Circuit Court for Baltimore City
Case No. 1200360011, 1200360013, 1200360015

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1420

September Term, 2022

MALIK BROOKS

v.

STATE OF MARYLAND

Reed,
Albright,
Raker, Irma S.
(Senior Judge, Specially Assigned),

Opinion by Raker, J.

Filed: March 22, 2024

*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 Rule 1-104(a)(2)(B).

Appellant, Malik Brooks, was convicted in the Circuit Court for Baltimore City of two counts of first-degree murder, two counts of armed carjacking, conspiracy, handgun offenses, and lesser included offenses. Appellant presents the following questions for our review:

> 1. "Did the trial court err in permitting the firearms examiner to testify that the bullet casings found at the scene of the shootings were definitively fired from the taurus handgun found on Mr. Walker, who was arrested with Mr. Brooks?
> 2. Did the trial court err in allowing the state to introduce irrelevant other crimes evidence?
> 3. Did the trial court err in permitting the prosecutor to ask improper questions and allowing the detective to provide responses that invade the province of the jury?"

Finding no error, we shall affirm.

I.

Appellant was indicted by the Grand Jury for Baltimore City on two counts of first-degree murder, two counts of conspiracy to commit first-degree murder, and two counts of use of a firearm in the commission of a crime of violence on indictment 1200360011. This indictment was associated with the shooting of Aryanna James and Courtney Richardson.

Appellant was indicted by the Grand Jury for Baltimore City on one count of armed carjacking, one count of conspiracy to commit armed carjacking, one count of robbery with a deadly weapon, one count of conspiracy to commit robbery with a deadly weapon, one count of first-degree assault, one count of conspiracy to commit first-degree assault, one count of use of a firearm in the commission of a crime of violence, and one count of

conspiracy to use a handgun in the commission of a crime of violence on indictment 1200360013. This indictment was associated with the carjacking of Justin Johnson.

Appellant was indicted by the Grand Jury for Baltimore City on one count of robbery with a deadly weapon, one count of conspiracy to commit robbery with a deadly weapon, one count of first-degree assault, one count of conspiracy to commit first-degree assault, one count of use of a firearm in the commission of a crime of violence, and one count of conspiracy to use a handgun in the commission of a crime of violence on indictment 1200360015. This indictment was associated with the armed robbery of J'rell Ellis.

The jury found appellant guilty on all counts. The court imposed two consecutive life sentences for first-degree murder, two concurrent life sentences for conspiracy to commit first-degree murder, consecutive terms of incarceration of thirty years for carjacking and conspiracy to commit carjacking, consecutive terms of incarceration of twenty years for each count of robbery with a deadly weapon, and consecutive terms of incarceration of twenty years for each count of use of a handgun in the commission of a crime of violence.[1]

[1] For sentencing purposes, the court merged conspiracy to commit robbery with a deadly weapon, first-degree assault, and conspiracy to commit first-degree assault associated with the carjacking of Justin Johnson into the conviction for robbery with a deadly weapon associated with the carjacking of Justin Johnson. The court merged the same charges in the Indictment associated with the robbery of J'rell Ellis. The court merged conspiracy to use a handgun in the commission of a crime of violence with use of a handgun in the commission of a crime of violence in both Indictments.

The charges stem from appellant's crime spree in the early hours of November 14, 2019. At around 1:30 am, Justin Johnson was returning home from work and parked his car on Scott Street in Baltimore City. He began removing his belongings from the car. While he was doing so, three men wearing black masks approached him, pointed a gun at his face, and robbed him of his car, iPad, wallet, and cell phone. Mr. Johnson reported that the attackers were African American men, about 6 feet tall, and wearing jackets. One was wearing a red jacket, one a blue jacket, and one a silver-grey jacket. The attacker with the silver-grey jacket got into the driver's seat of Mr. Johnson's car and the other two entered on the passenger's side. The assailants drove off in Mr. Johnson's car, a Honda Civic.

At 2:53 am, police received a call about a shooting at McHenry Street. Two victims, Aryanna James and Courtney Richardson were found lying on the sidewalk after having been shot. Both died within an hour of the police's arrival at the scene. Surveillance footage showed three individuals approaching the victims from an alley near McHenry Street. Two of the three individuals began shooting. All three then fled back down the alley to a car that appeared identical to Mr. Johnson's Honda Civic. One of the suspects could be seen wearing a two-toned silver and grey jacket.

