Circuit Court for Harford County
Case No. C-12-CR-22-000487

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1329

September Term, 2024

ALTON CUMBO, JR.

v.

STATE OF MARYLAND

Wells, C.J.
Leahy,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: June 10, 2026

***** 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).

On December 10, 2021, William Doran died from a gunshot wound to his head. Appellant Alton Cumbo was subsequently charged with multiple offenses related to the shooting and tried before a jury in the Circuit Court for Harford County. During the trial, the State presented testimony from multiple witnesses, including Brandon Byrd, an inmate who testified as part of his plea agreement. The jury found Cumbo guilty of second-degree murder, use of a firearm in the commission of a felony or crime of violence, and illegal possession of a regulated firearm. He was sentenced to 40 years for second-degree murder, 20 consecutive years for use of a firearm in the commission of a crime of violence, and 15 consecutive years for possession of a regulated firearm.

In this timely filed appeal, Cumbo presents two questions for our review, which we consolidate into the following question:[1] Did the trial court err or abuse its discretion by limiting cross-examination of Brandon Byrd?

For the following reasons, we affirm.

BACKGROUND

The following account is derived from the evidence adduced at Cumbo's jury trial, viewed in the light most favorable to the State. *Molina v. State*, 244 Md. App. 67, 87

[1] Cumbo's questions presented are:

> 1. Did the trial court err by limiting cross-examination about the plea agreement of a jailhouse informant who was a key state witness?
>
> 2. Did the trial court err by limiting cross-examination intended to elicit relevant evidence about how a jailhouse informant could have learned the facts of Mr. Cumbo's case?

(2019). Since Cumbo does not challenge the sufficiency of the evidence to sustain his convictions, we only provide the summary of the trial record necessary to discuss the question(s) presented in this appeal. *Lovelace v. State*, 214 Md. App. 512, 518, n.1 (2013).

Before the Shooting

The events culminating in the fatal shooting of William Doran on December 10, 2021, began in March 2021, when Doran met Cumbo, a friend from middle and high school, at a gas station. Cumbo testified that Doran was his "best friend," but the two had lost touch because Cumbo "did a stint in prison." Two or three weeks after their reunion, Cumbo began frequently visiting Doran's home on Dembytown Road, giving him "odd jobs . . . to try to help him make some money." The two texted and called each other, and sometimes Cumbo "just pop[ped] up" at Doran's home.

Chelsea Kuhn, Doran's girlfriend and mother of his three children, also had multiple in-person conversations with Cumbo during the visits. She knew Cumbo as "Project." According to Kuhn, she and Doran lived separately with their own parents. Doran stayed with his mother in the evenings, but he was mainly at the Dembytown Road home during the day, working on the house.

Kuhn and Doran both had been using drugs. Although Kuhn testified that she became "clean" after getting pregnant in March of 2021, Doran continued to struggle with substance abuse following a dirt bike accident in 2020. Cumbo supplied Doran with controlled substances, including cocaine and Suboxone, "more than 10 times."

December 10, 2021

In the afternoon of December 10, 2021, Kuhn and her two-month-old baby visited Doran at his home on Dembytown Road. Doran had told her that he was working on a friend's car earlier that day. A photo captured by a home security camera showed Doran and Cumbo at the house that morning. Although the family had planned to go to a Christmas event together, Doran decided not to go because, according to Kuhn, he did not feel well and had a "bad headache."

At 6:45 p.m., Deputy First Class Glen Dixon was dispatched to Dembytown Road in response to a 911 call. The 911 call was played to the jury at trial. The caller reported that a white truck "hit the pole" with its passenger's side door wide open, and that there was "[a] man . . . laying in the car" and "not moving at all." On the scene, Deputy Dixon observed a white Ford F-150 truck with a "very small amount of damage" to the front and the victim, later identified as Doran, "laying on the ground getting CPR administered by medics." The medics told Deputy Dixon that they found "brain matter" and a "gunshot wound" in Doran's head, which was identified as the cause of his death.

Detective Michael Wilsynski, a member of the Forensic Services Unit, canvassed the area and collected a nine-millimeter bullet on the driver's side floor, "a fired cartridge casing, a nine-millimeter[,] . . . approximately 130 feet from the rear of the vehicle[,]" a glove on the road, "within five feet of the fired cartridge casing[,]" and "a yellow hat" that was also on the road. Detective Suzanne Moro, the lead detective in the case, observed shotguns inside Doran's home, but the police did not find any firearm that matched the

recovered shell casing or bullet. Kuhn gave the police a receipt for 9mm ammunitions, dated November 9, 2021, bearing Doran's name.

