Circuit Court for Baltimore County
Case No. C-03-CR-23-003142

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1850

September Term, 2024

VASHTI ARYSLE PRESCO

v.

STATE OF MARYLAND

Wells, C.J.,
Ripken,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: January 20, 2026

This appeal arises from Vashti Arysle Presco's ("Appellant's") convictions for perjury and making a false statement, following a jury trial in the Circuit Court for Baltimore County. On December 10, 2022, Appellant reported to the Baltimore County Police Department ("BCPD") that her ex-boyfriend and father of her first child, Devin Curtis ("Curtis"), sent her threatening text messages in violation of a no-contact order. Upon investigation, the BCPD found that Appellant sent the messages to herself in an attempt to frame Curtis as the sender. At trial, Appellant asserted that the circuit court committed reversible error in allowing a police detective to testify as an expert in "cellular telephones and cellular telephone technology"; admitting his expert testimony on the mechanics of the phone application, TextNow; and allowing the detective to "invade the province of the jury[.]"

QUESTIONS PRESENTED

Appellant presents four questions for our review:

1. Did The Circuit Court Err In Allowing A Police Detective To Testify As An Expert In The Field of Cell Phones And Cell Phone Technology When The Detective Had Not Received Any Continuing Education In This Area Since 2018?

2. In The Alternative, Did The Circuit Court Err In Admitting Expert Testimony When The Subject Matter – A Simple Cell Phone Application – Could Be Readily Understood By The Average Juror?

3. Did The Circuit Court Err By Allowing The Detective's Testimony To Invade The Province Of The Jury?

4. Was There Harmless Error?

For the reasons that follow, we affirm the judgment of the circuit court regarding the first issue, and we determine the remaining issues to be either unpreserved or moot.

BACKGROUND

This matter arises from Appellant's convictions for perjury and making a false statement following a jury trial in the Circuit Court for Baltimore County. The charges stemmed from a series of events in December 2022 involving Devin Curtis, Appellant's ex-boyfriend and the father of her first child. On December 7, 2022, Curtis was arrested for assault and malicious destruction of property based on charges filed by Appellant. He was released the following day, subject to an order not to contact Appellant.

On December 10, 2022, Appellant reported to Baltimore County Police Department ("BCPD") Officer Garrett Martin that Curtis had violated the pretrial no-contact order by sending threatening text messages from the phone number 667-230-8159. These messages are reproduced below:

"I'm going to get you locked up or killed bitch"

"Watch everybody in my family will file charges on you daily"

"You think that last visit was bad wait until you see what we do this time"

"Beat the baby out of you shoot your house up"

[Photos of rifle sight and rifle]

"Come outside"

[Photo of Mr. Curtis with a gun]

Based on this information, Curtis was arrested on December 11 and remained in custody until December 28, 2022. A subsequent investigation revealed there was probable cause to believe that Appellant sent the messages to herself and framed Curtis as the sender.

All charges against Curtis related to the December 7 and 10 convictions were ultimately dismissed.

Additional Text Messages

Between December 8-18, 2022, the number ending in 8159 was used to contact two additional individuals: Timothy Spearman and Quanci Davis. Spearman, Appellant's then-boyfriend and father of her second child, received messages that mentioned Appellant by name and included threats to "slap" and "beat the shit out of you."

During the same period, the number ending in 8159 contacted Quanci Davis, a stranger to Appellant and Curtis. The State contended Appellant sent these messages under the mistaken belief that the number belonged to Curtis's sister, Blake Washington. This was supported by a message from the number ending in 8159 asking, "This Blake right[?]" after Davis repeatedly asked for the sender's identity.

Curtis also received messages from the number ending in 8159 while he remained in custody for his December 7 arrest.[1] His mother, who possessed his phone during this

[1] The text messages sent to Curtis are reproduced here, verbatim:

"Cancer in your balls wasn't enough I promise you you [sic] will die a slow painful death bitch"

[Images of drawing and artist's rendering of female figure]

"LMAO rolling log dumb bitch [3 laughing emojis] try again goofy won't work [6 laughing emojis]"

[9 laughing emojis]

[6 laughing emojis]

"Didn't Glenda try the same retarded shit you bitches is slow"

(continued)

period, advised him that he was receiving threatening text messages during a custodial phone call. Curtis continued to receive text messages from the number ending in 8159 following his release from confinement and concluded Appellant was the sender. According to Curtis, the phrasing and the use of a specific laughing emoji in the messages matched Appellant's previous communications. Additionally, the text messages referenced a personal detail known exclusively to Appellant and Curtis's family: that he had testicular cancer.

Police Investigation into the Text Messages

Following Appellant's allegations on December 10, Officer Martin secured a warrant for the TextNow business records associated with the number 667-230-8159. Detective Christopher Needham, the in-house investigator for the Baltimore County State's Attorney's Office, analyzed these records, which revealed that as of December 8, 2022, the number was linked to the username "aryslee." The account was active since 2016 but only

"As hell"

[6 laughing emojis]

"Can't get a warrant for me y'all slow"

[5 laughing emojis]

[4 laughing emojis]

"You going die bitch watch you and your ugly ass sister"

[Image of drawing]

"Yo thought he was about to get a warrant [4 laughing emojis] just like Blake y'all literally some dumb ass people it's truly showing dumb ass bitches"

"And Glenda Stupid ass people [4 laughing emojis]"

"Called phone records little son balls bitch"

assigned to the number ending in 8159 between December 8, 2022 and January 9, 2023. The number was created during Curtis's incarceration in the Baltimore County Detention Center, and the initial messages—sent within minutes of the account's creation—contained "spiteful messages" directed at Curtis. The email connected to the "aryslee" account belonged to Appellant.[2] Investigators reviewed the texts sent to the three other numbers by the number ending in 8159 and determined Appellant was the common denominator. Based on the foregoing, the BCPD filed an application for a statement of charges against Appellant.

