Circuit Court for Baltimore County
Case No. 03-K-18-005357

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1165

September Term, 2019

AYODEJI KAYODE ANIMASHAUN

v.

STATE OF MARYLAND

Meredith,*
Kehoe,
Wilner, Alan M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Meredith, J.

Filed: November 5, 2020

*Meredith, J., now retired, participated in the argument and conference of this case while an active member of the Court; after being recalled pursuant to Maryland Constitution, Article IV, Section 3A, he also participated in the decision and adoption of this Opinion

A jury sitting in the Circuit Court for Baltimore County convicted Ayodeji Kayode Animashaun, appellant, of second-degree assault of his then-wife—whom we shall refer to as "Ms. M."—and malicious destruction of property (namely, Ms. M.'s cell phone). After the court sentenced Mr. Animashaun to concurrent terms of ten years' imprisonment for assault and sixty days' imprisonment for malicious destruction of property, Mr. Animashaun noted this appeal, raising two issues:

> 1. Did the court abuse its discretion in denying appellant's mistrial motion?
>
> 2. Did the court's limitation on defense counsel's cross-examination of the complainant deny appellant a fair trial?

We will answer "no" to both questions and affirm the judgments of the Circuit Court for Baltimore County.

BACKGROUND

The incident that gave rise to this case occurred on the evening of November 26, 2018. At that time, Mr. Animashaun and Ms. M. were married and living together in an apartment in Baltimore County. They had a troubled relationship. Mr. Animashaun was not a United States citizen, and he had been living in this country illegally since his student visa had expired in 2005. They had married in 2011, subsequently divorced in 2016, and then remarried in 2018. As of November 2018, Mr. Animashaun had been unemployed for extended periods of time. They had one child who, at the time of trial, was six years old.

At approximately 9:00 p.m. on November 26, 2018, Ms. M. arrived home from work after their child had already gone to sleep. Animashaun had made dinner, and as he and

Ms. M. ate together, while seated in their bedroom, he told her that he had learned that he had been accepted to attend a month-long program in Wisconsin to receive training to become a commercial vehicle driver. According to Ms. M., he then asked her whether she would "be a good wife" while he was away, referring to a prior incident of infidelity. (Mr. Animashaun acknowledged that "I asked jovially" "are you going to be faithful if I leave for a month?") Offended by that remark, Ms. M. stopped talking, and Mr. Animashaun took his plate and went to the kitchen.

When Mr. Animashaun returned to the bedroom, Ms. M. "was on [her] cell phone." According to Ms. M., he "snatched" her phone out of her hand and began to scroll through her text messages. When he discovered a message asking Ms. M. to meet the sender in the "EDR," an abbreviation for the Employee Dining Room, Mr. Animashaun assumed that the message was a proposal for Ms. M. to meet the co-worker for a clandestine liaison. He became enraged. He took the cell phone, stormed into the bathroom, and "threw the phone inside the toilet." Then, he retrieved the phone from the toilet, stepped on it, and bent it, rendering it unusable.

Ms. M. testified that Mr. Animashaun "started screaming, yelling, telling me I'm nothing but a whore; he doesn't know why he decided to try to be with me again; that I'm just ruining his life. Just belittling me as much as he could . . . ." After that, she said: "He came on to my side [of the bed] and lunged on top of me and we both fell" onto the floor. She continued: "My back was on the floor and just face up. He was on top of me with his knees on my shoulders." She said he hit her in the face repeatedly and choked her.

Eventually, Mr. Animashaun stopped assaulting Ms. M., and he announced that he was leaving because "he doesn't want to be with someone that wasn't worth it." She said that, at some point, he told her "he would kill me but I'm not worth it." He began packing belongings, and made several trips taking things to his car. Because she had no means of communicating with anyone, Ms. M. armed herself with a steak knife. She "felt that it was a possibility he would come and attack [her] again." When it appeared to her that Mr. Animashaun finally left, she barricaded herself inside the apartment.

After waiting a period of time until she felt that Mr. Animashaun was not returning, Ms. M. knocked on a neighbor's door and told him that she needed "to call the police." The neighbor allowed her to use his cell phone to call 911. That call was placed at 11:59 p.m.

Baltimore County Police responded to the "911" call for a domestic violence complaint. When police officers arrived at the apartment, they encountered Ms. M., who was, in the words of one of the responding officers, "crying, visibly shaking, bleeding" from her lip and ear, and "hysterical." She told them she had been assaulted by her husband, Mr. Animashaun.