Kuhn also gave the police passwords to Doran's phone. Det. Moro found a text message sent at 6:28 p.m. from a sender identified as "Reject P" on Doran's phone, reading, "Okay, I got you bro, U fucked up now." Doran's reply was: "Don't fuckin [*sic*] threaten me bro." Det. Moro subsequently confirmed that Cumbo was "Reject P." Although Cumbo's cellphone was not found, FBI Special Agent ("SA") Garrett Swick analyzed the cellphone record associated with his phone number. At trial, SA Swick testified without objection as an expert witness in historical cell site record analysis, and his cellphone analysis report was admitted into evidence. SA Swick explained that phones are "constantly assessing what towers and what sides of those towers are providing the strongest, clearest, and ultimately the best signal" and when someone places or receives a call, the phone "is going to utilize that tower and the sector of that tower that it sees as providing the best signal." According to SA Swick, Cumbo's phone was using a cellphone tower serving the area of the crime scene and Doran's home between 6:20 and 6:44 p.m. on December 10, 2021, with no mappable activities afterwards.

A few days later, Cumbo was arrested and charged by indictment with the following five offenses: (1) first-degree murder; (2) conspiracy to commit first-degree murder; (3) second-degree murder; (4) use of firearm in the commission of a felony or crime of violence; and (5) illegal possession of a regulated firearm. After Cumbo was placed at the Harford County Detention Center, two inmates from that jail, Brandon Byrd and Jonathan

Walker, informed Det. Moro that Cumbo's girlfriend, Mahealani Donawa, witnessed the December 10 shooting. Byrd also identified a "specific[,] unique object" hidden in the headrest of Cumbo's car, which Det. Moro subsequently confirmed. Det. Moro gave Donawa's cellphone numbers to SA Swick for analysis and interviewed Donawa, accompanied by her lawyer, on November 14, 2022. Following the investigation, Donawa was charged with multiple offenses related to the shooting death of Doran.

The Trial

Cumbo's jury trial proceeded over five days, commencing on February 14 and concluding on February 21, 2024. During its case-in-chief, the State presented testimony from Kuhn, Deputy Dixon, Det. Wilsynski, Det. Moro, and SA Swick as summarized above. Byrd, Walker, and Donawa also testified. Each recounted the general terms of their plea agreements with the State on direct examination. Cumbo testified on his behalf.

At the time of the trial, Byrd was facing multiple charges in three separate cases, including: second-degree burglary in case number C-12-CR-21-866; third-degree burglary in case number C-12-CR-21-870; and conspiracy to commit armed robbery, home invasion, and attempted first-degree arson in case number C-12-CR-21-976.[2] Prior to the plea agreement, he was originally offered a 55-year sentence, with all suspended but 40 years. Realizing that he is "not getting any younger," Byrd decided to tell the State the

[2] Byrd had also been convicted of first-degree burglary and possession with intent to distribute narcotics in February 2014, and then of theft of $1,000 to $110,000 later that same year.

information he had heard from other inmates and wrote a letter to the State in April 2022. He subsequently entered the plea agreement, which offered him a 25-year sentence in exchange of testifying against Cumbo and another inmate "honestly and truthfully."[3] Byrd's plea agreement and his letter to the State were admitted into evidence.

At the detention center, Cumbo and Byrd were placed in Housing Unit C, Cell Block C. The cell block consisted of a day room and eight prison cells each cell containing two inmates. Byrd was in cell number 2, and Cumbo, whom Byrd knew as "Mimi" or "Project P," was in cell number 6. Byrd stated that Cumbo had a "bad temper" and heard him complaining about the correctional staff, saying, "That's why I killed one of these bitches." Byrd acknowledged that he did not like Cumbo and found him "a little bit eccentric" and "grandiose," but denied having "anything personal" against him.

One morning in December 2021, as Byrd and Cumbo were in the day room, Cumbo began "just opening up . . . about his case and his situation," including "that he was incarcerated for a homicide and . . . how he did it." Specifically, Cumbo told Byrd that he and his girlfriend drove to meet a "junkie . . . who had played with his money" and spoke to that individual "who was sitting . . . in his driver's side of his vehicle" before shooting him, "at least one time in the head." At the time of the shooting, the car was in drive, and it "drifted down . . . a hill or a ravine" as the victim's foot came off the brake pedal. One of the spent shell casings "went inside the vehicle[,]" while the other shell casing "went to

[3] At trial, Byrd clarified that he did not testify in the other case because it was resolved in a plea deal.

the exterior" and was retrieved by Cumbo.

On cross-examination, Byrd acknowledged having a "bleak outlook" in his own pending cases if not for the plea deals contingent upon his testimony against Cumbo. Byrd also admitted that he was not "really incentivized" to report Cumbo's statements to the State until April 2022, when he was confronted with a 55-year sentence. Although Byrd had not written down Cumbo's statements prior to April 2022, he claimed that they were "unforgettable" because "it's not often people brag about murders[.]" Additionally, although Byrd initially testified that Cumbo did not have any "paperwork" because "he just got there[,]" he later acknowledged that Cumbo "would have a statement of charges" at the time of their conversation. Byrd nevertheless maintained that Cumbo had "nothing . . . that carried any weight" and denied having looked at any of Cumbo's documents.

