

Circuit Court for Baltimore County
Case Nos. C-03-CR-21-004903,
C-03-CR-21-004905

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

Consolidated Cases

September Term, 2023

No. 1363

AMEER DHAAMIN GITTENS

v.

STATE OF MARYLAND

No. 1428

DERRICK TYRELL JAMISON

v.

STATE OF MARYLAND

Friedman,
Ripken,
Kehoe, S.,

JJ.

Opinion by Friedman, J.

Filed: October 3, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to MD. RULE 1-104(a)(2)(B).

BACKGROUND

As best as we understand the relevant facts established at trial,¹ Ryles and Walker went to a convenience store to sell a gold chain that Ryles had just bought. Jamison and Gittens followed Ryles and Walker out of the convenience store, entered Walker's vehicle, and attempted to rob them at gunpoint. Apparently dissatisfied with the haul, Jamison and Gittens drove them around looking for ways to steal more money. They stopped at an ATM at a Carroll Fuels gas station, and Jamison withdrew about \$120 from Walker's account. At some point, Walker told Jamison and Gittens that Walker's father had money. Jamison and Gittens forced Walker to direct them to his home, where Walker and his father were murdered. Jamison and Gittens left the home and released Ryles, naked, from the trunk of the car where he had been held.

After a joint trial in the Circuit Court for Baltimore County, both Jamison and Gittens were convicted of two counts of first-degree murder, two counts of felony murder, two counts of kidnapping, one count of armed carjacking, two counts of robbery with a dangerous weapon, two counts of attempted robbery with a dangerous weapon, three counts of use of a firearm in the commission of a crime of violence, and a single count of home invasion. Gittens was also convicted of one count of possession of a regulated firearm by a prohibited person. The court sentenced each man to two consecutive terms of life

¹ Because these facts are not critical to the resolution of any of these questions, we discuss them in capsule form.

incarceration without the possibility of parole and concurrent terms of many, many years. These timely appeals followed.

DISCUSSION

Although these cases arrive here separately, because of the significant overlap in facts and legal theories, we exercise our discretion to produce a consolidated opinion covering both cases.² As a result, we will address the three issues that both men raise first:

1. Did the circuit court err in denying the defenses' motions for severance and granting the State's motion for joinder?
2. Did the circuit court err in its conduct of a body attachment hearing regarding Ryles? And
3. Did the circuit court err in admitting Ryles' prior statement as a prior inconsistent statement?³

We will then turn to each man's additional claims not joined by the other. As to Jamison:

4. Did the circuit court err in not awarding credit for time served?
And
5. What is the effect of a missing transcript of the voir dire?

And then as to Gittens:

6. Did the circuit court err in refusing to grant a mistrial?
7. Was the evidence of Gittens' guilt sufficient?

We will address each of these in turn.

² This Court originally docketed these appeals separately as Nos. 1363 and 1428. We granted Jamison' and Gittens' motion to consolidate the appeals and, therefore, decide both captioned cases in this consolidated opinion.

³ We have slightly revised these questions presented.

I. JOINDER AND SEVERANCE

Jamison and Gittens both argue that the trial court abused its discretion in granting the motion for joinder and denying the motions for severance. Maryland Rule 4-253 governs both joinder and severance—permitting a joint trial if the defendants “are alleged to have participated in the same act or transaction or in the same series of acts or transactions,” MD. R. 4-253 (a), and prohibiting joinder if “any party will be prejudiced by the joinder.” MD. R. 4-253 (c). Judges are instructed to apply a two-part test when deciding whether to join or to sever trials: “the trial court must first determine whether non-mutually admissible evidence will be introduced and then must determine whether the admission of such evidence will unfairly prejudice the defendant seeking a severance.” *State v. Hines*, 450 Md. 352, 379 (2016). If both parts of the test are satisfied, the trial court can either sever the trials or grant other appropriate relief like, for example, redacting the non-mutually admissible evidence. *Id.* We review the decision to join or sever defendants’ trials for an abuse of discretion. *Id.* at 366.

In these cases, we have scoured the record but have been unable to find any evidence that would satisfy the first step from *Hines*.⁴ *See id.* at 379. It is not sufficient that the parties are adverse—that the co-defendants don’t like each other, that their lawyers are aggressive, even to each other’s clients, or that their defense strategy is to blame the other—

⁴ The State claims that each defendant waived all or part of their appellate claims to separate trials. Although there may be some merits to this argument, we find it congenial to exercise our discretion to reach the merits.

in fact, it happens all of the time. Rather, there must be some evidence that is admissible against one party that would be inadmissible against the other party.