Two weeks later, an indictment was returned, charging Mr. Animashaun with first-degree assault, second-degree assault, and malicious destruction of property. The matter proceeded to a jury trial. The jury found Mr. Animashaun guilty of second-degree assault and malicious destruction of property, but not guilty of first-degree assault.

After sentencing, Mr. Animashaun noted this direct appeal.

DISCUSSION

I. Motion for mistrial

Mr. Animashaun claims that the circuit court abused its discretion in denying his motion for a mistrial during the direct examination of Ms. M. Before addressing this claim, we note that, on the morning the case was called for trial, defense counsel moved *in limine* to exclude any mention of Mr. Animashaun's prior conviction for second-degree assault upon Ms. M., as well as any "other bad acts of domestic violence in the past." The prosecutor did not oppose the motion, and told the court that she would instruct Ms. M. not to mention any such incidents. The court granted the motion.

During opening statements, defense counsel told the jury that Ms. M. had been unfaithful in the past and that her infidelity had been the cause of the breakup of the couple's first marriage. In apparent response to that assertion, the prosecutor asked Ms. M. on direct examination whether her first marriage to Mr. Animashaun had ended because of infidelity, and Ms. M. replied, "No." The prosecutor then followed up with a question asking Ms. M. why the couple's first marriage ended, and the following ensued:

> [PROSECUTOR]: Miss [M.], you said that infidelity was not the reason for the marriage breaking up. **Without getting specific, were there other issues that caused the marriage to end?**
>
> [MS. M.]: **It was an incident that happened.**
>
> [PROSECUTOR]: Okay. **But you did choose to resume the relationship?**
>
> [MS. M.]: Yes.
>
> [PROSECUTOR]: **And can you explain why, please?**
>
> [MS. M.]: **When Mr. Animashaun was released --**

[DEFENSE COUNSEL]: Objection.

THE COURT: Sustained.

[PROSECUTOR]: I will withdraw the question.

(Emphasis added.)

Defense counsel asked to approach the bench, and then moved for a mistrial, contending that the jury could reach "no other conclusion" than that Mr. Animashaun had been previously "incarcerated because of an incident involving domestic assault." The trial court denied the motion and explained:

> Something happened after he ["]was released["] but I do think **it could be anything** submitted. **Could be over a student [v]isa. Who knows what it could have been.** So I'm going to deny the motion for mistrial. I don't think this is fatal. I did sustain the objection. Her marriage ended due to an incident that happened. The release, again, I sustained it and **if you want me to order it stricken, I will. But I don't know that you [defense counsel] want to highlight it.**

Defense counsel elected to forego a curative instruction.

During the ensuing direct examination of Ms. M., she testified that Mr. Animashaun was from Nigeria and that he was not a citizen of the United States. Ms. M. further explained that Mr. Animashaun's citizenship status had been an issue in their relationship because he was in this country illegally, and they previously had applied for him to be granted permanent residency.

Later in the trial, Mr. Animashaun testified on direct examination that he had been admitted to this country legally in 2003 on a student visa, but that visa had expired in 2005. When asked about his immigration status as of November 2018, he replied: "**I was [a]**

parolee because I had been ordered deported but I was released and I was provided a work permit." (Emphasis added.)

In view of Mr. Animashaun's own testimony that he had been "released" from something unrelated to a prior conviction for domestic violence, we see no abuse of discretion in the trial court's denial of a mistrial. Numerous Maryland cases have made clear that the grant of a mistrial is "an extraordinary remedy," to be invoked "only if 'necessary to serve the ends of justice.'" *Klauenberg v. State*, 355 Md. 528, 555 (1999) (quoting *Hunt v. State*, 321 Md. 387, 422 (1990), *cert. denied*, 502 U.S. 835 (1991)). "[D]eclaring a mistrial is an extreme remedy not to be ordered lightly." *Nash v. State*, 439 Md. 53, 69 (2014).

We review a trial court's denial of a motion for mistrial for abuse of discretion. *Klauenberg*, 355 Md. at 555 ("Our review on appeal is limited to whether the trial court abused its discretion in denying the motion for mistrial."). *Accord Reynolds v. State*, 461 Md. 159, 175 (2018), *cert. denied*, 139 S.Ct. 844 (2019).