After Cumbo was moved to Cell Block D, he met Walker, whose cell was right next to his. Neither Cumbo nor Walker had cell mates. At trial, Walker stated that "the front of the cells are all bars" and they were "wide open[,]" thus allowing the neighboring inmates to talk or reach over to each other. Originally, Walker came to the detention center for a charge of possession with intent to distribute in case number C-12-CR-21-537, for which he ultimately received 10 years. During his time there, however, he assaulted several correctional officers and was charged in C-21-CR-22-117 with multiple counts of second-degree assault on a DOC employee, facing an additional 12 years of a consecutive sentence. Walker subsequently wrote a letter to the State offering to cooperate. Under the plea agree-

ment, Walker was offered a 10-year concurrent sentence, conditioned on truthfully testifying in cases against Cumbo and his girlfriend. Walker acknowledged having previously cooperated under plea agreements in a state case in 2008 and a federal drug and gun case in 2013, though he did not testify either time. Walker's plea agreement and his letter were admitted into evidence.

Walker testified that on the night of March 27,[4] about three weeks after they got to know each other, Cumbo "just started" speaking about his case. Cumbo told Walker that on the day of the shooting, he went to see an individual to whom he had been selling drugs for a few months. That person owed him $100 and wanted to buy an "eight-ball" of cocaine, which he offered to pay off with a "food stamp card." Cumbo agreed at first, but after arriving at the individual's home, he instead wanted to use the individual's car as a temporary form of payment. The individual refused, and the two started arguing. The individual then pulled out a shotgun and told Cumbo, "Give me everything you got," robbing him of the crack and money. Cumbo was kicked out of the house and returned to his car, where his girlfriend, Donawa,[5] was sitting. When Cumbo told Donawa what happened, she said, "Ah, nah, he got to go."

As Cumbo and Donawa were planning to go back to the house, they saw that individual leaving in a white pickup truck. The two followed the truck, with Donawa

[4] Walker initially testified that it occurred on April 27, but after reviewing his letter to the State, he confirmed that it was March 27.

[5] Walker testified that Cumbo said the girlfriend's name was Mahealani.

driving, and pulled up next to the truck. Cumbo told Walker that the individual then "leaned over" and opened the passenger side door of the truck, at which time Cumbo shot him. As Cumbo pulled away from the scene, he saw the truck rolling away in his rearview mirror. Walker stated that Cumbo did not tell him what kind of gun he used, but "he said all of his guns were 9mm."

Walker acknowledged that Cumbo showed him some of his paperwork before the conversation, including a medical examiner's report. However, Walker maintained that he had the paperwork for "probably like 7 minutes," and was not interested in it. He also denied that the paperwork contained any of the matters Cumbo told him about. Walker further denied asking Cumbo any questions during their conversation because he was worried that it "[m]ight turn the switch off." Walker stated that he was "shocked" when Cumbo told him about the shooting because "[n]o one's going to kill somebody and then talk about it." On cross-examination, Walker denied that he ever met Byrd or communicated with him, although he acknowledged having heard of him inside the detention center.

Donawa, Cumbo's girlfriend, testified pursuant to her plea agreement. That day, she went with Cumbo to Doran's house on Dembytown Road to get her car fixed, but Doran was unable to fix the car.[6] Later that day, Donawa went back to the house again with Cumbo. Donawa initially did not remember the purpose of the visit, but after reviewing a transcript of her interview with the police, she stated that it was to get "food

[6] Although Donawa initially claimed not to remember Doran's name, her later testimony refers to him by name.

stamps cards" from Doran. Another argument occurred at the house, and Donawa saw Cumbo "coming outside the house with his hands up." According to Donawa, Cumbo told her, "Doran was obviously high or mad or whatever, and he pulled a gun out on him and told him to 'get the fuck out of his house.'" Donawa said Cumbo was "angry, upset" and they went to Harford Square, which was a few minutes away, to smoke marijuana. Cumbo wanted to go back to Doran's home afterwards, and Donawa drove him "down the street and made a U-turn" as Cumbo instructed. Doran was leaving his driveway in a vehicle, but after noticing Donawa's car, he pulled up on a side of the road. Cumbo exited Donawa's car, approached the passenger side of Doran's vehicle, and Doran opened the door to let him in. Another argument broke out, and Donawa heard a gunshot. Cumbo then returned to Donawa's car, and she drove him back to his own vehicle.

A day or two after, Donawa spoke with Cumbo about the incident. Donawa recalled Cumbo stating, "Why did he have to threaten me like that? He should have never pulled a gun out on me." Cumbo also told Donawa that he "fucked up" by texting Doran, "You fucked up[,]" before going back to his house that day.

