

Circuit Court for Calvert County
Case No. C-04-CR-22-000156

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1081

September Term, 2023

TERRANCE YANCEY

v.

STATE OF MARYLAND

Graeff,
Leahy,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: October 10, 2025

* This is an unreported opinion. The 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).

In the early morning of June 13, 2022, Terrance Yancey was in the bedroom of his romantic partner, Autumn Anderson, when another man suddenly entered the room. Yancey shot the other man sixteen times, killing him. The decedent was Tyree Richardson, Anderson's former boyfriend and the father of her child. Yancey fled from the house and was arrested the following day. He was subsequently indicted on eleven criminal charges in connection with Richardson's death, including murder, use of firearm in the commission of a crime of violence, reckless endangerment, altering physical evidence, and handgun on person.

Yancey was tried before a jury in the Circuit Court for Calvert County over seven days beginning on April 10, 2023. Yancey argued that he reasonably believed he was in danger and that he killed Richardson in self-defense. The State, on the other hand, contended that Yancey's actions were not justified by self-defense. Yancey was ultimately acquitted of first- and second-degree murder, but convicted of voluntary manslaughter, use of a firearm in the commission of a crime of violence, altering physical evidence, and handgun on person. He was also convicted on four counts of reckless endangerment and sentenced on all of his convictions on July 28, 2023. Yancey timely filed this appeal and presents four questions for our review, which we have re-phrased as follows:¹

¹ The questions presented were, as originally phrased:

1. Did the Circuit Court err in permitting crime scene technician Kelcey CST Ward to offer expert testimony as to the location of the shooter and the position of the alleged victim?
2. Did the trial court err in allowing the State, over objection, to admit speculative evidence?

1. Did the trial court abuse its discretion in permitting the crime scene technician to offer expert testimony as to the location of the shooter and the position of the alleged victim?
2. Did the trial court err or abuse its discretion in allowing a witness to testify that he saw a gun-shaped object in Yancey's pocket on the evening after the shooting?
3. Did the trial court err or abuse its discretion in admitting the audio portion of a body camera recording and a 911 call?
4. Did the trial court abuse its discretion in denying Yancey's request to issue a jury instruction on mistake of fact?

We discern no error or abuse of discretion in the trial court's rulings' therefore, we shall affirm the judgments.

BACKGROUND

The following background is based on the evidence presented during Yancey's jury trial. During its case-in-chief, the State called 19 witnesses, including Anderson, Christopher Wilson, Deputy Joshua Newton, and Crime Scene Technician (CST) Kelcey Ward. After the State rested, the court granted Yancey's motion for judgment of acquittal as to the charge of altering physical evidence by concealing a handgun (Count 10). Yancey then testified on his own behalf. The defense did not call any other witnesses.

Before the Shooting

Autumn Anderson met Tyree Richardson in 2016, when they were both fourteen

-
3. Did the trial court err in allowing multiple instances of inadmissible hearsay that were unduly prejudicial?
 4. Did the trial court err in refusing to instruct the jury on mistake of fact?

years old. They began dating in 2018 and dated for over five years, although there were frequent breakups and reunions. During one period of separation in the summer of 2019, Anderson met Terrance Yancey and began a romantic relationship with him. At the end of the summer, Richardson reached back out to Anderson and the two rekindled their relationship. Anderson continued to talk to Yancey until January 2020. In March 2020, Anderson moved in with Richardson and his parents and became pregnant with Richardson's child. The child was born in January 2021. In November 2021, Anderson, Richardson, and their child moved to a townhouse in Crofton for a time, and eventually moved into Anderson's mother's house on Lakeside Court. Anderson's sister, Jaycie Cherry, lived there with them. Anderson and Richardson were not given a key and got in and out of the house using a key code.

Richardson decided to move out on June 6, 2022, after he discovered that Anderson had been talking to Yancey. Richardson went to live with his parents but left some personal belongings, like clothes and shoes, at Anderson's residence. Anderson and Richardson agreed to share custody of their child, with a hand-off every five days.

Events of June 12 and 13, 2022

On June 12, 2022, Anderson picked her child up from Richardson's home, so the child could go on a trip to Florida with Anderson's mother. Anderson continued to talk to Richardson throughout the day through Instagram, coordinating the child's schedule and telling Richardson how to contact her mother during the trip. That evening, between 10:00 and 11:00 p.m., Anderson picked up Yancey in her car and brought him to her house.

Anderson and Yancey hung out for a few hours with Cherry and Cherry's friend, Chad. The four ate, talked, and watched a movie. At 2:47, Anderson and Yancey went upstairs to her room and went to sleep.

Anderson woke up to gunshots. At trial, she testified that she saw Yancey standing upright in the bed with a black handgun, repeatedly shooting at the doorway, where Richardson was standing. She then saw Richardson's body fall to the ground. Richardson did not have a weapon. Anderson ran out of the room, went to her sister's bedroom, and whispered for her sister to call the police. When Anderson was outside the bedroom door, Yancey ran past her in the hallway and went downstairs. He fumbled with his shoes and asked Anderson, "Where's my phone?" Yancey left wearing Anderson's pink pajama pants and carrying his clothes.

Cherry called 911, and the 911 operator instructed her about CPR procedures. As Anderson laid out Richardson's body for CPR, she saw multiple gunshot wounds.

The police arrived minutes later. Deputy Joshua Newton, the first officer to arrive at the scene, saw Richardson's body lying "[i]n between the bed and the wall[,]" with his head "facing towards the opening of the door." He also observed multiple gunshot wounds to Richardson's chest, one gunshot wound to his right arm, and shell casings next to his right leg. Deputy Newton checked Richardson's pulse and pronounced him deceased. Deputy Newton and three other officers, including Deputy DeSantis, subsequently searched the house, looking for a potential suspect.

Yancey testified that he was lying in bed with Anderson when he heard the bedroom

door “bust open.” He saw a shadowy figure “coming in hot” and raising its right hand. Yancey “scoot[ed] back to create some distance,” grabbed his gun from under the pillow, and started shooting. According to Yancey, he was sitting on the bed with his back against the wall when he started shooting and then gradually moved to a standing position on the bed. Yancey fired all sixteen bullets in the magazine, and Anderson was behind him the entire time he was firing. He then ran downstairs “to see if anybody else was in the house,” went back upstairs, and only then recognized the person he had shot as Richardson. Anderson told Yancey to leave, and he got his hoodie from her and went back downstairs. He briefly returned upstairs to get his phone, and then went outside. Upon exiting the house Yancey realized that he had no shoes on, but the door was locked and he was unable to get back in. He then heard sirens and started running through backyards. He stayed in someone’s backyard until the next day and then went to a gas station. Along the way, he threw his gun into the woods.

At approximately 2:45 a.m. on June 14, 2022, Yancey was arrested at the gas station. He was subsequently indicted and was tried from April 10 to April 18, 2023.

Christopher Wilson’s Testimony

Christopher Wilson, Anderson’s neighbor, testified that at approximately 9:00 p.m. on June 13, 2022, he became aware that someone was at his front door. He opened the door and saw “[a] Black gentleman wearing a white hoodie with pink boxers. He was dirty on his legs. He was wearing no socks or no shoes.” According to Wilson, “[t]he gentleman had asked if he could borrow a telephone to make a phone call to have a ride come pick

him up. He had claimed that he had been car-jacked and robbed.” Wilson offered to call the police, but the man declined. Wilson surreptitiously called the police anyway, telling the man that his phone was dead. Wilson “understood the day’s prior events” and “was trying to keep the individual there until the police had shown up.” Wilson noticed that the longer the conversation took, the more agitated the man became.

Over Yancy’s objection, Wilson testified that at the end of the interaction he “felt threatened” because he “felt like [the man] had a weapon.” Wilson stated that the man “had one hand in his sweatshirt pocket, in the hoodie pocket and the imprint or the – within his hand looked like to be more than his hand. Any my – I believed that he had a gun in his pocket.” Wilson explained that he believed it was a gun because of “[t]he way that the printing, the – what it looked like was protruding from an outward force of sweatshirt.” He stated that the definition of the lines in the sweatshirt “resembled a handgun.” After Wilson saw what he believed to be a handgun in the man’s sweatshirt, he locked the door, and the man left.

CST Kelcey Ward’s Testimony

Kelcey Ward was the crime scene technician dispatched to the Lakeside Court home shortly after the shooting. CST Ward testified that she had been employed at the Calvert County Sheriff’s Office for four years and had previously worked as a crime scene investigator in Prince George’s County for seven years. She received a certification in crime scene investigation in 2011, engaged in a six-month field training program in Prince George’s County, and responded to “close to a thousand” crime scenes over the course of

her career, including “close to 350” homicide investigations. CST Ward served as an instructor at the Southern Maryland Criminal Justice Academy, where she instructed academy recruits on the field of forensic science.