In *Alexis v. State*, 437 Md. 457, 477-788 (2014), the Court of Appeals noted that it had "recognized previously" that "'[o]ne of the more helpful pronouncements on the contours of the abuse of discretion standard comes from Judge . . . Wilner's opinion in *North v. North*, 102 Md. App. 1, 648 A.2d 1025 (1994),' when he was the Chief Judge of the Court of Special Appeals. *King v. State*, 407 Md. 682, 697, 967 A.2d 790, 798 (2009)." In *Alexis*, the Court of Appeals quoted extensively from *North*, 102 Md. App. 1, 13-14, to describe the abuse of discretion standard. In *North*, this Court observed:

> "Abuse of discretion" is one of those very general, amorphous terms that appellate courts use and apply with great frequency but which they have defined in many different ways. It has been said to occur "where no reasonable person would take the view adopted by the [trial] court," or when the court acts "without reference to any guiding rules or principles." It has also been said to exist when the ruling under consideration "appears to have been made on untenable grounds," when the ruling is "clearly against the logic and effect of facts and inferences before the court," when the ruling is "clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result," when the ruling is "violative of fact and logic," or when it constitutes an "untenable judicial act that defies reason and works an injustice." [Citations omitted.]
>
> There is a certain commonality in all of these definitions, to the extent that they express the notion that a ruling reviewed under an abuse of discretion standard will not be reversed simply because the appellate court would not have made the same ruling. The decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable. That kind of distance can arise in a number of ways, among which are that the ruling either does not logically follow from the findings upon which it supposedly rests or has no reasonable relationship to its announced objective. That, we think, is included within the notion of "untenable grounds," "violative of fact and logic," and "against the logic and effect of facts and inferences before the court."

In reviewing a trial court's exercise of discretion in denying a defense motion for a mistrial based upon the erroneous admission of evidence, we consider "whether the evidence was so prejudicial that it denied the defendant a fair trial[.]" *Rainville v. State*, 328 Md. 398, 408 (1992) (quoting *Kosmas v. State*, 316 Md. 587, 594 (1989)). Among the factors appellate courts consider in addressing this question are:

> whether the reference to [the inadmissible evidence] was repeated or whether it was a single, isolated statement; whether the reference was solicited by counsel, or was an inadvertent and unresponsive statement; whether the witness making the reference is the principal witness upon whom the entire prosecution depends; whether credibility is a crucial issue; [and] whether a great deal of other evidence exists[.]

Id. (quoting *Guesfeird v. State*, 300 Md. 653, 659 (1984)).

Applying those factors in the instant case, we observe that the challenged remark was a single, isolated statement, was not anticipated by the prosecutor, and was at worst ambiguous. (As the trial court observed, Ms. M. did not say from *what or where* Mr. Animashaun had been released.) Subsequent testimony by both Ms. M. and Mr. Animashaun served to resolve that ambiguity, thereby curing any potential prejudice because Mr. Animashaun himself testified that he had been "released" from the custody of immigration authorities, not from incarceration for domestic violence.

Moreover, Ms. M.'s comment that Mr. Animashaun had been "released" did not bolster her credibility; and there was ample evidence that there had been a domestic quarrel during which Mr. Animashaun admittedly destroyed Ms. M.'s phone. There was also a recording of the 911 call placed by Ms. M., contemporaneous photographs depicting her injuries, testimony of the responding police officer about Ms. M.'s appearance the night of the incident, and a jailhouse telephone call in which Mr. Animashaun apologized to Ms. M. for what he had done.

We conclude that Mr. Animashaun was not so prejudiced by Ms. M.'s use of the word "released" that he was denied a fair trial. Accordingly, we hold that the trial court did not abuse its discretion in denying the motion for mistrial.

II. Cross-examination of Ms. M.

Mr. Animashaun contends that the circuit court's limitation of his cross-examination of Ms. M. denied him a fair trial. According to Mr. Animashaun, the circuit court improperly thwarted his attempts to "elicit eminently relevant evidence" regarding what,

he claims, were her "inconsistent" accounts of the "timelines" during which the crimes took place. That excluded evidence, contends Mr. Animashaun, would have supported his defense that she "fabricate[d] the allegations" against him. Before addressing this claim, we set forth the background.