On cross-examination, Donawa confirmed that she received no active sentence as part of her plea agreement. During her direct examination, she explained that she pled guilty to a charge of accessory after the fact in the underlying case. Donawa acknowledged that she was scared during her November 14, 2022, interview with Det. Moro, and that her lawyer urged her to "[s]ave [her]self." When defense counsel asked if she was "simply regurgitating . . . what [she] said at the interview[,]" Donawa answered, "Somewhat."

Nonetheless, she denied that she testified "off of the transcript."

Cumbo testified in his own defense. He recounted that he took Donawa to Doran's home in the morning of December 10, 2021, because her car needed repair, but Doran could not fix the car. Later that day, he returned to Doran's home to get a food stamp card, but, according to Cumbo, Doran "just was not in his right mind[.]" Doran kept scratching and told Cumbo, "I need something," but Cumbo replied that he did not have any drugs and was coming to get the food stamp card. When Cumbo told Doran that he did not have drugs, Doran pulled out a gun, saying, "You're fucking lying" and "Man, just get the fuck out then." Cumbo acknowledged that they also had disputes "[l]ike weeks prior or a month prior" to the incident, as he refused to give drugs to Doran.

Cumbo left the house with his hands up, "walking backwards, trying to walk down the steps from the front porch." Cumbo returned to Doran's home with Donawa later to talk to him. He saw Doran "leaving his driveway[.]" As Donawa, who was driving, tried to make a U-turn, Doran stopped his car, and Cumbo got out of the car to talk to Doran, who still "wasn't himself[.]" Doran opened the passenger's side door, and when Cumbo got inside Doran's truck, he saw a black handgun in Doran's hand. According to Cumbo, the two then tussled over the gun and it went off. Cumbo denied having his hand on the gun when it fired. He also denied having an argument with Doran inside the truck, testifying instead that Doran only asked, "what the fuck is you threatening me for?" After Doran was shot, Cumbo took the gun, fled the scene, and got rid of the gun.

The jury found Cumbo not guilty of first-degree murder and conspiracy to commit

first-degree murder, but convicted him of second-degree murder, use of a firearm in the commission of a felony or crime of violence, and illegal possession of a regulated firearm. This timely appeal followed.

We will include additional facts as they pertain to our discussion below.

DISCUSSION

Before this Court, Cumbo challenges two instances when the Court sustained the State's objections to defense counsel's questions posed to Brandon Byrd on cross-examination.

Additional Facts

At the onset of Byrd's cross-examination, defense counsel attempted to ask him about his pending charge for attempted first-degree arson. Counsel asked, "Now, Count 25 in one of your cases . . . conspiracy to commit armed robbery, attempted first-degree arson, right?" to which Byrd replied, "Yes, sir." Counsel then stated, "That was you trying to burn a cat[,]" and the State objected. At the bench, the State claimed that defense counsel's statement about Byrd's attempted arson charge was "incorrect to [its] understanding." The State also argued that the statement was inadmissible because "[t]he facts of an underlying crime are not admissible for impeachment purposes."[7] Defense counsel countered: "Not in this instance. To know why . . . [Byrd's] future is bleak, you

[7] The transcript shows that this statement was made by the trial court, but based on the context of the bench conference, it appears to be an error.

have to know how serious it is. . . . You have to understand what he was facing." In response, the State maintained, "[t]hat comes across from the charges[.]"

As the discussion continued, defense counsel admitted that he had not reviewed a statement of charges or any other documentation to verify the specifics of Byrd's attempted arson charge. Counsel also acknowledged that his reference to Byrd "trying to burn a cat" was based solely on information provided by Cumbo.

> THE COURT: Let's back it up a little bit, okay? So, [defense counsel], what is -- how is it that you believe, since the State is contesting that the basis for the arson is that he set a cat on fire?
>
> **[DEFENSE COUNSEL]: Oh, that I – I'm going by my client. I do not believe there are document -- (Cross talk)**
>
> **THE COURT: You're going by your client. You didn't look up the statement of charges or anything like that?**
>
> **[DEFENSE COUNSEL]: No, no, he just hit me with that.**
>
> **THE COURT: Okay.**
>
> [DEFENSE COUNSEL]: I wasn't even planning on asking –
>
> THE COURT: All right.
>
> [DEFENSE COUNSEL]: -- but it seemed kind of important.

The trial court sustained the State's objection, concluding that defense counsel lacked a "good faith basis" for his question and that the underlying facts of Byrd's arson charge were "not really relevant" to his credibility as witness.

> THE COURT: All right, so I'm going to weigh the probative value of that particular piece of information against its prejudicial nature. And **I'm going to sustain the objection because, first of all, it doesn't appear that you have a good faith basis for asking the question.**

[DEFENSE COUNSEL]: Well, I have one based on my client, but you're right, I didn't look it up.

THE COURT: Based on your client.

[DEFENSE COUNSEL]: Yeah.

THE COURT: You didn't look up the statement of charges. **And, secondly, the facts of the particular charges are not really relevant to this witness's credibility.**

[DEFENSE COUNSEL]: Understood.

