

Circuit Court for Baltimore City  
Case No. 117179005

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 876

September Term, 2018

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CHARLES WILLIAMS

v.

STATE OF MARYLAND

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Berger,  
Arthur,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 11, 2019

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

A jury in the Circuit Court for Baltimore City convicted Charles Williams, appellant, of first-degree assault. On appeal, Mr. Williams presents one question for our review:

Did the trial court err in admitting irrelevant and prejudicial excerpts of a jail call?

We find no error or abuse of discretion in the ruling of the trial court. Accordingly, we shall affirm.

### **BACKGROUND**

Mr. Williams was arrested for assaulting Leonard Miller, the father of his girlfriend’s children, with a bat. After his arrest, Mr. Williams called his girlfriend from jail, on a recorded line, encouraging her not to show up at trial, then instructing her on what to say if she did come to court to testify, and asking her to tell Mr. Miller to testify that Mr. Williams did nothing to him, and that it was a case of mistaken identity.

Prior to trial, defense counsel moved in limine to exclude from evidence portions of the recorded jail call in which Mr. Williams told his girlfriend that he made the call using someone else’s State Identification Number because he was aware that calls were being recorded and he could not “really talk to her over the phone” using his own identification number. Defense counsel argued that the evidence was irrelevant in light of an offer, made by the defense but rejected by the State, to stipulate to the authenticity of the recording and that Mr. Williams was the caller. After the recording was played for the court, the court denied the motion, finding that the statements were “an integral part of the [jail call] and part of its internal authentication,” and that the evidence was not prejudicial. The recording

of the call was admitted into evidence at trial and played for the jury, over defense counsel’s objection.

### DISCUSSION

“Evidence is relevant if it tends to ‘make the existence of any fact that is of consequence to the determination of the action more probable than it would be without the evidence.’” *Walter v. State*, 239 Md. App. 168, 198 (2018) (quoting Maryland Rule 5-401). A ruling that evidence is relevant is reviewed de novo. *Id.*

Relevant evidence may be excluded, however, “if its probative value is substantially outweighed by the danger of unfair prejudice[.]” Md. Rule 5-403. “Probative value is outweighed by the danger of ‘unfair’ prejudice when the evidence produces such an emotional response that logic cannot overcome prejudice or sympathy needlessly injected into the case.” *Newman v. State*, 236 Md. App. 533, 550 (2018) (quoting Joseph F. Murphy, Jr., Maryland Evidence Handbook, (3d ed., 1999), p. 181) (emphasis deleted). The “balancing between probative value and unfair prejudice is something that is entrusted to the wide discretion of the trial judge.” *Id.* at 556 (quoting *Oesby v. State*, 142 Md. App. 144, 167-68 (2002)).

Mr. Williams asserts that, had his stipulation been accepted, there was no need for the State to prove that, although the recorded call was associated with an identification number assigned to someone other than Mr. Williams, Mr. Williams was the person speaking. He contends that “without the need for authentication,” evidence of his “purported attempt to conceal his identity while discussing the details of his case” were

“more prejudicial than probative and completely irrelevant.”<sup>1</sup> Mr. Williams suggests that the rationale in *Carter v. State*, 374 Md. 693 (2003) is “instructive” on the issue before us.

In *Carter*, the defendant was charged with possession of a regulated firearm by a person with a previous conviction for a crime of violence, specifically, armed robbery. *Id.* at 698. The defendant offered to stipulate to the underlying conviction in order to eliminate the potential for prejudice, but the State rejected the offer to stipulate, and was permitted to introduce evidence that the defendant had been convicted of armed robbery. *Id.* at 701-02. The Court of Appeals held that the trial court abused its discretion in admitting details of the prior conviction, holding that when the defendant admits or the parties stipulate that a defendant has a previous conviction that disqualifies him or her from possessing a regulated firearm, the trial judge should inform the jury of that fact without “describ[ing] the previous conviction with any more particularity.” *Id.* at 721-22. The Court reasoned

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<sup>1</sup> Mr. Williams’s appellate claim that evidence in dispute constituted a “prior bad act” within the meaning of Maryland Rule 5-404(b) was not preserved for our review as defense counsel did not raise the issue at trial. *See Ware v. State*, 360 Md. 650, 675 (2000) (where appellant never argued below that testimony was inadmissible under Rule 5-404(b), issue not preserved for appellate review), *cert. denied*, 531 U.S. 1115 (2001); *Jeffries v. State*, 113 Md. App. 322, 341 (holding that a party who objected to testimony at trial only as to general relevance could not argue for the first time on appeal that the testimony was inadmissible evidence of other bad acts), *cert. denied*, 345 Md. 457 (1997).

Mr. Williams also contends that the trial court erred in overruling defense counsel’s objection, on relevancy grounds, to a portion of the recorded jail call in which he is “talking about what was included in his discovery and discussing certain pieces of evidence.” Mr. Williams does not point to the specific statements that he claims were irrelevant, and does not set forth any legal argument supporting this claim of error. Accordingly, we need not address this contention. *See Diallo v. State*, 413 Md. 679, 692-93 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal.” (citation omitted)).

that, in such circumstances, details of the nature of the previous conviction had “negligible probative value” and could result in unfair prejudice to the defendant by “possibly luring the jury ‘into a sequence of bad character reasoning.’” *Id.* at 721 (quoting *Old Chief v. U.S.*, 519 U.S. 172, 185 (1997)).

Mr. Williams asserts that “[t]he import of *Carter* to the instant case is clear,” in that, “the trial court erred in allowing the State to present the evidence [that he made the call using someone else’s identification number] where the stipulation would have achieved exactly the same end.” The State maintains that *Carter* is distinguishable because there, the proposed stipulation to the prior disqualifying conviction satisfied the State’s burden to prove that element of the charged offense, and the details of the underlying conviction were otherwise irrelevant and unduly prejudicial. The State asserts that here, the disputed evidence “had much more probative value than just authentication; it demonstrated consciousness of guilt.”

We agree with the State that the rationale in *Carter* does not apply to the issue before us. The fact that Mr. Williams used someone else’s identification number to make his incriminating phone call had more than “negligible probative value.” Evidence that Mr. Williams apparently attempted to influence witness testimony in his favor while intentionally trying to conceal those efforts from the State was relevant, as the State posits, to demonstrate consciousness of guilt. *See Thomas v. State*, 397 Md. 557, 577 (2007) (evidence that “could support an inference that the defendant’s conduct demonstrates a consciousness of guilt” is relevant and admissible); *Wright v. State*, 312 Md. 648, 654-55 (1988) (“evidence showing that the defendant used a false name to conceal his identity

following the commission of a crime may, depending on the circumstances, constitute relevant evidence on the issue of consciousness of guilt.”). We find no error in the trial court’s conclusion that the evidence in question was relevant, and no abuse of discretion in the court’s determination that the probative value of the evidence outweighed any potential for prejudice.

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