, 430 (2015)) (emphasis in original). “This Court does not ‘ask itself whether *it* believes that the evidence at the trial established guilt beyond a reasonable doubt.’” *Id.* (quoting *Dawson v. State*, 329 Md. 275, 281 (1993)) (emphasis in original). Rather, our only concern is

“whether the verdict was supported by sufficient evidence, direct or circumstantial, which could fairly convince a trier of fact of the defendant’s guilt of the offenses charged beyond a reasonable doubt.” *Id.* (quoting *Taylor v. State*, 346 Md. 452, 457 (1997)). This “deferential standard recognizes the trier of fact’s better position to assess the evidence and credibility of the witnesses.” *Id.* (citing *Smith v. State*, 415 Md. 174, 184-85 (2010)).

DISCUSSION

I. The Surveillance Videos were Properly Authenticated

Before an item may be received into evidence, it must be authenticated. “[T]he bar for authentication of evidence is not particularly high.” *Mooney*, 487 Md. at 717 (quoting *Sublet v. State*, 442 Md. 632, 666 (2015)). To satisfy the authentication requirement, the offering party need only provide “evidence sufficient to support a finding that the matter in question is what its proponent claims.” Md. Rule 5-901(a).

Maryland Rule 5-901(b) provides “a nonexclusive list of ways to authenticate evidence.” *Mooney*, 487 Md. at 705. Under Rule 5-901(b)(1), evidence can be authenticated by “[t]estimony of a witness with knowledge that the offered evidence is what it is claimed to be.” Md. Rule 5-901(b)(1). Under Rule 5-901(b)(4), evidence can be authenticated by “[c]ircumstantial evidence, such as appearance, contents, substance, internal patterns, location, or other distinctive characteristics, that the offered evidence is what it is claimed to be.” Md. Rule 5-901(b)(4). And under Rule 5-901(b)(9), evidence can be authenticated by “[e]vidence describing a process or system used to produce the proffered exhibit or testimony and showing that the process or system produces an accurate result.” Md. Rule 5-901(b)(9).

At issue in this case is the authentication of video evidence. In *Washington v. State*, 406 Md. 642 (2008), the Supreme Court of Maryland discussed two theories of authentication for video evidence: “pictorial testimony” and “silent witness.” *Washington*, 406 Md. at 652. The “pictorial testimony” theory “allows photographic evidence to be authenticated through the testimony of a witness with personal knowledge,”⁵ while the “silent witness” theory “allows for authentication by the presentation of evidence describing a process or system that produces an accurate result.”⁶ *Id.* However, the Court’s discussion in *Washington* of these two theories of authentication “does not stand for the proposition that they are the exclusive methods for authentication of video footage.” *Mooney*, 487 Md. at 729.⁷ Rather, in *Mooney*, the Court held that “[v]ideo footage can be authenticated under several theories, including through circumstantial evidence under Maryland Rule 5-901(b)(4).” *Id.* at 728.

No matter what theory of authentication a party chooses to advance, video footage must ultimately pass the “reasonable juror” test to be admissible. *Id.* at 708. The

⁵ “The ‘pictorial testimony’ theory of authentication corresponds to Maryland Rule 5-901(b)(1).” *Mooney*, 487 Md. at 706.

⁶ “The ‘silent witness’ theory of authentication corresponds to Maryland Rule 5-901(b)(9)[.]” *Mooney*, 487 Md. at 706.

⁷ Cherrico filed his opening brief with this Court on April 19, 2024, approximately four months before *Mooney* was decided. Thus, relying on *Washington*, Cherrico argued that the pictorial testimony and silent witness theories were the only two ways for video recordings to be authenticated. After Cherrico filed his opening brief, this Court granted the State’s motion to stay this appeal pending the Supreme Court of Maryland’s resolution of *Mooney*. Following the Supreme Court’s decision in *Mooney* on August 13, 2024, this Court lifted the stay, and the State filed its brief with this Court on October 15, 2024, relying in large part on *Mooney*. Cherrico could have addressed the issues raised in *Mooney* in a reply brief, but he did not do so.