Following the ruling, defense counsel resumed Byrd's cross-examination. During cross-examination, Byrd confirmed that the conversation with Cumbo occurred inside the day room, explaining that although he and Cumbo "could go in anybody's cell and talk[,]" their cellmates "would have been asleep" at the time. Counsel subsequently asked Byrd about the structure of Cell Block C, including the locations of the day room and individual cells, and the time that the day room opened. He then asked, "Have you ever seen people go into other people's cells while those people whose cell it belongs to are not in there?" The State again objected, and another bench conference occurred as follows:

[THE STATE]: Due to the vagueness of the question that I'm hearing, it's irrelevant.

[DEFENSE COUNSEL]: I'm not allowed to ask any questions?

[THE STATE]: Have you seen anyone go into someone else's cell is --

(Cross talk)

THE COURT: When they weren't there.

[THE STATE]: -- not relevant to –

THE COURT: That's very vague.

[THE STATE]: -- this. I did ask him –

[DEFENSE COUNSEL]: I think he -- go ahead.

[THE STATE]: I did ask if he had the opportunity to view Mr. Cumbo's paperwork, which –

THE COURT: And he said no.

[THE STATE]: -- is I think what you're getting at. If you want to ask if he went into somebody's cell, I wouldn't object to that. But the way the question is phrased is --

[DEFENSE COUNSEL]: I think his response to that question, though, was, you can do that. That's why I was asking that you know.

THE COURT: Well, I think you need to be more specific.

[DEFENSE COUNSEL]: Yeah, but I do [*sic*] that that's in evidence that he said you can.

[THE STATE]: That is not my recollection.

THE COURT: That's not my recollection either.

[DEFENSE COUNSEL]: Okay, maybe I didn't hear him right then. I think that's why he was asking me to ask that question –

THE COURT: Okay.

[DEFENSE COUNSEL]: -- because he heard that.

THE COURT: You can ask the specific question about whether he ever went into Mr. Cumbo's cell.

[DEFENSE COUNSEL]: Well, he's going to deny it.

THE COURT: Yeah, well, he'll deny it, but you can ask it.

[DEFENSE COUNSEL]: Okay. Fine. I understand.

After the bench conference, the trial court sustained the State's objection and instructed defense counsel, "You can rephrase the question[.]" Counsel asked Byrd, "You said that Mr. Cumbo – there was no need to go into his cell to discover it because, at the time you learned this information, he didn't have it. He didn't have it, right?" Byrd initially confirmed that Cumbo did not have any paperwork at the time of their conversation, but upon further questioning, he conceded that Cumbo "would have a statement of charges . . . at that point."

Parties' Contentions

In his opening brief, Cumbo first contends that the trial court abused its discretion by keeping defense counsel from asking Byrd whether his attempted first-degree arson charge involved "setting a cat on fire." Cumbo notes that it was "important" for the jury to understand the seriousness of Byrd's pending charges and "[i]t would not have been obvious that a charge of attempted arson had to do with burning an animal." He further notes that defense counsel had an adequate factual basis for the question because counsel had learned the details of the charges from Cumbo himself, who indisputably "had been housed in detention together at the time that they were both facing charges." Cumbo acknowledges that the "difference between burning an animal and a building might not have gone directly to credibility," but he maintains that "the severity of the charges would have affected [ ] Byrd's willingness to testify untruthfully in the interest of helping himself

avoid jail time."

Cumbo next contends that the trial court "erred by finding questions related to whether [ ] Byrd had seen inmates go into other people's cells when they were not there to be irrelevant." Cumbo claims that Byrd's response would have shown that Byrd could learn about Cumbo's case by reading his court paperwork, and therefore was more than satisfactory for "the low threshold for relevance." Cumbo further claims that even though the trial court allowed defense counsel to ask if Byrd himself had gone into Cumbo's cell, it was not sufficient relief, as Byrd "would have denied going into [Cumbo's] cell at all[,]" and "indeed, he later did just that on redirect." Finally, Cumbo argues that the errors were not harmless beyond a reasonable doubt because, in the absence of Byrd's testimony, "there was no eyewitness or video evidence of the shooting itself," and Cumbo's testimony provided "the jury an alternative account."

The State counters that the trial court properly restricted defense counsel's cross-examination of Byrd regarding his attempted first-degree arson charge because "the proffered (not agreed) crime – attempting to set fire to a cat – might be reprehensible but is not, on its face, 'infamous' or particularly related to 'credibility[.]'" The State also argues that the circuit court correctly challenged the "good faith basis" for defense counsel's question because, according to the State, "[q]uestions probing credibility might be prohibited if 'there is no factual foundation for such an inquiry in the presence of the jury,'" (quoting *Leeks v. State*, 110 Md. App. 543, 558 (1996)), and Cumbo failed to offer such foundation at trial. The State further emphasizes that "[t]he record . . . *still* does not

contain any documentation indicating that [Byrd's] conviction was as described" by defense counsel at trial.