On June 13, 2022, at approximately 4:55 a.m., CST Ward was dispatched to Anderson’s home to investigate a reported homicide. She conducted a preliminary walkthrough of the residence and took photographs to document evidence at the crime scene. She noticed visible injuries on Richardson’s body, various bullets and casings on the ground near the body, and multiple “defects” in the wall where bullets may have passed through. Surrounding the defects, CST Ward saw what appeared to be a blood spatter. She did not move any of the evidence until a forensic investigator from the medical examiner’s office arrived, at which point the investigator repositioned Richardson’s body to conduct a full examination. During the examination, CST Ward noticed that Richardson’s left sock had what appeared to be an impact blood spatter on the bottom. CST Ward collected the sock for analysis to prevent it from becoming saturated by other bodily fluids during transport. She also collected a variety of other evidence from the scene, including sixteen bullet casings.

CST Ward conducted a bullet trajectory analysis at the scene of the shooting. At trial, she explained the process of inserting “trajectory rods” where a bullet passed through an object to determine the direction the bullet passed from. CST Ward stated that “[i]n addition to several shooting investigations and on-the-job training,” she also took a practical course on incident reconstruction. She described the function of a FARO Laser

Scanner, the device she used to digitally recreate the scene of the shooting. CST Ward stated that she had utilized laser scanners since around 2013, and the FARO laser scanner in particular since 2017. She stated that she took “[m]ultiple 40-hour courses” for “a total of 160 hours” on how to use the machine, how to document the scene, and how to use the software that registers the scans. She said the police “utilize the 3D scanner for every homicide and officer-involved shooting[,]” and she had responded to “hundreds of those.” Following voir dire, CST Ward was allowed to testify as an expert in the areas of bullet path trajectory analysis and use of the FARO laser scanner and accompanying software.

CST Ward testified that at the scene of the shooting, she looked for “bullet wipes” – black marks often left by bullets when they enter objects such as walls – as well as other evidence of entrance and exit holes. She documented each hole in the wall and then inserted a “trajectory rod,” a stiff fiberglass rod used to see the pathway the bullet traveled into the wall. She then inserted two “FARO-designed trajectory [spheres]” into each rod and used the FARO laser scanner to capture data points around the rods. The software recognizes the spheres, which it uses to calculate the precise angle of each rod and reconstruct each bullet’s complete line of trajectory. In total, CST Ward inserted trajectory rods into five bullet holes in the wall.² Based on her scan of the room, including the trajectory rods, CST Ward used the FARO software to create a digital recreation of the bedroom in which Richardson was killed. The digital recreation included the bullets’

² CST Ward documented eight defects in the wall, but one defect was made by two different bullets and two defects were just ricochet marks, meaning that trajectory rods could not be inserted into three of the defects.

complete trajectory lines.

Over the Defense's objection, CST Ward testified that if multiple trajectory lines converge in a single area, that indicates that the shots could have all come from that specific area. She continued that if there are multiple areas of convergence, that could indicate that the shooter was moving during the shooting. CST Ward testified that at the scene of the shooting on June 13, there was an area of convergence for three shots coming at an upward angle from behind the bed, opposite the door. She noted that "doesn't necessarily mean the shooter was there, that's just where the gun was fired from." A fourth bullet came at a downward angle from the same direction but at a higher elevation, and a fifth bullet came at a downward angle from a position closer to the center of the bed. CST Ward explained that "the shooter could be moving, so there's no way to tell which shot came first, but you can narrow down the different areas shots were fired from." She stated that based on the trajectories she observed, the corner of the room was "a possible location for someone to have fired the shots."

Next, CST Ward testified about her blood spatter analysis. She stated that she took a 40-hour bloodstain pattern analysis course as part of her crime scene investigation certification. She took additional courses in bloodstain pattern analysis and worked under other bloodstain pattern analysis at the Prince George's County Police Department. CST Ward explained that "bloodstain pattern analysis occurs at almost every crime scene," and she had investigated "hundreds of homicides." However, only "12 to 15 warranted a full bloodstain analysis." CST Ward stated that she was a member of the International

Association for Bloodstain Pattern Analysts, and that she had been qualified to testify as an expert in bloodstain pattern analysis in 2017. After voir dire, CST Ward was admitted without objection as an expert in the field of bloodstain pattern analysis.³

CST Ward testified that she recovered Richardson’s left sock from the scene of the shooting because it appeared to have “impact spatter,” which indicated “an object coming into contact with force with blood that essentially splashes in a radius from the impact.” CST Ward opined that the spatter was “not simply drops that fell onto the sock” or “drops of blood that were stepped on.” She continued that “the directional travel of the blood is upward,” which “really should be downward because of gravity[.]” Based on the impact spatter and direction of travel, she concluded that “the foot would’ve had to have been turned up for the droplets to fall on the spot and travel downward.” CST Ward further testified, over the Defense’s objection, that “in order for the foot to be turned up and the blood to have deposited onto the bottom of the foot, that would be consistent with some sort of kneeling or sitting position, any position that would enable his foot to be turned up.”

Verdict

Following the close of all the evidence, the trial court discussed jury instructions with counsel. The parties agreed to a series of instructions based on the Maryland Criminal Pattern Jury Instructions (MPJI-Cr), including instructions on self-defense, imperfect self-defense, and habitation. Yancey also requested that the court give an instruction on mistake

³ Although CST Ward was admitted without objection as an expert on bloodstain pattern analysis, the Defense did object to any testimony about “what position in particular part of the body [was] when the spatter occurred.”

of fact, but the court declined. The court then instructed the jury.

The next day, on the final day of the trial, the jury deliberated and returned its verdict. Yancey was acquitted of first- and second-degree murder, but convicted of voluntary manslaughter (as a lesser-included offense of his first-degree murder charge);⁴ use of a firearm in the commission of a crime of violence (Count 2); reckless endangerment in regard to Richardson (Count 5); reckless endangerment in regard to Anderson (Count 6); reckless endangerment in regard to Cherry (Count 7); reckless endangerment in regard to Chad (Count 8); altering physical evidence by removing a handgun (Count 9); and handgun on person (Count 11). He was sentenced for those convictions,⁵ and timely filed this appeal.

We supplement with additional facts as necessary in our discussion below.

⁴ Under Maryland law, “[b]ecause manslaughter is an implicit, lesser included offense within murder, an ‘indictment or criminal information on which [the defendant] stood trial will never even have mentioned the word manslaughter, let alone have made some more subtle distinction between voluntary manslaughter and involuntary manslaughter.’” *Bowers v. State*, 227 Md. App. 310, 319 (2016) (citing Charles E. Moylan, Jr., *Criminal Homicide Law* § 8.5, at 155–56 (2002)).

Because Yancey was found guilty of voluntary manslaughter, the jury did not return verdicts on the charges of first-degree assault (Count 3) and second-degree assault (Count 4).

⁵ The court imposed the following sentences, all of which were consecutive: (1) 10 years of incarceration for voluntary manslaughter; (2) 20 years, all but 8 years suspended, for use of a firearm in a crime of violence; (3) five years, all suspended, for each of three reckless endangerment convictions with regards to Anderson, Cherry, and Chad. Yancey’s reckless endangerment conviction regarding Richardson (Count 5) was merged into his manslaughter conviction for sentencing purposes.

DISCUSSION

I.

Admissibility of CST Ward’s Expert Testimony

Parties’ Contentions

Yancey argues that the circuit court erred in permitting CST Ward to “offer expert testimony on the location of the shooter or the victim.” First, he contends that CST Ward was “not qualified” to offer that testimony because “she had never testified as to the point of origin for a shooter before,” and she was “similarly” inexperienced in blood spatter analysis. Second, Yancey argues that “even if the technician was qualified to offer an expert opinion, her opinion should not have been admitted because there was not a ‘sufficient factual basis’ to support the expert testimony.” He avers that CST Ward “offered alternate opinions as to the location of Mr. Yancey at the time the shots were fired[,]” rendering her opinion as to his location “speculative.” He points out that “the eyewitness, Ms. Anderson, gave statements that specifically contradicted the findings of [CST] Ward.” Yancey argues that CST Ward “could not opine as to the significance of blood on a sock because the evidence showed that the body of Mr. Richardson had been moved” for attempted CPR, and that CST Ward “lacked a basis” to conclude that Richardson “had been kneeling or sitting down.”