“reasonable juror” test provides that evidence is admissible if there is “sufficient evidence for a reasonable juror to find more likely than not that the evidence is what it is purported to be.” *Id.*

In *Mooney*, the Court held that video footage of a shooting was properly authenticated through a combination of “pictorial testimony” and circumstantial evidence. *Id.* at 730-33. The video at issue in *Mooney* depicted the events immediately before, during, and after the shooting. The parts of the video showing the events that the victim saw were properly authenticated under Maryland Rule 5-901(b)(1) through his testimony as a witness with knowledge. *Id.* at 730-31. And, although the victim did not see the shooting itself, the part of the video depicting the shooting was properly authenticated through circumstantial evidence under Maryland Rule 5-901(b)(4). *Id.* at 731.

The Court specifically pointed to the “close temporal proximity of the shooting to the events before and after the shooting of which [the victim] had personal knowledge[.]” *Id.* This “close temporal proximity,” the Court explained, “gave rise to an inference that the video accurately depicted the shooting.” *Id.* Further bolstering the authenticity of the video, the Court found, was the fact that “the video was obtained from the crime scene from a source not connected to law enforcement or the shooting, as [the detective] testified that he obtained the video from an individual with a camera mounted on the exterior wall of his residence near the crime scene.” *Id.*

Here, Cherrico appeals the admission of three sets of video surveillance tapes. We take each one in turn.

A. The Cooksey Video

Cherrico first argues that there was “insufficient authentication that the [Cooksey] video accurately depicted that which it purported to depict.” Cherrico contends that there was insufficient authentication because “Cooksey did not testify as to where the cameras were located or what areas they covered, how they were focused, whether he was notified of any recordings or, generally, that what they were recording was an accurate depiction of what was before them.” The State, on the other hand, argues that the testimony of Cooksey and Barnard, in combination, “provided more than adequate grounds to admit” the video. The State also asserts that the footage from Miller’s Cabinets and Third Base provided “supporting circumstantial evidence that operated to corroborate the way that events unfolded.”

At trial, Cooksey testified that he has “[m]ultiple cameras” on his Point Lookout Road home. He described them as “five-megapixel cameras,” with some being “bullet-shaped cameras,” and others being “dome cameras.” He explained that the cameras “record to a DVR,” and that the DVR is “good for a couple weeks of memory.” The cameras record continuously, overlapping the oldest files. Cooksey added that the cameras were “pointing in the direction of where Mr. Stauffer was killed.”

On the day of the accident, Cooksey reviewed his camera footage to “see if what was on [his] camera would be relevant to what [the police] were doing, their investigation.” After reviewing the footage, Cooksey testified that he “called the sheriff’s office and told them” about the footage, and that shortly thereafter, an individual from the sheriff’s office came and secured the footage from his system. Cooksey also reviewed several still shots

of the footage at trial and positively identified them as being accurate representations of the view from his Point Lookout Road home.

The Cooksey video was secured on the day of the accident by Barnard, the same crime lab technician who processed the red pickup truck. Barnard testified that when she arrived at the Cooksey residence, she first checked the time displayed on the surveillance system against the current time displayed on her watch and noticed that the camera surveillance time was ahead by five minutes. With this knowledge in hand, Barnard located and downloaded the footage from that morning to a USB drive and secured it in police storage.

Here, through a combination of “silent-witness” type authentication testimony and circumstantial evidence, there was “sufficient evidence for a reasonable juror to find more likely than not that the evidence is what it is purported to be,” *Mooney*, 487 Md. at 708, such that the circuit court’s decision to admit the Cooksey video was not “clearly against the logic and effect of facts and inferences before the court.” *King*, 407 Md. at 697.

At trial, Cooksey testified that there were multiple cameras on the outside of his home, some facing northward along Point Lookout Road and some facing southward. Thus, as in *Mooney*, the video was obtained the day of the incident “from an individual with a camera mounted on the exterior wall of his residence near the crime scene.” 487 Md. at 731. The fact that the video was recovered “from a source not connected to either [the victim] or [the defendant], or the police, supports the conclusion that there was sufficient circumstantial evidence for a reasonable juror to find by a preponderance of the evidence that the video was what it was claimed to be[.]” *Id.* at 733.