During cross-examination of Ms. M., defense counsel sought to impeach her credibility by eliciting purported inconsistencies in her accounts of the "timeline" of the night of the assault. Counsel repeatedly asked her to estimate the duration of discrete events, such as the breaking of her cell phone, the striking of her face, and the strangulation, and he contrasted the brief durations of those events with the three-hour time span between Ms. M.'s arrival at the apartment at approximately 9:00 p.m. and her placement of the 911 call just before midnight. After several questions on this topic had been asked, the prosecutor objected to two questions, and the trial court sustained the objections, but granted defense counsel leeway to "explore other things such as . . . why the call wasn't placed until later." The transcript reflects the following colloquy relative to these two objections that Mr. Animashaun contends support a reversal and new trial:

> Q. [BY DEFENSE COUNSEL] In that 911 call you said to the operator that this had occurred an hour ago?
>
> A. [BY MS. M.] Yes.
>
> Q. So let me ask you this. How long did the entire incident – and when I speak of incident, I suppose I'm talking about the breaking of the phone, the initial allegations of him punching you in the face, the strangulation and the second punching in the face, how long did that last?
>
> A. Maybe 30 minutes.

Q. Thirty minutes. It was 30 minutes of those – all of that occurred?

A. I believe. I can't give you an exact time. I didn't look at a clock and say this is what time it started.

Q. How many minutes did it take for him to hit you in the face five times – five to ten times?

A. Maybe a minute.

Q. It was a minute. Less than ten times, like a minute?

A. Yes.

Q. And you wrote in your statement that he strangled you for five to seven seconds?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And then the next set of alleged punches to your face, how long did that take?

A. Probably less than a minute.

Q. So we are at at [sic] most two minutes and seven seconds.

A. Right.

Q. Where is the other – where is the rest of that 30 minutes?

A. You said from the time that he broke the phone or from the time that the phone incident began up until the time it ended with the strangulation.

Q. So how much time then are your saying elapsed from the time the phone was broken until those initial punches?

A. After the phone was broken I stood in the corner of the bedroom. I waited for him to calm down or to stop or to just leave. He didn't do that. I sat back down on the bed and after I was sitting there for a few minutes he came and lunged on me. That is when the incident happened where he hit me in the face and strangled me.

Q. So now it is a few minutes after?

[PROSECUTOR]: Objection.

THE COURT: Sustained.

Q. I'm trying to pinpoint how long after the phone, and I understood you stood in the corner. How long from the time the phone was broken until the alleged punches to your face occurred?

[PROSECUTOR]: I'm going to object to the relevancy.

THE COURT: Sustained.

[DEFENSE COUNSEL]: Your Honor, may we approach?

THE COURT: Certainly.

(WHEREUPON, there was a conference at the bench with the Defendant present.)

[DEFENSE COUNSEL]: Your Honor, as I said in my opening, I think the time line here is integral to this case. What the testimony was is that she came home at about 9 o'clock; that they got into this argument. She said 30 to 40 minutes, which would take us to 9:40. What I know is based on the State's Exhibit of the authenticated 911 call is that 91[1] call was placed at 11:59 in the morning [sic]. I'm trying to narrow down the time line of how we got from 9:40 to 11:59 in the morning [sic]. I think it is extremely relevant and I think that the jury could say that her delay in waiting to call the police gave her an opportunity to fabricate these charges.

In addition, I would say that delay is inconsistent with her written statement where she said that she called the police ten minutes after the Defendant left. That is why I think it is relevant.

THE COURT: Well, she testified that she didn't know. She guessed 30 minutes. And you initially said from the phone incident, which I believe she took to mean when she was sitting on the bed. I just feel as if it is being garbled and mischaracterized and she already has testified I don't remember a lot. She guessed the 30 minutes. Now you are trying to pinpoint her within that timeframe and you are changing the parameters of beginning and end. She certainly doesn't understand those parameters.

So I'm sustaining the objection. I don't know how it is relevant, particularly when she just said I can't tell you. So she told you how long it took for him to hit her. I don't know what else – **if you want to explore other things such as, as she said, why the call wasn't placed until later, go right ahead.** But I'm not going to sit here and hear her testimony mischaracterized and picked apart when I don't even think the witness is clear on the timeframe that you are seeking to investigate.

[DEFENSE COUNSEL]: May I be permitted to try to clarify with her from the beginning when she got home, when the argument happened, when the phone breaking happened, when the assault happened?

THE COURT: **You need to be specific. I don't want to keep going over things that she is saying I don't remember.** Someone is hitting you in the face, you are not looking at the clock to say this took a minute. And she guessed a minute. She is doing her best to guess. You need to be specific.

(WHEREUPON, proceedings resumed before the Jury.)