At approximately 3:30 am, J'rell Ellis was walking to his workplace on the University of Maryland Mid-town Campus when a Honda Civic pulled up. A man wearing a ski mask got out of the car, pointed a gun at Mr. Ellis, and demanded money. Mr. Ellis gave the man his backpack as well as everything in his pockets, including his wallet and cell phone. Mr. Ellis spotted the license plate on the Honda Civic and gave the number to the police. The license plate matched the plate on Mr. Johnson's car.

At approximately 4:45 am, Michael Blanch was in Lansdowne, Baltimore County getting ready for work. He had gone out to his car, started it, and begun scraping his windshield. Suddenly, a car pulled around a nearby corner, and three men got out wearing masks. One yelled, "Don't move motherfucker or I will shoot you. I have a gun." Mr. Blanch attempted to defend himself with his windshield scraper, but one of the men jumped into Mr. Blanch's car and drove off. The others returned to the car they had arrived in and drove off, following him. The car stolen from Mr. Blanch was a Monte Carlo.

Later that day, a Baltimore County police officer, Officer Zombro, spotted a Honda Civic parked two cars in front of a Monte Carlo in South Baltimore. He kept both cars under surveillance. He watched three men approach the cars. Two got into the Honda Civic and one got into the Monte Carlo. After a few moments, the passenger from the Civic got out, went to the Monte Carlo, spoke to the driver, and then returned to the Civic. Police chased both cars. The drivers of both cars attempted to flee in the cars and crashed. All three individuals in the cars attempted to flee on foot after the crashes and were apprehended by the police.

The driver of the Monte Carlo was identified as Christopher Bynum, the passenger from the Civic was identified as Kiray Walker, and the driver from the Civic was appellant. Stolen items belonging to Mr. Johnson and Mr. Blanch were found in the Honda. At the time of his arrest, appellant was wearing a two-toned jacket matching the two-tone jacket in the videos from the shooting. Mr. Walker was carrying a Taurus firearm when he was arrested. The morning after the arrest, appellant made several phone calls in which he

discussed not wanting to go out on the morning of the crime spree because he suspected that they would get caught.

The State submitted the shell casings from the scene of the shooting to a city firearms examiner, Christopher Faber. Mr. Farber analyzed the shell casings using microscopic toolmark analysis based on training and guidelines produced by the Association of Firearm and Toolmark Examiners ("AFTE"). The methodology requires the examiner to look for "class characteristics." Class characteristics are left by the rifling of the barrel of a gun. Inside the barrel of a gun, there are spiral impressions that cut into the bullet as it is fired. Examiners visually identify the marks left by these impressions on a cartridge or bullet to determine whether there is the correct number of marks and whether the spiral pattern moves in the correct direction. If the class characteristics match between a cartridge found at the crime scene and the gun against which it is being tested, the examiner then conducts a microscopic analysis of "individual characteristics." These individual characteristics stem, according to AFTE Theory, from unique microscopic imperfections left upon the chamber, breach-face, and firing pin during manufacture. The microscopic imperfections on the inside of the gun can leave an impression on the bullet when it is fired. These can then, according to AFTE Theory, be used to match a particular firearm to a cartridge.

The shell casings included both 9 mm casings and 40 caliber casings. Mr. Faber concluded that all of the 9 mm casings came from the same gun and all of the 40 caliber casings came from the same gun. Mr. Faber further concluded that all of the 9 mm casings were a match for the Taurus firearm that was taken from Mr. Walker upon his arrest.

Appellant's charges in Baltimore City cover the conduct involved in the Johnson carjacking, the Ellis robbery, and the shootings of Aryanna James and Courtney Richardson. The trial court ruled that all three of appellant's cases from Baltimore City would be tried together. Appellant does not appeal this decision.

At the close of trial, the jury found appellant guilty, and the court sentenced him as described above. This timely appeal followed.

II.

Appellant first argues that the court erred in admitting the testimony from the ballistics expert that the 9 mm cartridges from the scene of the shooting came from Mr. Walker's gun. Since appellant's trial, the Supreme Court of Maryland has considered the admissibility of expert conclusions reached using AFTE Theory in *Abruquah v. State*, 483 Md. 637 (2023). In that case, the Supreme Court of Maryland considered the same AFTE Theory methodology used by Mr. Farber. After considering the extensive research on the reliability of AFTE Theory produced over the last two decades, the Supreme Court concluded:

> "[T]he firearms identification methodology employed in this case can support reliable conclusions that patterns and markings on bullets are consistent or inconsistent with those on bullets fired from a particular firearm. Those reports, studies, and testimony do not, however, demonstrate that that methodology can reliably support an unqualified conclusion that such bullets were fired from a particular firearm."