Further supporting authentication of the video was Cooksey’s testimony about the type and quality of the cameras, as well as Barnard’s testimony as to how she downloaded the footage. Cooksey explained that the cameras were “five-megapixel cameras” that recorded continuously and could store “a couple weeks” worth of memory. Before calling the sheriff’s office, Cooksey reviewed the footage to determine whether it would be relevant to the police investigation. Determining that it was, he called the sheriff’s office and informed them of the footage. Then, Barnard testified that she arrived at the home, verified the accuracy of the date and time of the footage, and downloaded it to a USB drive that was stored in evidence for safekeeping. The fact that each step of this process was testified to by the individuals who owned and retrieved the footage from the cameras provides further evidence that the video was what it was purported to be.

Finally, in addition to the testimony of Cooksey and Barnard, several still shots from the video were admitted into evidence, purporting to show the view from the Cooksey residence. Cooksey testified that the still shots were an accurate depiction of the view from his home. Additionally, Miller’s Cabinets is across the street from the Cooksey residence and, albeit from a different angle, the Miller’s Cabinets video purportedly shows the same events, from the same time as the Cooksey video. This provided even further circumstantial evidence to corroborate the authenticity of the Cooksey video. For these reasons, the circuit court did not abuse its discretion when it admitted the Cooksey video into evidence.

B. The Miller’s Cabinets Video

Cherrico also argues that the circuit court abused its discretion in admitting video footage from Miller’s Cabinets. While storeowner Glenn Miller did testify that he reviewed

the video before calling the police, Cherrico contends that “Miller did not provide any of the other information necessary to establish even slightly that the video recordings were accurate and authentic.” That is so, Cherrico argues, because “Miller provided no other information regarding the surveillance system, what cameras it used, how the system worked or how accurate the video recording was.” The State, however, contends that the Miller’s Cabinets video was admissible because “Miller described the security system and explained that police downloaded the video footage directly from the system’s hard drive.” The State added that the authenticity of the Miller’s Cabinets video was bolstered by the testimony of crime lab technician John Butterfield and the video footage from the two other sources.

At trial, Miller testified that there are cameras located in front of and around the Miller’s Cabinets building. He explained that the cameras are “for the most part continuous[ly] recording.” Miller at some point became aware that there was an investigation into a fatality on Point Lookout Road, and when law enforcement asked if they could download video recordings from his cameras, Miller gave them permission to do so. Miller testified that he watched the video prior to law enforcement’s extracting it, but that at the time, he did not know what the police were looking for. Miller was also shown two still shots from the Cooksey video, purportedly showing Miller’s Cabinets across the street. Miller positively identified Miller’s Cabinets in the photos by drawing a circle around what he identified as Miller’s Cabinets.

On October 29, 2021, Corporal Jason Smith of the St. Mary’s County Sheriff’s Office requested the assistance of Butterfield in recovering the footage from Miller’s

Cabinets. Corporal Smith, who had already watched the footage, identified for Butterfield the date and times of the video that he wished to be copied. Butterfield first checked the time displayed on the live feed against the actual time and determined that the time displayed on the cameras was off by one minute. Knowing this, Butterfield then found the requested video within the surveillance system, copied the video onto a USB drive, and ensured that the video had copied correctly and that the files were the ones that had been requested. The USB was then secured in evidence. Corporal Smith was with Butterfield while this took place to ensure the correct time period was copied.

Here, there was “sufficient evidence for a reasonable juror to find more likely than not that the evidence is what it is purported to be,” *Mooney*, 487 Md. at 708, such that the circuit court’s decision to admit the Miller’s Cabinets video was not “clearly against the logic and effect of facts and inferences before the court.” *King*, 407 Md. at 697. First, as with the Cooksey video, the fact that the Miller’s Cabinets video was obtained “from a source not connected to either [the victim] or [the defendant], or the police, supports the conclusion that there was sufficient circumstantial evidence for a reasonable juror to find by a preponderance of the evidence that the video was what it was claimed to be[.]” *Mooney*, 487 Md. at 733.