The State contends that CST Ward was “immensely qualified,” noting that she “had been processing and analyzing crime scenes for 11 years[,]” responded to “close to a thousand” crime scenes, and “been trained and certified on the use of the FARO laser

scanner and 3D software.” In response to Yancey’s argument that CST Ward had not previously testified as to the point of origin as a shooter, the State argues that “[CST] Ward . . . had never testified as an expert in this field because other courts had accepted her lay-opinion testimony without qualifying her as an expert.” For similar reasons, the State argues that “[CST] Ward was abundantly qualified” to offer the “common-sense conclusion” that “the position of the blood spatter on the bottom of Richardson’s sock was ‘consistent with some sort of kneeling or sitting position[.]’” The State points out that “[b]efore Yancey’s trial, Technician Ward had testified as an expert about ‘impact spatter, . . . several types of stains, and patterns to create a narrative of the scene[.]’”

The State asserts there was a “sufficient factual basis” to support CST Ward’s testimony because, contrary to Yancey’s contention, it was “founded on an adequate supply of data.” (Quoting *Sissoko v. State*, 236 Md. App. 676, 712 (2018)). The State contends that “[CST] Ward did not offer ‘alternative opinions’ about Yancey’s location[.]” but instead “concluded that the bullets were fired from different locations, which suggested that Yancey had moved during the shooting.” The State avers that CST Ward’s prior testimony and exhibits showing intersecting trajectory lines support her conclusion “that the bullets that travelled along the red lines were fired while the shooter was standing on the floor and that the bullets that travelled along the green and yellow lines were fired while the shooter was more elevated, as if he were standing on the bed.”⁶ The State notes that

⁶ In the exhibits introduced at trial, the three red lines going upward from the corner of the room are represented in red. The line coming downward from a higher elevation in

“[CST] Ward was careful to specify that the areas of convergence did not ‘necessarily mean the shooter was there,’ only that the gun ‘was fired from’ there.” The State argues that any conflict between [CST] Ward’s conclusions and the eyewitness testimony went to the weight of the evidence and not to its admissibility.” The State further contends that CST Ward’s conclusion “that Richardson had to be in some ‘position that would enable his foot to be turned up’” was factually supported by her prior conclusions, to which Yancey did not object, and “a basic knowledge of human anatomy[.]”

Finally, the State underscores that Yancy’s challenge on appeal should be limited to CST Ward’s “conclusions about Yancy’s location and body position when he shot Richardson and Richardson’s body position when the blood spatter landed on the bottom of his sock.” The State points out that, during trial, defense counsel agreed that CST Ward could testify “about the ‘trajectory path’ of the bullets and the manner in which the blood fell onto the sock,” and asserts defense counsel “did not contest ‘the positioning of the rods and the pathways’ of the bullets.”

Standard of Review

“We review a circuit court’s decision to admit expert testimony for an abuse of discretion.” *Abruquah v. State*, 483 Md. 637, 652 (2023) (internal citations omitted). “Under this standard, an appellate court does ‘not reverse simply because the . . . court would not have made the same ruling.’” *State v. Matthews*, 479 Md. 278, 305 (2022)

the corner is represented in yellow, and the line coming downward from closer to the center of the bed is represented in green.

(alteration in original) (quoting *Devincentz v. State*, 460 Md. 518, 550 (2018)). The Supreme Court of Maryland has stated that an abuse of discretion occurs “where no reasonable person would take the view adopted by the trial court[,]” *Md. Bd. of Physicians v. Geier*, 451 Md. 526, 544 (2017). More recently, that Court has stated that a trial court abuses its discretion when it “resolve[s] disputes of material fact in determining whether a sufficient factual basis exists to support an expert’s opinion.” *Oglesby v. Baltimore Sch. Associates*, 484 Md. 296, 333 (2023).

Legal Framework

The admissibility of expert testimony is determined according to Maryland Rule 5-702, which provides:

Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine

- (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education,
- (2) the appropriateness of the expert testimony on the particular subject, and
- (3) whether a sufficient factual basis exists to support the expert testimony.

“To qualify as an expert, one need only possess such skill, knowledge, or experience in that field or calling as to make it appear that [the] opinion or inference will probably aid the trier [of fact] in his search for the truth.” *Donati v. State*, 215 Md. App. 686, 742 (2014) (alterations in original) (quoting *Morton v. State*, 200 Md. App. 529, 545 (2011)). “A witness may be competent to express an expert opinion if he is reasonably familiar with

the subject under investigation, regardless of whether special knowledge is based on professional training, observation, and/or actual experience[.]” *Armstrong v. State*, 69 Md. App. 23, 29 (1986) (quoting *Fitzwater v. State*, 57 Md. App. 271, 281 (1984)).

“Whether the third prong’s requirement of ‘a sufficient factual basis’ has been met requires analysis of two subfactors: (1) an adequate supply of data; and (2) a reliable methodology.” *Matthews*, 479 Md. at 309 (internal citations omitted). In *Rochkind v. Stevenson*, 471 Md. 1, 35-36 (2020) (*Rochkind II*), the Supreme Court of Maryland adopted the *Daubert* standard to evaluate the reliability of expert testimony and outlined ten “persuasive” factors for courts to consider.⁷ Relevant here, a court should evaluate

⁷ In *Rochkind II*, the Supreme Court of Maryland adopted the *Daubert* standard to evaluate the reliability of expert testimony and outlined the following ten “persuasive” factors for courts to consider:

- (1) whether a theory or technique can be (and has been) tested;
- (2) whether a theory or technique has been subjected to peer review and publication;
- (3) whether a particular scientific technique has a known or potential rate of error;
- (4) the existence and maintenance of standards and controls;
- (5) whether a theory or technique is generally accepted;
- (6) whether experts are proposing to testify about matters growing naturally and directly out of research they have conducted independent of the litigation, or whether they have developed their opinions expressly for purposes of testifying;
- (7) whether the expert has unjustifiably extrapolated from an accepted premise to an unfounded conclusion;
- (8) whether the expert has adequately accounted for obvious alternative explanations;
- (9) whether the expert is being as careful as he [or she] would be in his [or her] regular professional work outside his [or her] paid litigation consulting; and

“whether the expert has unjustifiably extrapolated from an accepted premise to an unfounded conclusion” and “whether the expert has adequately accounted for obvious alternative explanations[.]” *Rochkind II*, 471 Md. at 36. “[A] trial court need not admit opinion evidence that is connected to existing data only by the *ipse dixit* of the expert; rather, [a] court may conclude that there is simply too great an analytical gap between the data and the opinion proffered.” *Abruquah*, 483 Md. at 655 (alterations in original) (quoting *Matthews*, 479 Md. at 311).

Analysis

For the reasons explained below, we hold that the trial court did not abuse its discretion in allowing CST Ward to testify about the position from which shots were fired and the position of Richardson’s body when the blood spatter hit his left sock.

1. CST Ward’s Qualifications

CST Ward was plainly “reasonably familiar with the subject under investigation” with special knowledge based on “personal training, observation,” and “actual experience[.]” *Armstrong*, 69 Md. App. at 29 (alteration in original) (quoting *Fitzwater*, 57 Md. App. at 281). In terms of bullet trajectory analysis, CST Ward had been employed as a crime scene investigator for eleven years, responded to “close to 350” homicide investigations, and used a laser scanner at nearly all of them. She received a variety of

(10) whether the field of expertise claimed by the expert is known to reach reliable results for the type of opinion the expert would give.

Rochkind II, 471 Md. at 35-36.

specialized training, including 160 hours of training on use of the FARO laser scanner. CST Ward was certainly more familiar than a typical layperson with bullet trajectory analysis, the FARO laser scanner, and FARO software. Thus, the trial court did not abuse its discretion in concluding her opinion would probably aid the jury in its search for the truth. See *Donati*, 215 Md. App. at 742. CST Ward was similarly qualified in the field of blood spatter analysis; she attended a 40-hour course with hands-on instruction, performed basic blood spatter analysis at “hundreds of homicides,” and performed a full analysis in 12-15 cases. In fact, Yancey did not object to her admission as an expert in blood spatter analysis at trial.

Yancey now argues that CST Ward was unqualified because when she “was *voir dire’d*, it was established that she had never testified as to the point of origin for a shooter before.” The State responds that CST Ward “had never testified as an expert because other courts had accepted her lay-opinion testimony without qualifying her as an expert.” She also testified as an expert in the field of bloodstain pattern analysis in a triple-murder case in 2017. None of that, however, is directly relevant to the question of whether CST Ward was qualified to offer her expert opinion in this case. None of the factors outlined in *Rochkind* are “whether the expert has previously testified as an expert in the given field.” Every expert witness must necessarily have a first time testifying; it would be absurd to bar CST Ward’s testimony merely because she has not previously testified as an expert. As defense counsel pointed out during trial, CST Ward has “done the bullet path analysis at

hundreds of homicides and hundreds of crime scenes . . . [s]he’s engaged in the same trajectory analysis alongside a trajectory specialist.”