As a result, under the *Daubert* test adopted by this Court in *Rochkind v. Stevenson*, 471 Md. 1 (2020), experts may not offer unqualified conclusions on the subject. *Id.* Appellant maintains that the trial court erred by allowing the expert to offer an unqualified conclusion about the ballistics in this case. Appellant acknowledges that this issue was not raised at trial and is not preserved. But appellant requests that this court exercise plain error review.

The State argues that there was no plain error. The State argues that, before we can exercise plain error review, the legal error must have been obvious and not subject to reasonable dispute at the time of the trial. The State notes that *Abruquah* was not decided until after appellant's trial and argues that, at the time of trial, the admissibility of ballistics evidence was in flux. At the time of trial, the Supreme Court had recently adopted the *Daubert/Rochkind* standard and, as a result, the admissibility of expert testimony was undergoing a massive series of changes. The State argues that the trial judge's decision to admit the ballistics evidence cannot have been plain error.

Furthermore, the State argues that plain error must be error that seriously affects the outcome of the proceedings, and this error did not. The State notes that, even under *Abruquah*, the State would have been able to offer *some* firearms evidence. In particular, the firearms examiner would have been permitted to testify about markings found on the cartridges and to conclude that they were consistent with the cartridges having been fired from Mr. Walker's gun. The State argues that, in light of the strength of the evidence presented in this case, the difference between a qualified expert conclusion and an unqualified expert conclusion is unlikely to have substantially affected the outcome of the trial.

Appellant next argues that the State should not have been permitted to introduce other crimes evidence against him. Appellant claims that this was a "single trial ostensibly for two homicides" and that it was prejudicial for testimony about the two carjackings and the additional robbery to be offered into evidence. In particular, he contends that the carjacking of Mr. Blanch which happened after the murders, and with which he was not charged, was irrelevant and prejudicial. Appellant contends that the evidence of the additional crimes he committed that day was used for little more than "other crimes" character evidence. To the extent that evidence was relevant for any other purpose, its prejudicial effect outweighs any probative value.

The State responds by noting that, per the judge's decision not to sever the carjacking and robbery cases, the evidence about the Johnson carjacking and the Ellis robbery could not possibly have been "other crimes" evidence. It was evidence of the crimes for which appellant was on trial. As for the evidence of the Blanch carjacking the State argues that, while the carjacking was not charged, it was intrinsically related to the charged crimes because it was part of the same crime spree. The State contends that the Blanch carjacking was not evidence of an "other crime" at all. Even if it was, it was admissible under Rule 5-404(b) as evidence of a common scheme or plan with probative value separate from any character evidence. The State contends also that, even if evidence of the Blanch carjacking was improperly admitted, it was harmless error in light of all the evidence presented against appellant.

Finally, appellant argues that some of the questions asked of the lead detective on redirect examination were inappropriate. On redirect the State recapped the evidence that the detective had collected including the following colloquy:

"[QUESTION]: But you did have the casings, correct?

[DET. TONSCH]: Correct.

[QUESTION]: And you did have the murder weapon, correct?

[DEFENSE COUNSEL]: Objection.

[DET. TONSCH]: That is correct.

THE COURT: Overruled.

[DET. TONSCH]: Correct.

[QUESTION]: And you did have this, correct? [Holding up the two-toned jacket in evidence]

[DET. TONSCH]: That's correct.

[QUESTION]: And you did have a video showing—

[DET. TONSCH]: Correct.

[QUESTION]: Exactly this, correct?

[DET. TONSCH]: Correct.

[DEFENSE COUNSEL]: I'm going to object because—

[THE COURT]: Overruled, Overruled. Have a seat.

[QUESTION]: And you did have a Honda, correct?

[DET. TONSCH]: That's correct.

[QUESTION]: But that gentleman fled from you it, correct?

[DEFENSE COUNSEL]: Objection

[DET. TONSCH]: Correct.

[THE COURT]: Overruled.

[QUESTION]: And you did have video showing an identical looking car transporting the murderers, near the scene, correct?

[DEFENSE COUNSEL]: Objection

[THE COURT]: I'm going to strike that. Rephrase it.

[QUESTION]: You did have video showing an identical looking car transporting the shooters?

[DEFENSE COUNSEL]: Objection

[QUESTION]: to the scene, correct?

[THE COURT]: Overruled.

[DET. TONSCH]: Correct."