Here there are only two real candidates. *First*, is Jamison's argument that Gittens' arrest and Gittens' disqualification from possessing a weapon would have been inadmissible at a separate trial of Jamison. But that argument does not bear scrutiny as the fact of the recovery of the victim's car and of the murder weapon in the possession of an alleged confederate would certainly have been admissible at Jamison's trial. And while the legal significance of Gittens possessing the firearm would not have been relevant to Jamison, neither was it in any way prejudicial. And *second*, is Gittens' argument that the facts of Jamison's actions in withdrawing money from Walker's account at the ATM would have been inadmissible in a separate trial against Gittens. That is not true, as they were both part of the same series of acts for which Gittens was charged, tried, and convicted. Those facts would certainly have been admissible at Gittens' trial. As a result, we hold that the trial court did not abuse its discretion in denying either Gittens' or Jamison's motion to sever or, conversely, in granting the State's motion for joinder.

II. BODY ATTACHMENT HEARING REGARDING RYLES

As noted above, the State's theory of the case was that Ryles, along with Walker, were victims of these crimes. Fearing that Ryles would not appear at trial, the State requested that Ryles be held as a material witness. The circuit court granted the State's request and held a hearing two days later. Neither Gittens nor Jamison, nor their respective counsel, attended this hearing, and now both complain that they were unconstitutionally deprived of their right to attend that hearing.

We see nothing of merit in this claim. Despite notice of the hearing, neither Gittens nor Jamison sought to prevent or postpone the hearing, nor did they, nor their counsels, appear. They have done none of the things necessary to preserve this claim. Moreover, there is nothing to suggest that a criminal defendant has the right to appear or participate at a hearing regarding the confinement of a material witness in their case. No case has so held, and we decline to invent such a right.

III. ADMISSIBILITY OF RYLES' PRIOR INCONSISTENT STATEMENT

Both Gittens and Jamison argue that the circuit court erred in admitting at trial a prior inconsistent statement made by Ryles to the police.

Ordinarily, Ryles' statement to the police would be inadmissible hearsay as it was an out-of-court statement offered for the truth of the matter asserted. MD. R. 5-801 (c) (defining hearsay); MD. R. 5-802 (making hearsay generally inadmissible). A hearsay statement may nevertheless be admissible as an exception to the hearsay rule if it is inconsistent with the declarant's trial testimony and has other indicators of reliability, like it was given under oath, reduced to writing and signed, or recorded. MD. R. 5-802.1 (a). The question here was whether Ryles' prior statement was, in fact, inconsistent with his trial testimony. A prior statement may be inconsistent if the trial court finds that a witness feigned memory loss during testimony. *Corbett v. State*, 130 Md. App. 408, 425-26 (2000). We do not disturb the trial court's factual findings on the admissibility of hearsay absent clear error. *Gordon v. State*, 431 Md. 527, 538 (2013).

Ryles testified at trial that he did not remember being at police headquarters or being interviewed by a police detective. Moreover, Ryles testified that he did not remember the

events of the night of the crime. The trial judge found that Ryles' memory loss was feigned and not credible. Although each defendant posits other credible reasons for Ryles' memory loss, including his marijuana abuse, the passage of time, and the trauma of the events of that night, we will not second-guess the trial court's credibility findings unless they are clearly erroneous. There is nothing here to suggest that these findings were clearly erroneous, and we therefore affirm the circuit court's decision to admit Ryles' statement to police as a prior inconsistent statement.

IV. CREDIT FOR TIME SERVED

Jamison argues that the circuit court erred in not giving him credit for time served in its computation of his sentences in violation of CP § 6-218 (b)(1). MD. CODE, CRIM. PROC. The remedy for a lack of credit is to correct the commitment record. MD. R. 4-351 (b); *Bratt v. State*, 468 Md. 481, 506 (2020). Given that Jamison's commitment record already credits him for time served,⁵ we decline to amend it.

V. MISSING TRANSCRIPT

Jamison argues that we must reverse because part of the trial transcript is incomplete.

⁵ The commitment record credits Jamison with 664 days prior to his sentencing on August 31, 2023, not including the day of sentencing. The commitment record provides that his sentence began on November 5, 2021, which is also 664 days before August 31, 2023. Jamison instead seeks credit dating back to his arrest on November 4, 2021. When we compute time, however, we do not count the day on which an event, such as Jamison's confinement, began. MD. CODE, GEN. PROVIS. § 1-302 (a); MD. R. 1-203 (a).