Miller also provided testimony about the locations and capabilities of the cameras at Miller’s Cabinets, testifying that they are located in front of and around the building, that they record continuously, and that he watched the video footage before handing it over to the police, indicating that the cameras were properly functioning on the day in question. Butterfield then testified in detail about the process by which he downloaded the video and

securely stored it on a USB drive, explaining that he ensured the accuracy of the time on the video down to the minute. Further bolstering the authenticity of the Miller’s Cabinets video is the Cooksey video, captured from across the street, which showed the same individual walking down Point Lookout Road toward Miller’s Cabinets just moments before he was captured on the Miller’s Cabinets video. For all these reasons, the circuit court did not abuse its discretion in admitting the Miller’s Cabinets video into evidence.

C. The Third Base Video

The last video at issue in this case is the Third Base video. Unlike the Cooksey and Miller’s Cabinets videos, the Third Base video was captured further down Point Lookout Road, away from the accident itself.

Cherrico argues that there was insufficient evidence to authenticate the Third Base video. In support, he points to the following facts: (1) no one at Third Base testified that they watched the video tape; (2) there was no evidence that store manager Vijay Gulati, who testified at the trial, was in the store at the time of the recordings at issue; (3) Gulati testified that he did not know the brand of camera he used; (4) Gulati knew nothing of how the police transferred or copied the surveillance video; and (5) Gulati did not identify the footage as a true and accurate recording of what happened in the store that morning. The State contends that there *was* sufficient evidence to authenticate the Third Base video, pointing specifically to the combination of Gulati’s and Butterfield’s testimony, as well as corroborating video footage from Miller’s Cabinets and the Cooksey residence that provided circumstantial evidence of the Third Base video’s authenticity.

At trial, Gulati testified that there are eight surveillance cameras inside the Third Base convenience store, and four cameras outside of the store. Gulati added that the cameras are “motion recording” cameras, meaning that they are triggered when motion is detected. He explained that the surveillance system was operational on the day of the accident. Gulati was then shown several still shots from the various cameras located inside and outside of Third Base, and he positively identified them as depicting the views from inside and outside of the store. He explained that he knew the video was from the day of the accident because it had a date stamp of October 27, 2021. Gulati then testified that he gave the police permission to download the footage from the Third Base cameras, but that he did not personally review the footage beforehand.

Butterfield testified to the process of downloading the footage from the Third Base surveillance system, which was similar to his process of downloading the Miller’s Cabinets video. First, Butterfield testified that he checked the date and time displayed on the surveillance cameras against the actual time, and determined that the cameras were off by twenty-two minutes. After adjusting for the time discrepancy, Butterfield selected the date and times for the requested video, verified its accuracy, downloaded it onto a USB drive, and secured the USB in evidence.

Here, as with the other videos, there was “sufficient evidence for a reasonable juror to find more likely than not that the evidence is what it is purported to be,” *Mooney*, 487 Md. at 708, such that the circuit court’s decision to admit the Third Base video was not “clearly against the logic and effect of facts and inferences before the court.” *King*, 407 Md. at 697. Again, the authenticity of the Third Base video is bolstered by the fact that it

was recovered from a source not connected to the defendant, the victim, or the police. Furthermore, Gulati explained how the Third Base cameras worked, and how they were secured. He testified about the number and locations of Third Base’s surveillance cameras, and added that the cameras are triggered by motion. He explained that the cameras were operational on the day of the accident, and that the video footage is password-protected. He also testified that the video footage recovered by police had a date stamp of October 27, 2021.

As to the extraction of the video, Butterfield again detailed the process of downloading and securing the footage on a USB drive. Gulati’s positive identification of the view from inside and outside of Third Base, based on still shots from the surveillance cameras, also supports the video’s authenticity. Finally, eyewitness testimony from Officers Davis and Alvey, placing Cherrico inside Third Base at the same time he is seen there on the video, provided pictorial testimony-style evidence of the video’s authenticity. For these reasons, the circuit court did not abuse its discretion in admitting the Third Base video into evidence.