Appellant argues that having the detective interpret the video as showing a jacket identical to the one worn by appellant and a car identical to the one appellant was arrested driving invaded the province of the jury. Appellant also claims that having the detective state that the police had the "murder weapon" invaded the province of the jury.

The State responds that, first, appellant did not object to a prior instance on direct examination in which the following testimony was elicited:

"[QUESTION]: What specifically drew your attention to that?

[DET. TONSCH]: After reviewing the interview, I noticed the jacket that he was wearing when he was arrested.

[QUESTION]: And what is your belief as to the jacket and why was it significant?

[DET. TONSCH]: It was my belief that that's the same jacket we saw in the video.

[QUESTION]: Referring to the surveillance footage?

[DET. TONSCH]: Correct"

Because appellant did not object to the prior instance, the question of whether the detective can opine on the similarity between the jacket in evidence and the jacket in the footage is not preserved.

The State further argues that, while a detective simply narrating footage is inappropriate, it is appropriate for a detective to indicate which features of footage affected her investigation. Here, Det. Tonsch pointed out the similarities between the jacket appellant was wearing when he was arrested and the jacket in the footage and between the car appellant was driving when he was arrested and the car in the footage to explain her investigative behavior. Finally, the State argues that police are permitted to testify to their investigative conclusions, and that it was appropriate for Det. Tonsch to testify that the police had the murder weapon.

III.

We begin with appellant's request for plain error review of the court's decision to admit expert testimony on ballistics. Md. Rule 8-131(a) dictates that appellate courts will not address claims of error that have not been raised or decided in the trial court. *Graham*

v. State, 325 Md. 398, 411 (1992). Here, appellant concedes that he did not object to the expert testimony in the proceedings below, but requests that we exercise our discretion to engage in plain error review.

Plain error review is appropriate when (1) there is an error or defect that has not been intentionally relinquished or abandoned, (2) the legal error is clear and obvious, (3) the error affected appellant's substantial rights, and (4) the error must seriously affect the fairness, integrity, or public reputation of judicial proceedings. *Newton v. State*, 455 Md. 341, 364 (2017).

Here, appellant has failed to meet the second requirement. For an error to have been "clear and obvious" in the relevant sense, it must have been "clear and obvious" at the time of trial. *James v. State*, 191 Md. App. 233, 247 (2010). In cases where the law was unsettled at the time of trial, but has since been settled, this Court has declined to exercise plain error review. *Id.* Thus, unless appellant can show that the court's ruling was clearly, and obviously in error, before the Supreme Court decided *Abruquah*, we will not find plain error.

This Court has carved out an exception to the requirement that the error was clear and obvious at the time of trial for cases in which the law was settled at the time of trial and settled in a manner contrary to the law at the time of appeal. *Hallowell v. State*, 235 Md. App. 484, 505-06 (2018). In *Hallowell*, for instance, the trial judge correctly followed the existing law in crafting a felony murder jury instruction. *Id.* In the interim between the trial and the appeal, the law abruptly changed such that the crime described by the jury

instructions became non-existent. *Id.* As a result, this court exercised plain error review to avoid a situation in which counsel must make a litany of objections to evidence that is admissible as a settled matter of law just in case the law changes. *Id.* If, in this case, courts had affirmatively held before appellant's trial that ballistics evidence of the type offered met the *Daubert/Rochkind* standard, the *Hallowell* exception might apply. Yet that was not the state of the law prior to the appellant's trial. The key distinction is that, in *Hallowell*, the law was settled (in *Roary*, a case not yet overruled), and in this case, the law was unsettled with respect to the admissibility of similar ballistic testimony under *Daubert/Rochkind.*

At the time of appellant's trial, the admissibility of ballistics evidence was in flux. Maryland courts had adopted the *Daubert/Rochkind* standard in 2020. *Rochkind v. Stevenson*, 471 Md. 1 (2020). Neither this Court nor the Maryland Supreme Court had opined upon the admissibility of firearms identification evidence under the new standard. Among other jurisdictions using the *Daubert/Rochkind* standard, there was wide variation in the degree to which courts permitted experts to match bullets with specific firearms. *Compare United State v. Johnson*, No. 14-CR-00412-THE, 2015 WL 5012949, at *6-11 (N.D. Cal. Aug. 24, 2015) (permitting such evidence under the *Daubert* standard), *and State v. Boss*, 577 S.W.3d 509, 517 (Mo. Ct. App. 2019) (same), *and United State v. Hunt*, 464 F. Supp. 3d 1252, 1260 (D. Okla. 2020), *with Garnder v. United States*, 140 A.3d 1172, 1184 (D.C. 2016) (permitting some ballistics identification evidence but prohibiting experts from testifying to an unqualified match between a particular firearm and a

particular bullet), *with United State v. Shipp*, 422 F. Supp. 3d 762, 783 (E.D.N.Y. 2019) (precluding an expert from testifying that a particular bullet was a match for a particular firearm).