Each expert’s qualifications must be evaluated to determine whether they “possess such skill, knowledge, or experience in that field or calling as to make it appear that [the] opinion or inference will probably aid the trier [of fact] in his search for the truth.” *Donati* 215 Md. App. at 742 (alterations in original) (quoting *Morton*, 200 Md. App. at 545). Here, the trial court observed that CST Ward

testified that she’s got an immense amount of training in fields of reconstruction of crime scenes, blood spatter, and all varying types of education. Specifically she’s had a significant amount of training relative to the use of this FARO machine, since she’s had an additional 160 hours of specific training and certification to use the machine, and also to use the software that’s associated with that. And based on -- in accordance with the totality of this witness’ training and experience is the most practical experience the Court is going to find that she is -- is going to be qualified as an expert in testifying bullet path trajectory analysis, as well as the use of the FARO Laser Scanner, as well as the company software, which I believe is the FARO Scanner zoom in 3D . . . as well as the SCENE software. Those are the areas of expertise that she’s been offered in. The idea is, she has more knowledge of reconstruction of these issues than a layperson does. As she has -- as I have gone over here, the practical experience, specific training in this area[.]

The record reflects that the trial court fully and carefully considered CST Ward’s qualifications, and we discern no abuse of discretion in the trial court’s ruling.

2. Factual Basis for CST Ward’s Conclusions

Yancey does not attack the methodology of bullet trajectory analysis or blood spatter analysis, but instead argues that the data collected by CST Ward was insufficient to support her conclusions. We disagree. CST Ward extensively explained the process of

gathering data to create the diagrams entered into evidence, from her documentation of the scene of the shooting, to the insertion of the trajectory rods, to the scan using the FARO laser scanner, to creating a 3D recreation of the scene. CST Ward also explained what an “area of convergence is,” and that “if you have multiple trajectory lines converging in one area and the shooter was stationary, that can tell you that the shots all came from maybe one specific area.” In this specific case, CST Ward used her analysis of the 3D recreation of the scene, including the diagrams entered into evidence, to conclude that three trajectory lines converged into a point near the corner of the room. She thus concluded that “that’s . . . where the gun was fired from.” She did not state that was the location of the person who fired the gun, but offered only that the corner of the room “is a possible location for someone to have fired the shots.” These conclusions followed logically from the data available to CST Ward and her training and experience in bullet trajectory analysis.

Yancey argues that CST Ward testimony was not reliable because she “offered alternative opinions” about Yancey’s location. Using the trajectory rods and the FARO software, CST Ward demonstrated the trajectory of the bullets on State’s Exhibits 313 and 317. These exhibits showed that the bullets were fired from different locations, which suggested that Yancy moved during the shooting. Although CST Ward couched her conclusions in terms of “possibility” and did not state definitively where the shooter was, or what order the shots came in, that does not render her opinion speculative. Her conclusion was grounded in the data she collected and her experience in bullet trajectory analysis. The fact that an expert witness cannot reach a definitive conclusion does not

render their testimony inadmissible. *See Abruquah*, 483 Md. at 698 (holding that firearm examination expert could not testify that bullets were fired from defendant’s gun, but could testify that markings on crime scene bullets were consistent with known bullets fired from defendant’s gun). CST Ward prudently testified to the strongest possible conclusion based the methodology of bullet trajectory analysis and the data available to her. The jury could then weigh her testimony and her conclusion, against her cross examination by defense counsel and in light of other evidence presented at trial, to determine where Yancey was standing when he shot Richardson.

The fact that CST Ward’s conclusions were contrary to Anderson’s testimony did not render CST Ward’s conclusions inadmissible. CST Ward accounted for the alternative explanation that Yancey shot Richardson while sitting in bed; during cross-examination, she testified that “[i]f someone were sitting up shooting in the bed I would expect to -- expect to see different trajectory lines, different angles, and I would expect other evidence to be present as well.” She stated that she “would expect trajectory from that side of the bed to be more upward than we are seeing.” As the State points out, any conflict between CST Ward’s conclusions and Anderson’s testimony “went to the weight of the evidence and not to its admissibility.” The jury could have found that Anderson’s testimony in this regard was not completely reliable, given that she had only just woken up when the shots were fired and was in the midst of a clearly traumatic event. Moreover, we note that CST Ward’s testimony was not entirely inconsistent with Yancy’s own testimony, who stated that, after he began shooting, he “started to stand up” and was “fully standing up” when he

was “still shooting.” The record reveals that CST Ward’s testimony about the possible position of the shooter was carefully qualified and based on a solid factual foundation.

CST Ward’s conclusion about the position of Richardson’s left foot was similarly supported by the evidence and her training and experience in blood spatter analysis. She stated that there are various categories of blood spatter, including transfer, impact, and cast-off spatter. She explained that “impact spatter can result . . . from either a blood-bearing object coming into contact with the surface and the blood will splash into a specific pattern, or if you have trauma occurring and blood is spattered from the wound.” She specifically stated that the stains on the bottom of the sock “were not just transfer stains where blood gets on an object by stepping on it or touching it.” Thus, CST Ward specifically considered and discounted the alternative explanation that the blood was transferred to the sock when Richardson’s body was moved for CPR. She explained that the sock must have been turned upwards for the spatter pattern to be deposited in that fashion. Because Richardson’s sock was attached to his foot, it was a logical conclusion that his foot must have been turned up when the spatter occurred, and therefore he was “on [his] knees or sitting in some fashion.” Accordingly, we conclude that there was no “analytical gap between the data and the opinion proffered[.]” *Abruquah*, 483 Md. at 655 (alterations in original) (quoting *Matthews*, 479 Md. at 311), and the trial court did not abuse its discretion in permitting CST Ward’s testimony about Richardson’s position when he was shot.

II.

Wilson’s Testimony About Gun-Shaped Object

Parties’ Contentions

Yancey contends that the trial court erred when it permitted Christopher Wilson to testify that he “felt threatened” by the man at his door because the man had an imprint in his pocket that Wilson believed to be a handgun. Yancey argues that this testimony was (1) irrelevant, (2) speculative, and (3) unfairly prejudicial. He contends that it was irrelevant because “Mr. Wilson’s feeling of being threatened and his belief that Mr. Yancey had a handgun in his pocket did nothing to establish what happened inside the bedroom at 3903 Lakeside Court.” Yancey argues that the testimony was speculative because Wilson did not have personal knowledge that the man had a gun in his pocket. And he argues that the testimony was unfairly prejudicial because it “served only to paint the picture to the jury that Mr. Yancey was a dangerous, threatening individual running around the neighborhood scaring the neighbors.”

The State avers that Wilson’s testimony was relevant for two reasons: (1) “Yancey’s possession of a handgun while on the run several hours after the shooting corroborated Anderson’s statement that Yancey was present at the shooting and that he used a handgun to kill Richardson”; and (2) it “tended to prove that he had removed evidence from the crime scene, which was another charge against him.” The State argues that Wilson’s testimony was not speculative because it was “based on his personal observations” and “there was a rational connection between Wilson’s observations and his lay opinion.” And

the State argues that the testimony was not unfairly prejudicial because Wilson “did not testify or imply that Yancey threatened him with the gun[,]” nor did he “suggest that Yancey pointed the gun at him.” The State avers that Yancey “fails to show an abuse of discretion here.”

Legal Framework

When reviewing the trial court’s decision to admit evidence, we conduct a two-step analysis. *See White v. State*, 250 Md. App. 604, 645-46 (2021) (quoting *Montague v. State*, 471 Md. 657, 673-74 (2020)). First, we must consider whether the evidence is relevant. *Id.* “Relevance is a question of law, which we review *de novo*.” *Sewell v. State*, 239 Md. App. 571, 619 (2018) (citing *Williams v. State*, 457 Md. 551, 564 (2018)). To be relevant, the evidence must have “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Md. Rule 5-401. “Having ‘any tendency’ to make ‘any fact’ more or less probable is a very low bar to meet.” *Williams*, 457 Md. at 564 (quoting *State v. Simms*, 420 Md. 705, 727 (2011)). Evidence that is not relevant is inadmissible, and the trial court has no discretion to admit such evidence. Md. Rule 5-402; *Smith v. State*, 218 Md. App. 689, 703 (2014).