II. The Evidence Sufficed to Convict Cherrico

Cherrico argues that the evidence was insufficient to convict him for two reasons. First, he contends that the evidence was insufficient for a jury to find, beyond a reasonable doubt, that he was the person driving the red pickup truck that hit and killed Mr. Stauffer. Alternatively, Cherrico argues that if he *was* the person driving the red pickup truck, the evidence was insufficient for a jury to find, beyond a reasonable doubt, that he was impaired by alcohol when the accident took place. The State, on the other hand, contends

that the evidence sufficed to prove that Cherrico was the driver who struck and killed Mr. Stauffer, and that he was impaired by alcohol when he did so.

When reviewing sufficiency of evidence to convict, it is not this Court’s role to determine whether we believe the evidence at the trial established guilt beyond a reasonable doubt. *McGagh*, 472 Md. at 194. The “fact-finder ... possesses the ability to choose among differing inferences that might possibly be made from a factual situation and this Court must give deference to all reasonable inferences the fact-finder draws, regardless of whether we would have chosen a different reasonable inference.” *State v. Suddith*, 379 Md. 425, 430 (2004) (internal quotation marks and citation omitted). Thus, our sole focus is on determining whether “*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *McGagh*, 472 Md. at 194 (quoting *Manion*, 442 Md. at 430) (emphasis in original).

Under this deferential standard of review, we “view[] not just the facts, but ‘all rational inferences that arise from the evidence,’ in the light most favorable to the” State. *Smith v. State*, 232 Md. App. 583, 594 (2017) (quoting *Abbott v. State*, 190 Md. App. 595, 616 (2010)). This means that “we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence. We defer to the jury’s inferences and determine whether they are supported by the evidence.” *Id.* at 185 (internal citations omitted).

A. There was Sufficient Evidence to Find, Beyond a Reasonable Doubt, that Cherrico was the Person Driving the Red Pickup Truck that Hit and Killed Mr. Stauffer

We hold that there was sufficient evidence to find, beyond a reasonable doubt, that Cherrico was the operator of the red pickup truck that struck and killed Mr. Stauffer. The

evidence, when viewed in the light most favorable to the State, tells the following story. On the night of October 26, 2021, and into the early morning hours of October 27, 2021, Cherrico was at the home of Robert Nelson, whose red Chevrolet Silverado pickup truck was parked outside of the home. Cherrico was there until at least 3:00 a.m. on October 27, 2021. Then, between 6:00 and 7:00 a.m. on October 27, 2021, both Cherrico and the red pickup truck were reported missing. At 7:30 a.m., Nelson's red Chevrolet Silverado was seen swerving into oncoming traffic on Point Lookout Road, where a horse and buggy was approaching from the opposite direction. Moments later, the truck was in a ditch, the buggy was destroyed, and Mr. Stauffer was found dead.

Multiple eyewitnesses saw a white man in a sweatshirt standing by the driver's side of the truck immediately after the crash, and then leave without speaking to anyone. Just minutes after the crash, camera footage from the Cooksey residence and Miller's Cabinets showed a white man in a gray sweatshirt, light blue jeans, and black shoes walking southbound toward Third Base. About fifteen minutes later, Cherrico emerged from the woods behind Third Base and entered the store wearing a gray t-shirt, light blue jeans, and black shoes. At Third Base, Cherrico's face, pants, and shoes were covered in fresh blood.

A rational trier of fact could infer that Cherrico was the driver who struck Mr. Stauffer, and that he walked to Third Base from the crash site, based on the following facts. First, Nelson had allowed Cherrico to drive his truck in the past, and Cherrico was overheard the night before asking Nelson for a ride home. Second, there was fresh blood on Cherrico's face and clothing when he arrived at Third Base about twenty minutes after the crash. Third, Cherrico was wearing the same pants and shoes as the individual seen

walking down Point Lookout Road immediately after the crash. Fourth, the individual walking down Point Lookout Road and the individual seen standing by the truck after the crash were both reportedly wearing a sweatshirt.⁸ And fifth, when questioned by police, Cherrico claimed that he had arrived with Woody, but both Woody’s testimony and the Third Base surveillance footage contradict this claim.