The State also contends that the trial court did not abuse its discretion in preventing defense counsel from asking Byrd whether he had "ever seen people go into other people's cells while those people whose cell it belongs to are not in there[.]" The State notes that a trial court may restrict "potentially confusing, collateral details" when such details are not helpful to a jury's understanding of witness testimony. The State emphasizes that defense counsel's question was not specifically related to Byrd or Cumbo and was not connected to any particular space or time in the facility. Thus, according to the State, counsel's question was "well beyond the scope of what was necessary for Cumbo to develop" his theory that Byrd himself had looked at Cumbo's court papers.

In his reply brief, Cumbo argues that it does not matter whether attempted arson is an infamous crime, as defense counsel was not impeaching Byrd with a prior conviction under Maryland Rule 5-609. Rather, according to Cumbo, because the attempted arson charge was part of Byrd's plea agreement to testify against him, defense counsel should have been able to ask about the nature and seriousness of that charge to "fully probe" Byrd's potential bias, prejudice, motivation, and interest in the outcome of the proceeding under Rule 5-616(a)(4). Regarding defense counsel's question as to whether Byrd "had seen people go into other people's cells," Cumbo argues that the inquiry was "highly relevant" because it "went to the opportunity [ ] Byrd would have had to gather information from [ ] Cumbo's documents."

Legal Framework

The Confrontation Clause of the Sixth Amendment to the United States Constitution provides: "In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him." U.S. Const. amend. VI. The protections of the Confrontation Clause are made binding on the States through the Fourteenth Amendment. *See Michigan v. Bryant*, 562 U.S. 344, 352 (2011); *Pointer v. Texas*, 380 U.S. 400, 403 (1965). Separately, Article 21 of the Maryland Declaration of Rights guarantees the same right by providing: "[I]n all criminal prosecutions, every man [and woman] hath a right . . . to be confronted with the witnesses against him . . . [and] to examine the witnesses for and against him on oath[.]" Md. Decl. of Rts. art. 21; *see also Derr v. State*, 434 Md. 88, 143 (2013) (Eldridge, J., dissenting) (explaining that Article 21 of the Declaration of Rights predated the Sixth Amendment's Confrontation Clause by 15 years). Under Maryland law, courts have construed the State and federal confrontation clauses "*in pari materia*, or as generally providing the same protection to defendants." *Derr*, 434 Md. at 103.

A criminal defendant's right to confrontation "means more than simply confronting the witness physically." *Marshall v. State*, 346 Md. 186, 192 (1997) (citing *Davis v. Alaska*, 415 U.S. 308, 315 (1974)). Instead, this right "includes the right to cross-examine a witness about matters which affect the witness's bias, interest or motive to testify falsely." *Id.* Consistent with this principle, Maryland Rule 5-616(a)(4) provides that a witness's credibility may be attacked through questions to the witness, "including questions that are

directed at . . . [p]roving that the witness is biased, prejudiced, interested in the outcome of the proceeding, or has a motive to testify falsely[.]" Highlighting the constitutional significance of the right to cross-examine a witness, the Supreme Court of Maryland wrote:

> An attack on the witness's credibility "is effected by means of cross-examination directed toward revealing possible biases, prejudices, or ulterior motives of the witness as they may relate directly to issues or personalities in the case at hand." *Davis*, 415 U.S. at 316[]. The Supreme Court recognized in *Davis* that "the exposure of a witness'[s] motivation in testifying is a proper and important function of the constitutionally protected right of cross-examination." *Id.* at 316-17[ ]; *see Smallwood v. State*, 320 Md. 300, 306[] (1990). Commenting on the importance of cross-examination concerning motive to falsify, Chief Judge Joseph F. Murphy, Jr., in his treatise *Maryland Evidence Handbook*, observed that "[t]his is the most important impeachment technique because 'even an untruthful man will not usually lie without a motive.'" J. Murphy, *Maryland Evidence Handbook* § 1302(E), at 662 (2d ed.1993) (quoting *Gates v. Kelley*, 15 N.D. 639, 110 N.W. 770, 773 (1907)).

Marshall, 346 Md. at 192-93. Therefore, as a general matter, defendants must be allowed "wide latitude to cross-examine a witness as to bias or prejudices[.]" *Smallwood v. State*, 320 Md. 300, 307-08 (1990).

To be clear, the Confrontation Clause does not guarantee "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). For one, "[d]iscovery of irrelevant information is not a proper object of cross-examination." *Grandison v. State*, 341 Md. 175, 206 (1995). Evidence is relevant when 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; *Merzbacher v. State*, 346 Md. 391, 404 (1997) ("To be relevant, evidence must tend to establish or refute a fact at issue in the case.").