Next, if the evidence in question is relevant, we determine whether the trial court “abused its discretion by admitting relevant evidence which should have been excluded as unfairly prejudicial.” *Smith*, 218 Md. App. at 704 (internal quotations and citations omitted); *see also* Md. Rule 5-403 (“Although relevant, evidence may be excluded if its

probative value is substantially outweighed by the danger of unfair prejudice[.]”). In this context, “evidence is considered unfairly prejudicial when ‘it might influence the jury to disregard the evidence or lack of evidence regarding the particular crime with which [the defendant] is being charged.’” *Burris v. State*, 435 Md. 370, 384 (2013) (alteration in original) (quoting *Odum v. State*, 412 Md. 593, 615 (2010)). When determining whether the evidence at issue is unfairly prejudicial, we “balanc[e] the inflammatory character of the evidence against the utility the evidence will provide to the jurors’ evaluation of the issues in the case.” *Smith*, 218 Md. App. at 705. Therefore, “[t]he more probative the evidence is of the crime charged, the less likely it is that the evidence will be unfairly prejudicial.” *Odum*, 412 Md. at 615.

In addition to these requirements, pursuant to Maryland Rule 5-602, “a witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness’s own testimony.” When a lay witness offers testimony in the form of opinions or inferences, such testimony must be “(1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue.” Md. Rule 5-701. Put differently, “such testimony must derive from personal knowledge, be rationally connected to the underlying facts; helpful to the trier of fact, and not prohibited by any other rule of evidence.” *Rosenberg v. State*, 129 Md. App. 221, 255 (1999). For example, proper lay opinion testimony may be related to “the appearance of persons or things, identity, the manner of conduct,

competency of a person, degrees of light or darkness, sound, size, weight, distance, and an endless number of items that cannot be described factually in words apart from inferences.” *Walter v. State*, 239 Md. App. 168, 200 (2018) (quoting *Ragland v. State*, 385 Md. 706, 717 (2005)) (emphasis removed).

Analysis

We begin our analysis by examining whether Wilson’s testimony was legally relevant. Evidence is relevant if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Md. Rule 5-401. One of the charges against Yancey was altering physical evidence, specifically in reference to his removal of a handgun from the scene. Wilson testified that at approximately 9:00 p.m. on June 13, 2022, a man came to his door and had “imprinting through his sweatshirt pocket” that “resembled a handgun[,]” and that Wilson believed was a handgun. Yancey had shot Richardson that morning and had not yet been arrested by police, and the man who came to Wilson’s door had a similar appearance: a “gentleman wearing a white hoodie with pink boxers[,]” not wearing any shoes.⁸ Wilson’s testimony therefore made it more probable that Yancey removed a handgun from the scene, a fact of consequence to the jury’s determination of one of the charges against him.⁹

⁸ Wilson never explicitly identified Yancey on the record, but during the defense’s case, Yancey testified that it was him at the door. Yancey stated that he did not have a handgun at that time because he had already left it in the woods.

⁹ Although Wilson’s statement that he “felt threatened” was not directly relevant to the charges against Yancey, this statement helped explain (1) why Wilson believed that the

Having determined that the evidence was relevant, we now examine whether Wilson’s testimony that he “believed that [the man] had a gun in his pocket” was speculative or whether it was based on his personal knowledge. Wilson stated that Yancey “had one hand in his sweatshirt pocket, in the hoodie pocket and the imprint or the –within his hand looked like to be more than his hand.” Wilson later elaborated that “[t]he way that the printing, the – what it looked like was protruding from an outward force of sweatshirt[,]” and that the definition of the lines “resembled a handgun.” Wilson’s opinion that the man had a handgun was directly based on his personal observations and his general knowledge of what a handgun looks like. We conclude that Wilson’s opinion about the “appearance of . . . [a] thing[,]” was a “prototypical example” of proper lay opinion testimony. *See Walter*, 239 Md. App. at 200.

Finally, we must consider whether the trial court abused its discretion in determining that the probative value of Wilson’s testimony was not substantially outweighed by the danger of unfair prejudice. To be sure, Yancey was not charged with the crime of threatening people, and Wilson’s testimony that he “felt threatened” would tend to have an adverse effect on Yancey outside of the charges against him. However, this adverse effect was limited. Wilson did not testify that Yancey actually threatened him or pointed the gun at him, and no other neighbors testified that Yancey came to their door. Thus, Wilson’s

man at the door had a handgun in his hoodie, and (2) why Wilson did not help the man, called the police, and eventually closed and locked the door. Thus, this statement made Wilson’s testimony more credible and thereby made it more probable that Yancey removed a handgun from the scene of the shooting.

testimony did not “paint a picture of Mr. Yancey as violent, dangerous person who went around scaring people.” The inflammatory effect of this testimony was not so strong that it might have “influence[d] the jury to disregard the evidence or lack of evidence regarding the particular crime with which [Yancey was] being charged.”” *Burris v. State*, 435 Md. 370, 383 (2013) (alteration in original) (quoting *Odum v. State*, 412 Md. 593, 615 (2010)). To the contrary, Wilson’s testimony was probative of whether Yancey committed at least one of his charged offenses, *i.e.*, altering physical evidence, by removing the handgun from the crime scene. *See Odum*, 412 Md. at 615 (“The more probative the evidence is of the crime charged, the less likely it is that the evidence will be unfairly prejudicial.”). We cannot say that any prejudice engendered by Wilson’s testimony “substantially outweighed” the testimony’s probative value. In sum, we hold that the trial court did not err or abuse its discretion in admitting Wilson’s testimony that he “believed that [the man] had a gun in his pocket.”

III.

Body-Worn Camera Footage and 911 Call

Relevant Facts

Deputy Newton testified about his observation of the crime scene minutes after the shooting. Deputy Newton stated that Anderson was “hysterical” and “screaming” when he arrived at her home, and described her level of excitement as “[a] 10” on the scale of one to ten. During his testimony, the State introduced an audio-video recording from Deputy DeSantis’s body-worn camera, noting that the recording contained “some scrimmage and

yelling from Ms. Anderson at the scene.” The audio from the body-worn camera footage contained statements made by police officers and the sound of screaming in the background. Defense counsel objected to the audio portion of the footage, arguing that it was “prejudicial at this juncture of the trial” and lacked probative value because the audio demonstrated “really just [Anderson’s] emotional state[.]” The court determined that the police officers’ statements in the footage were inadmissible, but admitted the other portions of the audio to show Anderson’s emotional state at the time. The court reasoned:

All right. I know what I’m going to do. I’m going to grant the motion in part and deny it in part. I’m going to allow the audio that reflects Autumn Anderson’s emotional state at the time because I believe there has been some foundation. I heard testimony from the Deputy here that says she was hysterical was the -- my notes reflect that he said she was hysterical. In fact, when asked the question, what level, level 10. Well, that’s for the Jury to determine what’s that level of hysteria, and believe that portion of the audio gives some context to the testimony that this witness has given.

But with regard to any other comments that are made by the officers as they go through the home, I’m going to have you redact and stop the audio for any of that. I don’t believe it has any value other than it’s hearsay. I believe it’s hearsay.

* * *

But the initial audio that has what -- I think all -- everyone agrees is Ms. Autumn Anderson in -- in state of what was described by the witness as hysteria. I’ll let the Jury make their own decisions. And whether or not she was in that state of hysteria at the time she gave statement, that’s another issue to be resolved.

But he’s -- and I’m suggesting that the Deputy here has testified about that. And I believe that allowing that portion of the video gives some context. So I am going to as I said, grant in part and deny in part and allow that portion of it.

The body-worn camera footage was then played to the jury, with the police officers' statements redacted.

Anderson herself subsequently testified, recounting the events leading up to the June 13 shooting as summarized above. Anderson acknowledged that she initially told the police that Richardson “just busted in the room[,]” although she was actually asleep at the time and did not know how he entered the room. Anderson also testified about the position of Richardson’s body, explaining that although it was initially “sitting up[,]” caught between the bed and the wall, she and Cherry “laid his body flat” for CPR.

During Anderson’s testimony, the State introduced a recording of Cherry’s 911 call, and defense counsel again objected, arguing that the call recording contained “the voice of [Anderson] . . . crying, wailing, screaming, [and] grieving” in the background and is “unfairly prejudicial and inflammatory” while lacking relevance. Counsel further noted that “there are no intelligible statements in this 911 call by [Anderson] other than ‘Oh, my God. Oh, my F-ing God,’ and crying and wailing.” After hearing the parties’ arguments, the court overruled the Defense’s objection, finding that the 911 call recording was “impactful” and sufficiently probative, and explained:

So the Court has to look at this, I think, in separate parts. One is that the Court is required after reviewing the case law from the Supreme Court and the Maryland cases, is whether or not, one, there is an ongoing emergency situation that exists, and the Court finds that that is exactly what is in place.