The decision to admit expert testimony on firearm identification was neither a clear and obvious error nor something so clearly and obviously legally appropriate that the *Hallowell* exception applies. Therefore, appellant has failed to meet the prerequisites for plain error review.

We decline to exercise plain error review.

IV.

We next turn to the alleged "other crimes" evidence. As a preliminary matter, we agree with the State that evidence of the Johnson carjacking and Ellis robbery were not "other crimes" evidence. Appellant was charged with and was on trial for those crimes along with the murders of Aryanna James and Courtney Richardson. Appellant does not appeal the court's decision to try those charges together. Evidence pertinent to one of the crimes the appellant is on trial for is not "other crimes" evidence prohibited by Rule 5-404. We will confine our consideration, therefore, to the evidence about the Blanch carjacking for which appellant was not on trial.

We review a circuit court's decisions to admit or exclude evidence applying an abuse of discretion standard. *Norwood v. State*, 22 Md. App. 620, 642 (2006). Maryland Rule 5-404(b) prohibits evidence of "other crimes, wrongs, or acts" to prove an individual's

criminal character and his propensity to act in accordance with that character. Evidence of other crimes, wrongs or acts is only relevant "if it is substantially relevant to some contested issue in the case and if it is not offered to prove the defendant's guilt based on propensity to commit crime or his character as a criminal." *State v. Faulkner*, 314 Md. 630, 634 (1989). The Maryland Supreme Court has held that "the strictures of 'other crimes' evidence law . . . do not apply to evidence of crimes . . . that arise during the same transaction and are intrinsic to the charged crime or crimes." *Odum v. State*, 412 Md. 593, 611 (2010). The State argues, and we agree, that the Blanch carjacking was intrinsic to the charged crimes and, therefore, admissible.

Crimes that are intrinsic to the charged act are those that are "so connected or blended in point of time or circumstances with the crime or crimes charged that they form a single transaction, and the crime or crimes charged cannot be fully shown or explained without evidence of the other crimes." *Id.* The intrinsic nature of additional crimes is not destroyed simply because there was a gap in time between the charged crimes and the uncharged crimes. *Id.* at 598 (admitting evidence that the defendants had purchased marijuana with the proceeds of the charged kidnapping after driving away from the scene).

Uncharged crimes committed in furtherance of a conspiracy are intrinsic to the conspiracy charged. *United States v. Loayza*, 107 F. 3d 257, 264 (4th Cir. 1997) (admitting evidence of continued participation in a conspiracy after the dates charged over a challenge under Fed. R. Evid. 404(b)); *see also Odum*, 412 Md. at 611-12 (noting that Maryland court's interpretation of Rule 5-404(b) tracks with federal court's interpretation of Fed. R. Evid. 404(b) on this point). Here, the Blanch carjacking was part of the same conspiracies

charged and tried in Baltimore City. It was part of the same crime spree, involved the same collection of people, and involved the same weapon as all of the other charged crimes. Proceeds from the Blanch carjacking were found in the Honda from the Johnson carjacking, which the State argued was evidence that appellant and his co-conspirators were sharing the proceeds between themselves between crimes in furtherance of the conspiracy. Appellant and his co-conspirators used the car from the Johnson carjacking in the Blanch carjacking. The evidence of the Blanch carjacking was probative of an ongoing conspiracy.

Further, evidence of uncharged crimes may be admissible when those crimes provide "necessary context" for the charged crime or for the evidence presented about the charged crime. *Merzbacher v. State*, 346 Md. 391, 409-10 (1997). Such evidence is often necessary to "complete the story" of the charged crime and the investigation of that crime. *Id.* at 410. Here, the fact that appellant and his co-conspirators had stolen the Monte Carlo from Mr. Blanch was necessary context for the evidence about the appellant's eventual apprehension. Police apprehended appellant because they suspected that he and his co-conspirators would be driving both a stolen Honda Civic and a stolen Monte Carlo and they saw those two cars together with the passenger moving back and forth between the vehicles.