Q. [BY DEFENSE COUNSEL] I want to be very specific here. You got home around 9 o'clock?

A. [BY MS. M.] Yes.

Q. The incident involving the breaking of your phone happened, in your words, 30 to 40 minutes later?

A. Yes.

Q. So that takes us to 9:40?

A. Yes.

Q. In your words, the beginning of the assault until the end of the assault took 30 minutes; is that correct?

A. That is not what you said to me.

Q. Please tell me, how long was that?

A. You said from the incident of the breaking of the phone to the end of the assault.

Q. So the breaking of the phone – I don't want to mischaracterize – according to you, happened at either 9:30 or 9:40?

A. Yes.

Q. How long – let me ask this. How long until Mr. Animashaun began packing his things?

A. After – it was after I got up off of the floor. He began to grab – he began to grab things out of the bedroom.

Q. How long did it take him to finish packing his things?

A. It was maybe 20 to 30 minutes.

Q. You didn't place a call to the police until 11:59 in the morning?

A. In the morning[?]

Q. Excuse me. 11:59 p.m.?

A. Correct.

Q. In your written statement, however, you wrote and I will quote, "I went to find them –" I'm not sure who you refer to as them here -- - "I went to find them. Waited until you [sic] left and barricaded the door for about ten minutes. Then went to my neighbors to call 911."

A. Correct.

Q. Can you explain the discrepancy between the ten minutes that you say you waited after barricading the door to call 911?

A. I was trying to find a way to call 911 within the apartment. I tried to charge an old phone, which did not work. I tried to charge up the Kindle that my son had and find a way to call 911 from that and there was no way to contact them.

Q. You testified that you know that your husband is from Nigeria?

A. Yes.

Q. And that he had come here on a student Visa?

A. Yes.

Q. And that you were aware that that Visa had expired?

A. Yes.

Q. And you had been in the process of helping him obtain a green card?

A. Yes.

Q. He hadn't obtained one?

A. No.

Q. And as you said, he is undocumented or illegal immigrant?

A. Yes, correct.

Q. And you would know as an illegal immigrant if he was deported he would not be able to take his son?

A. I don't know the law. If you are telling me that that is the law, then I know now.

Q. My question is, did you believe if he was deported, that you or he would shall [sic] able to keep custody of your son?

A. I believe the custody would be with me.

(Emphasis added.)

Mr. Animashaun contends that the trial court unduly restricted his ability to confront Ms. M. because, he asserts, "her answers would have bolstered the defense's theory that Ms. M. had time to fabricate the version of events she told police before she called 911," and "the challenge to the timeline she provided was critical to the jury's assessment of her credibility which was the crux of the case."

But we note that defense counsel *did* address these points in his closing argument, attacking Ms. M.'s credibility and the discrepancy in her statements about how long she waited to call 911:

> [BY DEFENSE COUNSEL:] Now, when this case began, I asked you all to look out for inconsistencies in her timeframe. And I did my best to try to pinpoint that timeline here to see if it added up. We are kind of all over that place with the timeline. I tried to take comprehensive notes in reviewing her testimony. Look at her your [sic] memory and what she testified to is that she got home around 9 p.m. She showered, ate dinner in her bedroom. And when she stopped eating, after getting upset about the unfaithfulness question and laid down on her bed, and after she stopped eating and Mr. Animashaun went into the other room and did the dishes before coming back and, according to her, snatching her phone, 30 to 40 minutes had passed. That takes us to 9:30 or 9:40. [A]ccording to her testimony then at 9:40 – we can round up – at 9:40 he comes in the home [sic] and he snatches that phone. He snatched that phone and she says when she testified yesterday, that after smashing and breaking her phone, and after the subsequent assault she alleges, that period of time, that that took 30 minutes. I actually tried to question her how long the actual assault took. The punches, I think she said maybe a minute. And the strangulation, five to seven seconds. So talking two minutes of the alleged assault. But that is 30 minutes. So 30 minutes past 9:40 takes us to 10:10 p.m.
>
> Now, according to her then, he packs his bags and she says that he is going back and forth from the room into the living room, out to his car. That is consistent with his testimony. She says it takes him 20 to 30 minutes to leave. Again, rounding up from that 9:40 time and then the 30 minutes of the whole cell phone assault, adding 20 to 30 minutes will take us to 10:40.