* * *

The 911 call is an extension of what had occurred moments before. It was unclear as to whether or not there was a possibility -- and, in fact, the

witness that was on the stand here testified, “I was concerned that [Yancey] may shoot me,” at that point in time, and was emergent in that situation. And certainly, it is impactful.

Any evidence is always impactful -- not always. But there is certainly varying degree of impactful testimonies.

But this was a situation where the caller, including this witness, and the Declarant in this matter, [Cherry], were certainly under the influence of this incident that only occurred moments before.

They make this emergency call, this 911 call, and it is recited just as Defense Counsel advised me of what the call is. I’ve listened to the call. But it is an ongoing emergent situation. They don’t know where the assailant is. They don’t know if he is coming back. They don’t know what is going on. They know that the victim in this matter has been drastically injured at this point, whether or not he is alive or not.

* * *

And while . . . I do recognize that the second portion of the tape really addresses some of the medical issues, the medical issues that were going on, and it has been testified to that these chest compressions were being given at the time, but **it gives context as to what occurred afterwards. Why the body of the decedent was moved, why this action was taken and it could -- and I believe it provides some probative value as far as what is going on.**

And there’s also some probative value. And I recognize your objection earlier relative to the witness’ previous audio where she was upset. But it does give context as to what was going on at the time, and what she has testified to, and the impact of what she said, and why she said what she said when she was questioned.

And on those bases, and when I review the case law, and having reviewed the tape, I am going to overrule the objection. I’m going to allow the playing of the 911 tape because I believe it has evidentiary value based on the statements I’ve made here relative to the ruling.

(Emphasis added).

The 911 recording was then played to the jury, in relevant part, as follows:

911 OPERATOR: Okay. Tell me what happened.

[CHERRY]: He was shot. I don't know.

[ANDERSON]: No, no. Please, no.

911 OPERATOR: Okay. Somebody else is getting help started, okay? I'm going to have more questions to ask.

[CHERRY]: No. I need somebody now.

911 OPERATOR: They are getting help started. I'm going to continue to ask questions; okay?

[CHERRY]: Yes.

911 OPERATOR: Are you with him now?

[CHERRY]: Yes, I'm with him.

911 OPERATOR: How old is he?

[CHERRY]: Twenty. Oh, my God. Oh, my God.

911 OPERATOR: Is he awake?

[CHERRY]: No, he is not awake.

911 OPERATOR: Is he breathing?

[CHERRY]: I think so.

911 OPERATOR: Okay. Just to clarify, is he breathing?

[CHERRY]: I don't know. I don't know. No.

[ANDERSON]: Oh, my God. No, baby, no. No, baby, no.

911 OPERATOR: Jaycie. Jaycie. Jaycie.

[CHERRY]: Yes.

911 OPERATOR: Okay. I'm sending the paramedics to help you now. Stay on the line.

[CHERRY]: Okay.

[ANDERSON]: No, no, no.

911 OPERATOR: Jaycie. Jaycie, this is 911. Do you know who shot him or where the other person is?

[CHERRY]: No, no, no, no, no.

911 OPERATOR: Hello?

[CHERRY]: Hello?

911 OPERATOR: Okay. You don't know?

[CHERRY]: No. We don't.

911 OPERATOR: Okay. Is there a weapon there?

[CHERRY]: No.

* * *

911 OPERATOR: Okay. Listen carefully. Lay him flat on his back on the floor. Remove anything under his head.

[CHERRY]: Remove what?

911 OPERATOR: Remove anything under his head. Lay him flat on his back on the floor.

[CHERRY]: He's flat. He's flat.

911 OPERATOR: Okay. Listen carefully, and I will tell you how to do chest compressions.

[CHERRY]: Okay.

911 OPERATOR: Make sure he is flat on his back on the floor as well. Place the heel of your hand on the breastbone right between the nipples.

[CHERRY]: I don't think I can do this.

911 OPERATOR: Jaycie, you have to do this. Place the heel of your hand on his breastbone.

[CHERRY]: Okay.

911 OPERATOR: Place your other hand on top of that hand.

[CHERRY]: Okay. So put my hand on top of the other hand?

911 OPERATOR: Yes. I want you to pump the chest hard and fast at least twice per second until he can breathe. Okay?

[CHERRY]: Tell me how. How many? Come on, Tyree.

911 OPERATOR: 1-2-3-4. I want you to pump every time I'm counting. 1-2-3-4. 1-2-3-4. Keep going.

[CHERRY]: 1-2-3-4. 1-2-3-4. 1-2-3-4. 1-2- 17 3-4. 1-2-3-4.

911 OPERATOR: 1-2-3-4. It's okay. You're doing great. 1-2-3-4. We got a lot of help on the way. Keep going, Jaycie. Okay. Jaycie? Jaycie? Are you still doing compressions?

[CHERRY]: Yes.

911 OPERATOR: Okay. Keep doing those compressions over and over. Don't give up. We're going to keep this going until the paramedics arrive.

[CHERRY]: Okay.

911 OPERATOR: 1-2-3-4. 1-2-3-4. 3

[ANDERSON]: No. No. No. No.

* * *

[CHERRY]: The police are here.

911 OPERATOR: Okay. Are they right with you?

[CHERRY]: No. They are outside. I'm going to go –

911 OPERATOR: Jaycie, are they with you?

[CHERRY]: Yes.

911 OPERATOR: Okay. I'm going to go ahead and let you go.

[CHERRY]: Thank you.

911 OPERATOR: You're welcome.

Parties' Contentions

Yancey argues that body camera audio and 911 call audio were both irrelevant and unfairly prejudicial.¹⁰ First, he argues that the body camera audio was irrelevant because “[i]t did nothing to establish the circumstances of what happened in the bedroom before the officers arrived.” Similarly, he claims that the 911 call audio was not relevant because it was “needlessly cumulative of” Anderson’s testimony—i.e. Cherry called 911 and they tried to perform CPR on Richardson’s body. Yancey further urges that both recordings were unfairly prejudicial because they “inflamed the emotions of the jury.” Additionally, Yancey contends that the admission of these recordings was not harmless error because

¹⁰ Although Yancey states in his question presented and section heading that these recordings were “inadmissible hearsay,” he makes no substantive argument in his brief that the recordings were inadmissible hearsay. “In prior cases where a party initially raised an issue but then failed to provide supporting argument, this Court has declined to consider the merits of the question so presented but not argued.” *State v. Jones*, 138 Md. App. 178, 230 (2001) (quoting *Federal Land Bank of Balt., Inc., v. Esham*, 43 Md. App. 446, 457-58 (1979)). Accordingly, we do not address the hearsay issue.

“[t]here is a real possibility that the court’s admission of the emotional footage . . . may have led the jury to believe that [he] was guilty” and discredit his testimony.

The State disagrees, arguing that the recordings were relevant because “Anderson’s emotional state . . . helped the jury determine her credibility and to decide whether to believe her testimony or to believe Technician Ward’s interpretation of the bullet trajectory evidence[.]” The State avers that “[e]vidence . . . showing that Anderson was ‘hysterical’ at the scene explained why Anderson’s memory contradicted the physical evidence.” It also argues that “[t]he 911 operator’s instructions to [Cherry] about how to perform CPR explained why [CST] Ward found [Richardson’s] body laid out on the floor and not in the seated position described by Anderson.” The State argues that the evidence was not cumulative because “the State is not constrained to forego relevant evidence and to risk going to the fact finder with a watered[-]down version of its case.” (Quoting *Oesby v. State*, 142 Md. App. 144, 166 (2002)).

The State further contends that the recordings were not unfairly prejudicial because “[t]hey were probative of essential facts” and could help the jury determine the critical question of whether Yancey was lying in bed or waiting in the corner when Richardson entered the room. Finally, the State urges that any error was harmless beyond a reasonable doubt because “the jury convicted Yancey only of voluntary manslaughter, meaning that the jury accepted that Yancey believed that Richardson posed an imminent threat of bodily harm, even though that belief was not reasonable.” The State argues that “Anderson’s

screaming after the shooting had no bearing on the reasonableness of Yancey’s perception of danger before the shooting.”