Considering all of this evidence, a rational trier of fact could conclude, beyond a reasonable doubt, that Cherrico was the person driving the red pickup truck that struck and killed Mr. Stauffer. That does not mean, of course, that a rational trier of fact could not have reached the opposite conclusion. For example, Cherrico was found wearing a gray t-shirt at Third Base, but the suspect was described as wearing an orange sweatshirt, and the individual walking down Point Lookout Road was wearing a gray sweatshirt;⁹ Cherrico’s DNA in the truck could have been there for up to two or three weeks, and Nelson admitted that Cherrico had driven the truck in the past;¹⁰ Nelson’s DNA and wallet were also found in the truck; and Cherrico offered an alternative explanation for the presence of blood on his face and shoes.¹¹

⁸ A rational trier of fact could reasonably infer that, between the time he was seen walking southbound on Point Lookout Road and the time he emerged from the woods fifteen minutes later, Cherrico had discarded the sweatshirt somewhere in the woods.

⁹ The State posits that Cherrico discarded the sweatshirt in the woods before arriving at Third Base.

¹⁰ One could infer from Cherrico’s DNA being found in the truck that it was left there that day, or that it was left there at some earlier time when Cherrico had driven Nelson’s truck. The jury was in the best position to resolve these competing inferences.

¹¹ Again, whether to believe Cherrico’s alternative explanation for the blood is a question of fact best left to the jury.

This evidence could lead a rational trier of fact to conclude that Cherrico was not the driver of the truck. However, the fact that the jury could have drawn a different inference does not mean it was the *only* rational inference. We are concerned here with determining whether *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, and we must “give deference to all reasonable inferences the fact-finder draws, regardless of whether we would have chosen a different reasonable inference.” *Suddith*, 379 Md. at 430. Since that standard was met here, we hold that the evidence was sufficient to find that Cherrico drove the truck that struck and killed Mr. Stauffer.

B. There was Sufficient Evidence to Find, Beyond a Reasonable Doubt, that Cherrico was Impaired by Alcohol when the Accident took Place

Viewing the evidence in the light most favorable to the State, there was also sufficient evidence to find, beyond a reasonable doubt, that Cherrico was impaired by alcohol when he struck and killed Mr. Stauffer. The evidence presented at trial was that on the evening of October 26, 2021, and until at least 3:00 a.m. on October 27, 2021, Cherrico was drinking significant quantities of beer and Fireball whiskey with Nelson. A rational trier of fact could reasonably infer that Cherrico was still feeling the inebriating effects of the alcohol at 7:30 a.m. on October 27, 2021. Further supporting this inference is evidence that: (1) the red pickup truck was “fishtailing” before it crossed into oncoming traffic and struck Mr. Stauffer; (2) Cherrico was “wavering back and forth and ... seemed unsteady on [his] feet” when he got out of the truck; and (3) Cherrico’s breath and person smelled

of alcohol, his eyes were glossy, his speech was slurred, and he was somewhat disheveled when he was found at Third Base.

Other evidence could have led the jury to reach a different conclusion. For example, there was evidence that the road was wet that morning, which a rational trier of fact could infer was the cause of the fishtailing. Additionally, when Officer Alvey met Cherrico at Third Base, she testified that his eyes were “not red,” his speech was “not slurred,” that she did not smell alcohol on his breath, and that Cherrico was able to walk backward without swaying. Again, a rational trier of fact could draw an inference from this evidence that Cherrico was not impaired by alcohol, but that does not mean it was the only reasonable inference. Since the jury could have found, beyond a reasonable doubt, that Cherrico was impaired when he struck and killed Mr. Stauffer, we hold that the evidence was sufficient.

**JUDGMENT OF THE CIRCUIT COURT
FOR ST. MARY’S COUNTY IS
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**