Trial courts do not have "discretion to admit to evidence that is not relevant." *Smith v. State*, 218 Md. App. 689, 704 (2014); Md. Rule 5-402. Whether evidence is relevant is a conclusion of law, which we review *de novo*. *Vangorder v. State*, 266 Md. App. 1, 18 (2025).

Moreover, although a witness "may be cross-examined on any matter relevant" to the issues in the action, a trial court may exercise discretion to limit the cross-examination "for witness safety or to prevent harassment, prejudice, confusion of the issues, [or] inquiry that is repetitive or only marginally relevant." *Manchame-Guerra v. State*, 457 Md. 300, 309 (2018) (quotation marks and citations omitted); *see also Merzbacher*, 346 Md. at 413 (noting that "trial courts . . . may limit, in their discretion, the extent to which a witness may be cross-examined for the purpose of showing bias"). For example, Maryland Rule 5-611 authorizes a trial court to "exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment." Md. Rule 5-611(a). As a general matter, we review for abuse of discretion the trial court's determinations as to whether questions on cross-examination are repetitive, harassing, confusing, or otherwise improper. *Calloway v. State*, 258 Md. App. 198, 216 (2023) (citation omitted).

Relatedly, Maryland Rule 5-616(a)(4) provides that a witness may be impeached through questions asked of the witness that are directed at "[p]roving that the witness is biased, prejudiced, interested in the outcome of the proceeding, or has a motive to testify

falsely[,]" but our decisional law establishes that such questions should be prohibited in a jury trial "if (1) there is no factual foundation for such an inquiry in the presence of the jury, or (2) the probative value of such an injury is substantially outweighed by the danger of undue prejudice or confusion." *Gonzalez v. State*, 487 Md. 136, 166 (2024) (citation omitted); *Calloway v. State*, 414 Md. 616, 638 (2010) (quoting *Leeks v. State*, 110 Md. App. 543, 557-58 (1996)).

In determining whether a trial court abused its discretion in limiting cross-examination of a State's witness, "the test is whether the jury was already in possession of sufficient information to make a discriminating appraisal of the particular witness's possible motives for testifying falsely in favor of the government." *Marshall*, 346 Md. at 194 (quoting *United States v. Christian*, 786 F.2d 203, 213 (6th Cir. 1986)). A trial court, however, "has no discretion to limit cross-examination to such an extent as to deprive the accused of a fair trial." *Id.* Nor can the trial court limit the scope of cross-examination unless "the constitutionally required threshold level of inquiry has been afforded the defendant.'" *Brown v. State*, 74 Md. App. 414, 419 (1988). This constitutional threshold is deemed "satisfied where defense counsel has been permitted to expose to the jury the facts from which jurors, as the sole triers of fact and of credibility, could appropriately draw inferences relating to the reliability of the witness." *Marshall*, 346 Md. at 193 (citation and internal quotation marks omitted).

Analysis

Testimony Regarding Attempted Arson Charge

Applying the foregoing principles to the issue raised on appeal, we are persuaded that the "constitutionally required threshold level of inquiry" had been satisfied when the trial court prevented defense counsel from asking Byrd whether his pending charge of attempted first-degree arson involved burning a cat. *See Brown*, 74 Md. App. at 419. During his direct examination, Byrd testified that he was facing multiple charges in three separate cases, including second-degree burglary, third-degree burglary, conspiracy to commit armed robbery, home invasion, and attempted first-degree arson. Then, during cross-examination, Byrd acknowledged that he was facing a 55-year sentence, with all suspended but 40 years, when he decided to tell the State about the information he had heard from other inmates, including Cumbo. Byrd acknowledged that he had a "bleak outlook" in his cases and stated that he was not "really incentivized" to report Cumbo's statements to the State until facing the 55-year sentence. Byrd's plea agreement, the terms of which included offering him a 25-year sentence in exchange for his testimony against Cumbo and another inmate "honestly and truthfully[,]" was admitted into evidence. As such, the record establishes that the jury was made aware of Byrd's potential bias and motive to testify as he did, and "as the sole trier[ ] of fact and credibility, could appropriately draw inferences relating to the reliability of the witness." *Marshall*, 346 Md. at 193.

Next, we agree with the trial court that there was no factual foundation upon which defense counsel could ask Byrd about the underlying facts of his attempted arson charge.

Even though "our case law does not require direct evidence to satisfy the requisite factual foundation for inquiry under . . . Rule 5-616(a)(4)," *Gonzalez*, 487 Md. at 169, there must be at least some circumstantial evidence that serves as a factual predicate for impeachment questions regarding bias or motive for false testimony. *See Peterson v. State*, 444 Md. 105, 135-36 (2015). Here, defense counsel offered no evidence—circumstantial or otherwise—to support his assertion that Byrd's attempted first-degree arson charge involved burning a cat, stating only that he was "going by [his] client." Indeed, when the trial court asked him whether he "look[ed] up the statement of charges or anything like that[,]" defense counsel acknowledged that he had not. Because the jury was presented with sufficient information to appraise Byrd's potential motives for testifying for the State, and because defense counsel failed to present any factual basis to support his question as to whether the charge of attempted first-degree arson involved burning a cat, we conclude that the trial court did not abuse its discretion in limiting counsel's cross-examination questions.