Legal Framework

As previously mentioned, relevancy is a “very low bar.” *Williams v. State*, 457 Md. 551, 564 (2018). However, even relevant evidence may be excluded under Rule 5-403 “if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” Md. Rule 5-503. We review the trial court’s “balancing of probative value against the danger of unfair prejudice for an abuse of discretion[,]” *Browne v. State*, 486 Md. 169, 194 (2023), and reverse only in case of “rare and bizarre exercises of discretion that are, in the judgment of the appellate court, not only wrong but flagrantly and outrageously so.” *Crawford v. State*, 265 Md. App. 374, 394 (2025) (quoting *Cousar v. State*, 198 Md. App. 486, 517-18 (2011)). In doing so, “[w]e determine whether a particular piece of evidence is unfairly prejudicial by balancing the inflammatory character of the evidence against the utility the evidence will provide to the jurors’ evaluation of the issues in the case.” *Smith*, 218 Md. App. at 705.

Significantly, “[e]vidence is never excluded merely because it is ‘prejudicial.’” *White v. State*, 250 Md. App. 604, 645 (2021). Even if evidence is prejudicial, “that does not mean that it was ‘unfairly’ prejudicial such that the probative value of the evidence was substantially outweighed by the danger of unfair prejudice.” *Ford v. State*, 462 Md. 3, 58 (2018). Nor is the evidence considered unfairly prejudicial simply because it “prejudices

one party or the other, in the sense that it hurts his or her case.” *Id.* Rather, in order to qualify as “unfairly prejudicial” evidence under Rule 5-403,

the nature of the evidence must be such that it generates such a strong emotional response from the jury such that the inflammatory nature of the evidence makes it unlikely for the jury to make a rational evaluation of the evidentiary weight. The inflammatory nature of the evidence must be such that the “shock value” on a layperson serving as a juror would prevent the proper evaluation or weight in context of the other evidence.

Urbanski v. State, 256 Md. App. 414, 434 (2022). Overall, in the context of this balancing test, “[w]hat is ‘unfair’ is . . . the incremental tendency of the evidence to prove that the defendant was a ‘bad man.’” *Crawford*, 265 Md. App. at 394 (quoting *Cousar*, 198 Md. App. at 516) (alteration in the original); *cf. United States v. Robinson*, 560, F.2d 507, 514 (2d Cir. 1977) (“Absent counterbalancing probative value, evidence having a strong emotional or inflammatory impact . . . may pose a risk of unfair prejudice because it tends to distract the jury from the issues in the case and permits the trier of fact to reward the good man and to punish the bad man[.]”).

Analysis

Both the body camera audio and 911 call audio meet the “very low bar” for relevancy. Both exhibits were relevant because the accuracy and credibility of Anderson’s testimony were contested at Yancey’s trial, and evidence regarding Anderson’s emotional state immediately after the shooting may explain some of the inaccuracies in her testimony. *Williams*, 457 Md. at 564; *see Devincentz v. State*, 460 Md. 518, 551 (2018) (“[A] witness’s credibility is always relevant.”). For example, although Anderson initially told the police that Richardson “just bust[ed] in the room[.]” she later testified that she woke up to the

sound of gunfire and therefore did not see how Richardson entered the room. Anderson also testified at trial that she saw Yancey “sitting upright” while shooting at Richardson, potentially contradicting CST Ward’s opinion that “[i]f someone were sitting up shooting in the bed[,] [she] would . . . expect to see different trajectory lines, different angles, and . . . other evidence to be present as well.” With CST Ward and Anderson offering different versions of Yancey’s posture at the time of the shooting, Anderson’s emotional state, as demonstrated in the body-worn camera audio and the 911 recording, tend to make either version “more probable or less probable than it would be without the evidence.” *Williams*, 457 Md. at 564. The trial court did not err in finding them relevant.

Yancey maintains that the 911 call recording served no purpose other than to “inflame the jury” because the evidence was “needlessly cumulative” to Anderson’s earlier testimony that she and Cherry called 911 and laid Richardson’s body out to give him CPR. However, even if cumulative, evidence is not “needlessly cumulative” when it merely entails “legitimate prejudice that inevitably results from competent evidence enjoying a special or heightened relevance[.]” *Newman v. State*, 236 Md. App. 533, 551 (2018) (quoting *Oesby*, 142 Md. App. at 166) (emphasis removed). Nor does “[t]he fact that the evidence might be unnecessary or redundant . . . transform ‘legitimate prejudice’ into ‘unfair prejudice.’” *Id.* at 552 n.6. As we emphasized in *Newman*: “there is no downside to making a strong case even stronger[.]” and, “the State is not constrained to forego relevant evidence and to risk going to the fact finder with a watered down version of its case.” 236 Md. at 551 (citations omitted) (emphasis removed).

Here, we are not persuaded that the 911 call recording was unfairly prejudicial or needlessly cumulative as contemplated by Rule 5-403. Although the recording vividly demonstrates the chaos and fear in the aftermath of Yancey’s fatal shooting, it does not tend to portray Yancey as a “bad man” to the jury. *See Akers v. State*, 490 Md. 1, 43-44 (2025) (finding that the evidence about defendant’s internet search about abortion months prior to the death of her newborn was irrelevant and unfairly prejudicial); *State v. Heath*, 464 Md. 445, 457 (2019) (holding that the defendant’s prior statement to the police that he was at the crime scene to sell cocaine was “unfairly prejudicial in that it associated [him] with drugs and likely undermined his credibility with the jury”). In fact, when the 911 operator asked if she “know[s] who shot [Richardson] or where the other person is[.]” Cherry emphatically denied her knowledge of the shooter’s identity, stating, “No, no, no, no, no.”

Similarly, we conclude that the audio from Deputy DeSantis’s body-worn camera footage was not unfairly prejudicial. As Yancey’s counsel emphasized at trial, the audio demonstrated “really just [Anderson’s] emotional state[.]” Even if the evidence is prejudicial, it does not unfairly prejudice Yancey by making any negative reference to him or his character that “likely undermined his credibility with the jury.” *Heath*, 464 Md. at 457; *see also White*, 250 Md. App. at 645 (“Evidence is never excluded merely because it is ‘prejudicial.’”). Moreover, right before the body-worn camera footage audio was admitted into evidence, Deputy Newton testified that he found Anderson “hysterical” and “screaming” when he first arrived at her home. Thus, the record establishes that the

purpose of admitting the audio was not to inflame the jury, but to help the jury’s understanding of Deputy Newton’s testimony. Indeed, in admitting the audio at issue, the trial court aptly observed, “the audio gives some context to the testimony that [Deputy Newton] has given.”

In sum, rather than highlighting Yancey’s bad acts or portraying him as a bad person, both the 911 call recording and the body-worn camera footage audio helped the jury evaluate contested issues in the case, such as Anderson’s credibility, by giving a full picture of the shooting’s aftermath. Thus, we cannot say that the trial court was “flagrantly and outrageous” in weighing probative value of the 911 recording against the danger of its unfair prejudice. *Browne*, 486 Md. at 194. Accordingly, we hold that the trial court did not abuse its discretion in admitting both the body-worn camera audio and the 911 call recording.

IV.

Mistake of Fact Jury Instruction

Relevant Facts

On April 17, 2023, the last day of trial, the parties discussed jury instructions on the record. As mentioned above, the parties agreed to a series of instructions based on the Maryland Criminal Pattern Jury Instructions (MPJI-Cr), including instructions on self-defense, imperfect self-defense, and habitation. At the end of the discussion, defense counsel formally requested that the court give an instruction on mistake of fact based on MPJI-Cr 5:06. That pattern instruction reads:

You have heard evidence that the defendant’s actions were based on a mistake of fact. Mistake of fact is a defense. You are required to find the defendant not guilty if:

- (1) the defendant actually believed (alleged mistake);
- (2) **the defendant’s belief and actions were reasonable under the circumstances;** and
- (3) the defendant did not intend to commit the crime of (crime) and the defendant’s conduct would not have amounted to the crime of (crime) if the mistaken belief had been correct, meaning that, if the true facts were what the defendant thought them to be, the [defendant’s conduct would not have been criminal] [defendant would have the defense of (defense)].

In order to convict the defendant, the State must prove beyond a reasonable doubt that at least one of the three factors was absent.

MPJI-Cr 5:06 (brackets in original) (emphasis added).

Defense counsel argued that “under the facts of this case, [] the Defendant could well have believed that the individual who was coming into the home was an intruder, unauthorized, and that the intruder was committing the offense of burglary and perhaps with the intent to commit other violent offenses.” Defense counsel urged that “had that turned out to be the case, then his actions in a shooting and killing of what he believed to be an intruder, would have made him not guilty of this particular offense.” The State argued, to the contrary, that a mistake of fact instruction was not appropriate because it did not fit the facts of the case.