> We have a certification, State's Exhibit Number 6, of when that 911 call was placed. This call began at 11:58 [sic] p.m. 11:58 p.m. So how do we go from 10:40 to 11:58 p.m.?
>
> Now, if she had just said I waited an hour and eighteen minutes to call the police, fine. That is really not what I'm getting at. What I'm getting at is that although we know, based on her time line, that it took an hour and eighteen minutes, when she got on the phone to 911, she said this happened an hour ago. And then in her statement to the police, she writes I went to find them – referring to his keys, if you read back – waited until he left and barricaded the door for about ten minutes. Then went to a neighbor to call 911.
>
> An hour and eighteen minutes went to an hour on the 911 call; went to ten minutes when she had the opportunity to write down and say what happened. Why did that story change? Was it to make it more believable? Was it to make Officer Carter who said that she arrived at the house just minutes after being dispatched, and that when she arrived found [Ms. M.] still hysterical? Was it to make her believe that she was hysterical because this had just happened ten minutes ago? Did she think that the hour and 18 minutes was too long a time to make her story believable?
>
> When a story is not true, facts change. When the story is not true, there are inconsistencies. That is a big inconsistency. And I tried again and again while she was on the stand to try to unravel that inconsistency and I didn't hear a single understandable explanation. Yes, she said she tried to charge the phone. Yes, she tried to see if she could make a call with her son's Kindle. Yes, she said she knocked on the door next door, went downstairs, knocked on that door, went back up to that open door and the neighbor let her in. That doesn't explain how an hour and 18 minutes goes to ten minutes. It doesn't.

The Confrontation Clause of the Sixth Amendment to the United States Constitution, applicable to the states through the Fourteenth Amendment, *Peterson v. State*, 444 Md. 105, 122 n.4 (2015), provides that, in "all criminal prosecutions," the accused shall enjoy the right to be "confronted with the witnesses against him." The Confrontation Clause protects the right of a criminal defendant to cross-examine witnesses. *Davis v.*

Alaska, 415 U.S. 308, 315-16 (1974). Article 21 of the Maryland Declaration of Rights is to similar effect. *Peterson*, 444 Md. at 122 & n.4. "Generally speaking, the Confrontation Clause guarantees an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." *Delaware v. Fensterer*, 474 U.S. 15, 20 (1985) (per curiam).

"To comply with the Confrontation Clause, a trial court must allow a defendant a 'threshold level of inquiry' that 'expose[s] to the jury the facts from which jurors, as the sole triers of fact and credibility, could appropriately draw inferences relating to the reliability of the witnesses.'" *Peterson*, 444 Md. at 122 (quoting *Martinez v. State*, 416 Md. 418, 428 (2010)). Therefore, a defendant must be given "the opportunity to cross-examine witnesses about matters relating to their biases, interests, or motives to testify falsely." *Martinez*, 416 Md. at 428. "Once the constitutional threshold is met," however, "trial courts may limit the scope of cross-examination 'when necessary for witness safety or to prevent harassment, prejudice, confusion of the issues, and inquiry that is repetitive or only marginally relevant.'" *Peterson*, 444 Md. at 122-23 (quoting *Martinez*, 416 Md. at 428, and citing Maryland Rule 5-611).

The question before us, then, is whether the trial judge unduly limited Mr. Animashaun's cross-examination of Ms. M. by sustaining the objections to two questions the court considered confusing to the witness and marginally relevant. We conclude that, contrary to Mr. Animashaun's contention, he *was* permitted to cross-examine Ms. M. at length about the inconsistencies in her descriptions of the incident. In this case, the trial court *did not prohibit* defense counsel from cross-examining Ms. M. about the timeline.

The court expressly told defense counsel that, if he wanted "to explore . . . why the [911] call wasn't placed until later, go right ahead." Defense counsel then asked additional questions on that topic without further objection from the prosecutor or further interruption by the court. And defense counsel did make a closing argument emphasizing Ms. M.'s inconsistent accounts of the timing of her 911 call. Counsel did not proffer at trial that there was other evidence that he would have brought out during cross-examination but for the court's ruling that sustained the objections to the two questions as quoted above. *See* Maryland Rule 5-103(a)(2) (requiring an offer of proof to preserve a claim that the trial court erred by excluding evidence). "The preservation rule applies to evidence that a trial attorney seeks to develop through cross-examination." *Peterson*, 444 Md. at 125. We conclude that the trial court properly exercised its discretion to limit questioning that bordered on harassing the witness, but the court did not unduly restrict Mr. Animashaun's right to confront the witness.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS ASSESSED TO APPELLANT.