Testimony Regarding Inmates' Access to Other Cells

Next, we determine whether the trial court improperly limited defense counsel's cross-examination as to whether Byrd had "seen people go into other people's cells[.]" Because the State objected on the specific ground that the question was "irrelevant," and the trial court sustained that objection, we limit our analysis to that ground. *Colvin-el v. State*, 332 Md. 144, 169 (1993) ("Appellate review of an evidentiary ruling, when a specific objection was made, is limited to the ground assigned."). As noted, "[b]ecause trial courts do not have discretion to admit irrelevant evidence," *Ford v. State*, 235 Md. App. 175, 197

(2017), we give no deference to "a trial court's determination as to whether evidence is relevant" and review the decision *de novo*. *Portillo Funes v. State*, 469 Md. 438, 478 (2020).

As the Supreme Court of Maryland recently instructed, "[w]hile '[i]t is true that relevance is generally a low bar,' relevance 'is a legal requirement nonetheless.'" *Akers v. State*, 490 Md. 1, 26 (2025) (quoting *State v. Simms*, 420 Md. 705, 727 (2011)). In turn, relevant evidence has two components: materiality and probative value. *State v. Joynes*, 314 Md. 113, 119 (1988). More specifically, "[e]vidence is material if it bears on a fact of consequence to an issue in the case." *Akers*, 490 Md. at 26. On the other hand, evidence has probative value if it has "the tendency . . . to establish the proposition that it is offered to prove." *Id.* (quoting *Joynes*, 314 Md. at 119). Evidence that is "utterly lacking in probative value [ ] may be condemned as 'remote' or 'speculative.'" *Joynes*, 314 Md. at 120 (citing *McCormick on Evidence* § 185, at 542 (E. Cleary 3d ed. 1984)). In *Akers*, the Supreme Court of Maryland further expounded:

> **The probative value inquiry—and therefore also the relevancy inquiry as a whole—often depends upon how attenuated the evidence is to the material fact it is intended to prove or disprove.** Where the proffered evidence is several inferential leaps removed from the consequential fact, or where it involves a speculative chain of inferences to reach a determination, the less likely the evidence will make that fact more or less probable. This means that the evidence is not probative and, therefore, is irrelevant.

490 Md. at 26-27 (emphasis added). In sum, the "test of relevance is whether, in conjunction with all other relevant evidence, the evidence tends to make the proposition asserted more or less probable." *Donati v. State*, 215 Md. App. 686, 736 (2014) (quoting *Snyder v.*

State, 361 Md. 580, 592 (2000)).

We conclude that the trial court did not err in finding defense counsel's question irrelevant. At the outset, we agree with the trial court that counsel's reference to "people" is overly broad and is not sufficiently tethered to the proposition that he sought to assert, namely whether Byrd, an inmate, entered Cumbo's cell and looked at his court documents. Because the question was vague and broadly worded, even had Byrd answered "yes," a reasonable jury would not have known whether that meant Byrd himself could go inside Cumbo's cell, unless the jury drew a "speculative chain of inferences" from the answer. *Akers*, 490 Md. at 26; *cf. Taneja v. State*, 231 Md. App. 1, 18-19 (2016) (finding that evidence was "disconnected and remote" and therefore was properly excluded where the evidence "had no other effect than to raise the barest suspicion" that another individual might have committed the offense).

The question went well beyond the scope of trying to establish whether Byrd went into Cumbo's cell when he was not in it. In its place, the court gave defense counsel the opportunity to rephrase the question to ask "the specific question about whether he ever went into Mr. Cumbo's cell." When defense counsel eventually asked, "Throughout that entire period of time that you guys were together, ... you never went into his cell and he wasn't there[?]" Byrd responded that he had time just enough talk to Cumbo until Cumbo "got moved" to a different cell. Thus, defense counsel was able to ask the relevant question about Byrd's opportunity to go inside Cumbo's cell and view his court documents, and he

had the opportunity to ask follow-up questions to Byrd's response. The overly broad question about whether Byrd had seen "people" visiting other inmates' cells would not have established whether Byrd had looked at Cumbo's court papers (he testified that he did not), and the question had the potential to confuse the jury.

As this Court observed, "[w]ere we to allow questioning into any and every matter calculated only to raise remote inferences vis-à-vis the issues at trial, we have no doubt that in many trials those issues would be obfuscated well beyond the point of recognition." *Worthington v. State*, 38 Md. App. 487, 498 (1978). Therefore, we conclude that the trial court did not err or abuse its discretion in limiting defense counsel's cross-examination question on the ground that it was overly broad and irrelevant.

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