The jury was also aware that three individuals had committed the Johnson carjacking and the shooting of Aryanna James and Courtney Richardson. Only two individuals were arrested in the Honda Civic. Without evidence about the Monte Carlo and how it had become a part of the group, the change in the number of robbers in the Civic

was likely to be confusing and could lead the jury to believe that the police had overlooked an inconsistency between the size of the group arrested and the size of the group involved in the robberies. In short, the evidence of the Blanch carjacking is a necessary link in the chain for the jury to understand the police's later investigation of all of the crimes. The circuit court did not abuse its discretion in admitting this evidence.

V.

Finally, we consider the State's redirect examination of Detective Tonsch. Durring that redirect examination, the State had Detective Tonsch describe two portions of the surveillance video from the scene of the shooting of Aryanna James and Courtney Richardson. First, the State elicited the testimony that the jacket worn by appellant was identical to that in the tape. Second, the State elicited the testimony that the car driven by appellant when he was arrested was identical to the car in the video surveillance.

We agree with the State that the description of the jacket in the video was not preserved. A party opposing the admission of evidence must object each time the evidence is offered. *Klauenberg v. State*, 355 Md. 528, 545 (1999). Where a party fails to do so, the matter is not preserved for appeal. *DeLeon v. State*, 407 Md. 16, 31 (2008). Here, appellant did not object to the discussion of the jacket on direct examination in which the detective directly asserted that the jacket appellant was wearing was "the same jacket that we saw in the video." Thus, he failed to preserve any objection to the description of the jacket in the video as matching the one appellant was wearing upon arrest. And when he

did object, any error, if error, was harmless because the jury heard the same evidence earlier.

As for the description of the car carrying the shooters as "identical" to the one appellant was arrested in, we review the admission of such testimony for abuse of discretion. *Washington v. State*, 179 Md. App. 32, 60 (2008), *rev'd on other grounds* 406 Md. 642 (2008). "As a general rule, caution should be exercised by the trial court when determining whether to permit a police officer to narrate a video when the officer was not present during the events depicted therein." *Payton v. State*, 235 Md. App. 524, 540 (2018). However, this court has permitted officers to describe the specific portions of a videotape that were relevant to their investigation and to identify the features they observed. *Washington*, 179 Md. App. at 61. Similarly, the court has permitted lay witnesses to make identifications of individuals visible in video tapes. *Moreland v. State*, 207 Md. App. 563, 573 (2013).

Here, we see no issue with the detective identifying the Honda Civic in the video and noting that identification as a pertinent detail in her investigation. This is particularly true given that the jury had access to the video and could observe it independently. *Washington*, 179 Md. App. at 6 (Appellant, however, insists that, in light of the videotape and photographs shown during trial . . . the jury possessed the knowledge and skill to draw its own inferences from the photographs. It is for this same reason, however, that the detective's testimony was harmless). We find no abuse of discretion in the court's decision to permit this testimony.

As for the detective's statement that the police "did have the murder weapon," we find that the court's admission of this testimony was error, but that error was harmless. Witnesses cannot resolve conflicting evidence or form judgments that invade the province of the jury. *Bohnert v. State*, 312 Md. 266, 278 (1988). Det. Tonsch was not testifying about any of her own conclusions or tests she perfomed when she referred to the firearm collected from the suspects as "the murder weapon." The jury had just heard from Mr. Faber that the firearm collected from the suspects had fired the cartridges found at the crime scene. Appellant had constested that testimony. The use of the term "murder weapon" to describe the weapon recovered from the suspects was an implicit, unsupported assertion of the truth of Mr. Faber's testimony.

However, when, as the reviewing court we are able to declare a belief, beyond a reasonable doubt, that the error in no way affected the verdict, we do not reverse. *Dorsey v. State*, 276 Md. 638, 659 (1976). Where the substance of the erroneously admitted testimony has been established through prior testimony of other witnesses, we do not reverse. *Grandison v. State*, 341 Md. 175, 219 (1995) ("[W]e will not find reversible error on appeal when objectionable testimony is admitted if the essential contents of that objectionable testimony have already been established and presented to the jury without objection through the prior testimony of other witnesses.").

The substance of Det. Tonsch's testimony was before the jury because Mr. Farber had testified that the cartridges at the crime scene had been fired from appellant's co-conspirator's gun. In short, the jury heard that the police had the murder weapon. We cannot make out that a single instance where a police officer used the colloquialism

"murder weapon" affected the verdict in light of the evidence presented on that point and the substantial remaining evidence in this case. Appellant was not prejudiced.

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