The trial court denied defense counsel’s request, stating that “the instruction relative to self-defense – perfect and imperfect self-defense really cover what – what’s being requested in this matter.” The court reasoned that “the issue is whether or not the Defendant acted reasonably in his defense, whether it was perfect self-defense or imperfect

self-defense, or whether or not it was reasonable at all for any of the activity.” In relevant part, the court ultimately gave the following instructions related to self-defense:

In order to convict the Defendant of murder, the State must prove that the Defendant did not act in complete self-defense or partial self-defense. If the Defendant did act in complete self-defense, the verdict must be not guilty. If the Defendant did not act in complete self-defense but did act in partial self-defense and had the intent to kill, the verdict should be guilty of Voluntary Manslaughter and not guilty of Murder.

Complete self-defense, sometimes called perfect self-defense, is a total defense and you are required to find the Defendant not guilty if all of the following four factors are present.

One, the Defendant was not the aggressor. Two, that the Defendant actually believed that he was in immediate or imminent danger of death or serious bodily harm. **The Defendant’s belief was reasonable and that -- and the Defendant used no more force than was reasonably necessary to defend himself in light of the threatened or actual force.** This limit on the Defendant’s use of deadly force requires the Defendant to make a reasonable effort to retrieve [sic].

The Defendant does not have to retreat if the Defendant was an invited guest in the home or retreat was unsafe. You must find the Defendant not guilty unless the State has persuaded you beyond a reasonable doubt, that at least one of the four factors of complete self-defense was absent. Even if you find the Defendant did not act in complete self-defense, he may still have acted in partial self-defense. For partial self-defense to apply, you still must find that the Defendant actually believed he was in immediate or imminent danger of death or serious bodily harm.

If the Defendant actually believed he was in immediate or imminent danger of death or serious bodily harm, even though a reasonable person would not have so believed that is partial self-defense and your verdict should be guilty of Manslaughter and not guilty of Murder. If the Defendant used greater force to defend himself in light of the threatened or actual force than a reasonable person would have used, but that the Defendant actually believed the force used was necessary and the Defendant made a reasonable effort to retreat, that is partial self-defense and your verdict should be guilty of Manslaughter and not guilty of Murder.

The court also gave an instruction concerning the defense of habitation:

In order to convict the Defendant of Murder, the State must prove that the Defendant did not act either -- excuse me. The State must prove that the Defendant did not act in either complete defense as an invited guest of the home or partial defense as an invited guest of the home. If the Defendant acted in complete defense of the home, your verdict must be not guilty. If the Defendant did not act in complete defense of the home but did act in partial defense of the home, the verdict should be guilty of Voluntary Manslaughter and not guilty of Murder.

Defense as an invited guest of the home is a complete defense and you are required . . . to find the Defendant not guilty if all of the following five factors are present.

One, Tyree Richardson entered the home in which the Defendant was an invited guest. The Defendant actually believed Tyree Richardson intended to commit a crime that would involve imminent threat of death or serious bodily harm. **And three, that the Defendant reasonably believed that Tyree Richardson intended to commit such a crime.** And four, that the Defendant believed that the force he used against Tyree Richardson was necessary to prevent imminent death or serious bodily harm. And five, that the Defendant reasonably believed that such force was necessary.

If you find that the Defendant actually believed that Tyree Richardson posed an imminent threat of death or serious bodily harm and that such belief was reasonable, you must find the Defendant not guilty. If you find that the Defendant had the intent to kill and actually believed that Tyree Richardson posed an imminent threat of death or serious bodily harm, but that such belief was unreasonable, you should find the Defendant not guilty of Murder, but guilty of Manslaughter. If you find that the Defendant had -- that -- or excuse me, if you find that the State has persuaded you beyond a reasonable doubt that the Defendant did not have an actual belief that Tyree Richardson posed an imminent threat of death or serious bodily harm, you should find the Defendant guilty of Murder.

When the trial court finished reading the jury instructions, defense counsel again noted an objection to the court not giving an instruction on mistake of fact.

Parties' Contentions

Yancey argues that the trial court committed reversible error by refusing to instruct the jury on mistake of fact. He contends that “[t]he requested instruction . . . was a correct statement of the law[,] was generated by the facts of this case, and was not otherwise fairly covered by the instructions.” Yancey avers that if the jury credited his testimony – that on June 13, he believed he was protecting the house from an unknown intruder – that would constitute a mistake of fact and require the jury to find him not guilty. Yancey contends that the instructions on self-defense and habitation did not “fairly cover” mistake of fact because both defenses required his belief to have been “reasonable.” He further contends that the instruction on imperfect self-defense did “not fairly cover mistake of fact because it is only a partial defense and acts to mitigate murder to voluntary manslaughter.” Yancey argues that without an instruction on mistake of fact, “the jury was left only with [his] actual but unreasonable response, which of course resulted in his conviction for voluntary manslaughter.”

The State argues that “[t]he court soundly exercised its discretion in this regard for two reasons: first, because the topic was fairly covered by other instructions that were provided; and second, because the requested instruction was not applicable to the facts of this case.” The State avers that mistake of fact was fairly covered by the self-defense and habitation instructions because “mistake of fact also requires the defendant’s belief to be reasonable[.]” The State contends that “the mistake of fact instruction does not apply to

this case” because “a defendant’s perception of danger is not the kind of ‘fact’ to which the instruction applies.”

Legal Framework

“The court may, and at the request of any party shall, instruct the jury as to the applicable law and the extent to which the instructions are binding.” Md. Rule 4-325(c). “[A] defendant is entitled to have the jury instructed on any theory of defense that is fairly supported by the evidence, even if several theories offered are inconsistent.” *Sims v. State*, 319 Md. 540, 550 (1990); see *Jarvis v. State*, 487 Md. 584, 571 (2024). However, “[t]he court need not grant a requested instruction if the matter is fairly covered by instructions actually given.” Md. Rule 4-325(c). “In reviewing the adequacy of jury instructions, we review the instructions as a whole. If the instructions given as a whole adequately cover the theory of the defense, the trial court does not need to give the specific requested instruction.” *General v. State*, 367 Md. 475, 487 (2002). The trial court’s decision whether to grant a jury instruction is reviewed for an abuse of discretion. *Cost v. State*, 417 Md. 360, 369 (2010).

Analysis

Reviewing the jury instructions as a whole, it is clear that the instructions on self-defense adequately covered the requested instruction on mistake of fact. Yancey argues that the mistake of fact instruction is necessary because he “woke up and saw a shadow coming towards him” and “started to shoot and empty all the magazines because he was scared.” Yancey argues that “[m]istake of fact was generated by this evidence that [he]

was protecting himself and others in the house from an unknown intruder.” But this theory is adequately covered by the instructions on self-defense and habitation. The instruction on self-defense stated that the jury should find Yancey not guilty if (1) he was not the aggressor; (2) he actually believed he was in immediate or imminent danger of death or serious bodily harm; (3) his belief was reasonable; and (4) he used no more force that was reasonably necessary to defend himself. Thus, if the jury believed that Yancey made a reasonable “mistake of fact” in believing that Richardson was a stranger attempting to harm him, that would lead the jury to find Yancey not guilty based on the self-defense instruction.

Similarly, the habitation instruction stated that the jury should find Yancey not guilty if it found:

One, Tyree Richardson entered the home in which the Defendant was an invited guest. The Defendant actually believed Tyree Richardson intended to commit a crime that would involve imminent threat of death or serious bodily harm. And three, that the Defendant reasonably believed that Tyree Richardson intended to commit such a crime. And four, that the Defendant believed that the force he used against Tyree Richardson was necessary to prevent imminent death or serious bodily harm. And five, that the Defendant reasonably believed that such force was necessary.

Thus, if the jury believed that Yancey made a reasonable “mistake of fact” in believing that Richardson intended to commit “a crime that would involve imminent threat of death or serious bodily harm” to anyone in the house, then that would lead the jury to find Yancey not guilty based on the habitation instruction. The “mistake of fact” urged by Yancey is the very kind of mistake that these defenses contemplate.

Yancey argues that self-defense and habitation do not fairly cover the requested

instruction because both require the defendant's belief to have been reasonable. However, mistake of fact also requires the defendant's belief to have been reasonable. *See General*, 367 Md. at 488 (“If petitioner did not know that he struck a person and reasonably believed that he merely struck a white bag, then his mistake of fact was a defense” to hit-and-run related crimes.). In fact, the pattern jury instruction quoted in Yancey brief requires that “[t]he defendant’s belief and actions were reasonable under the circumstance[.]” MPJI-Cr 5:06. To the extent that Yancey actually, but unreasonably, believed that an unknown intruder intended to harm him, the “mistake of fact” defense would not protect him. Thus, “mistake of fact” was adequately covered by the instructions on self-defense and habitation, and the trial court did not err in refusing to issue a jury instruction on mistake of fact.

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