Although the record contains significant portions of the transcript of the voir dire, it is conceded that the transcript is missing pages. Moreover, it is clear in the record in this Court that Jamison and his representatives have made a good faith, but ultimately unsuccessful effort to obtain the missing pages. We hold, however, that Jamison has failed to “show that the omission [of the pages of the transcript] is not inconsequential, but is ‘in some manner’ relevant to the appeal.” *Wilson v. State*, 334 Md. 469, 477 (1994). Obviously, without a transcript we can’t require a defendant to cite “chapter and verse” about the defect they allege. But we do require some suggestion that, if found, the missing pages would reveal a defect. Jamison has not made any such suggestion, and, in its absence, we decline to hold the State responsible for a failure of equipment that it doesn’t control.

VI. MISTRIAL

Gittens argues that the circuit court erred in not granting a mistrial. We find no merit to this claim.

At the time of the joint trial, the Supreme Court of Maryland had not yet issued its groundbreaking decision in *Abruquah v. State*, holding that firearms experts cannot testify that they are “certain” that a given bullet was fired by a particular firearm but can only testify that it is “consistent” with being fired by that firearm. 483 Md. 637, 694-95 (2023).

Here, Jamison asked the State’s firearm expert, Birchfield, if certain bullets “were fired” from a particular gun that was recovered from Gittens. Before Birchfield answered, Gittens objected. The circuit court sustained the objection. Gittens also moved for a mistrial, which the court denied. Jamison then rephrased the question, and Birchfield

answered that the bullets were “consistent” with being fired from the gun recovered from Gittens.

We review the trial court’s denial of a mistrial under an abuse of discretion standard. *Carter v. State*, 366 Md. 574, 589 (2001). Trial courts are instructed to only resort to granting a mistrial when the defendant suffers “clear and egregious” or “devastating and pervasive” prejudice that “no other remedy will suffice to cure.” *Rainville v. State*, 328 Md. 398, 411 (1992) (describing necessary prejudice as “devastating and pervasive”); *Rutherford v. State*, 160 Md. App. 311, 323 (2004) (“no other remedy will suffice”); *Allen v. State*, 89 Md. App. 25, 42 (1991) (describing necessary prejudice as “clear and egregious”).

It seems to us that before the Supreme Court decided *Abruquah*, the trial court sustained an objection to a question that was probably allowable at the time. Moreover, Birchfield didn’t answer that question but instead testified, consistent with the then-future decision in *Abruquah*, that the bullets were “consistent” with having been fired from Gittens’ firearm. 483 Md. at 694-95. It is not plain to us that any error occurred at all, but if it did, we hold that the prejudice from it was neither “clear and egregious” nor “devastating and pervasive.” As a result, we hold that the circuit court did not abuse its considerable discretion to deny a mistrial.

VII. SUFFICIENCY OF THE EVIDENCE

Gittens (but not Jamison) argues that the evidence against him was insufficient. The State argues both that Gittens failed to preserve this claim and that its evidence was more

than sufficient, pointing to Ryles’ identification of Gittens as his kidnapper and Gittens’ fingerprints in Walker’s car. We hold that the State is correct in both regards.

First, to properly preserve an appellate challenge to the sufficiency of the evidence, a criminal defendant must first move—with particularity—for judgment of acquittal in the trial court. MD. R. 4-324 (a); *Starr v. State*, 405 Md. 293, 302 (2008). At trial, Gittens moved for judgment of acquittal solely based on his claim that the State failed to prove his criminal intent. Here, he argues that the State failed to prove his criminal agency. As a result, his claim is not preserved for our review.

Second, the test for evidentiary sufficiency requires us to determine whether there is evidence from which a rational finder of fact could be convinced of the defendant’s guilt beyond a reasonable doubt. *State v. Suddith*, 379 Md. 425, 429 (2004). We begin by noting that Gittens’ argument is that the “entire case against [him] rests on circumstantial evidence.” But Maryland law is clear that there is nothing wrong with circumstantial evidence. *Hebron v. State*, 331 Md. 219, 228-29 (1993) (“A conviction may be sustained on the basis of a single strand of circumstantial evidence or successive links of circumstantial evidence.”). And here, there was significant evidence of Gittens’ criminal agency, including that Ryles identified Gittens as his kidnapper; that Gittens was found in possession of the victim’s car and of a firearm that was “consistent” with having fired bullets found at the scene of the crime; and that Gittens’ fingerprints were found in the victim’s car.

Thus, Gittens’ claim was not preserved, but even if it was, there was more than sufficient evidence of his criminal agency.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS ASSESSED AGAINST
APPELLANTS.**