Circuit Court Proceedings

A jury trial proceeded against Appellant on October 8-9, 2024, based on the charges of perjury and making a false statement. Appellant invoked her constitutional Fifth Amendment right not to testify and did not call any witnesses in her defense.

The State's case-in-chief included testimony from a variety of witnesses, including Officer Garrett Martin,[3] Commissioner Jeremy Bailey (the signatory on the application of charges), Devin Curtis, Tanisha Jones (Curtis's mother), and Detective Christopher Needham.

[2] The State presented evidence that: Google records listed "Vashti Presco" as being associated with the email account; Appellant's phone number was listed to recover a password from the email account; and the email account listed an address where Appellant's grandmother lived, and where she once lived and had continued to have her mail sent. Additionally, Curtis testified that the email belonged to Appellant.

[3] Officer Martin testified to the events on December 10, 2022, and the State played body worn camera footage of his interactions with Appellant.

The State offered—and the court accepted against defense counsel's objection—Detective Needham as an expert in "cellular telephones and cellular telephone technology." Needham's training and experience with cellular telephone technology was detailed as follows:

> **DETECTIVE NEEDHAM:** Okay. So, I went to the Investigation of Cellular Devices, which is put on by the Search, National Consortium for Justice, for lasted for four days. I have a basic Cell Phone Investigation course, which is put on by the National White Collar Crime Center, which lasted three days. I attended the Delaware State Police Homicide Conference, which had a one-and-a-half-hour block in cell phone tracking.
>
> I went to a cell phone investigation's course sponsored by Geo Cell, which lasted two days. I went to the Colonel Williams Homicide Seminar, Seminar put on by the New York State Police and within that block of instruction, there was a two-hour course on cell phone technology.
>
> I went to the Penn Link Eight (phonetic) Call Analysis Training School and Cell Site Intelligence, which was a little bit over four days of, of instruction. I went to the Understanding Investigative Techniques for Modern Telecommunications course, which was a sixteen-hour course. I've went to the Penn Link PLX Call Detail Record Analysis course, which was sixteen hours of instruction. So, it's roughly a hundred and thirty-nine hours of training—
>
> * * *
>
> [I]n my previous assignment in the Homicide for ten years, there's very few, if any, homicide investigations that don't have something to do with a cell phone since everybody carries one these days, both on the victim side, witness and potential suspects. So, regularly, I would be doing what they call a cell dump, where you extract the contents from an actual cell phone and reviewing that. Or frequently, requesting records from an actual carrier, such as Verizon, AT&T, T-Mobile, getting those records from the carrier itself and then kind of analyzing them to try to find out what, who this person is calling, how often they call them, where that cell phone might be, just a variety of things as far as the, the carrier records can show us.

Next, Detective Needham provided an explanation of TextNow without objection:

> **THE STATE:** Do you have specific experience dealing with the application called TextNow?
>
> **DETECTIVE NEEDHAM:** Yes, ma'am.

THE STATE: Okay and what is that?

DETECTIVE NEEDHAM: What is my experience or what is the application?

THE STATE: What is TextNow?

DETECTIVE NEEDHAM: TextNow is an application that you can download onto a cell phone or tablet. It's, they provide, they will provide you with a, basically a secondary number for your device. So, it gives you the ability, once you set up an account, to place phone calls and/or text messages and it will appear as though it's coming from that new TextNow number. And that works simultaneously with your actual carrier number if you will. So, you will have one phone in your hand and it's capable of making phone calls and text messages with your traditional, say Verizon number, or if you choose to, you can make phone calls and/or text messages with that TextNow number.

He continued by summarizing the investigation's findings before concluding Appellant sent the texts during the following colloquy:

THE STATE: Okay and, Detective Needham, in your investigation of these four sets of text messages from this TextNow number, did you learn what the common connection between those four numbers was?

DETECTIVE NEEDHAM: Yes.

THE STATE: And what was it?

DETECTIVE NEEDHAM: Vashti Presco was the common denominator between—

DEFENSE COUNSEL: Objection.

THE COURT: Overruled.

DETECTIVE NEEDHAM: —between the messages that were sent from the TextNow number ending in 8159 to those four specific numbers.

THE STATE: And why do you say that?

DETECTIVE NEEDHAM: Based on, just based on the text content for each of the four individual messages, or four individual phone numbers.

THE STATE: Okay. Can you just elaborate a little?

DETECTIVE NEEDHAM: Yes. So, the messages that were sent to Devin Curtis' phones definitely had a certain tone to them, talking about cancer in his balls. It seemed as though they were a little terse. The messages to Quanci Davis, again, were, started out talking about, like I said, that first kind of half is, clearly says that the person sending the messages from this TextNow number is trying to figure out if their boyfriend is trying to buy some sort of sexual relation. And then it kind of pivots to where the person is now texting about, and questioning whether the phone, the person on the other end of the phone is Blake, which is, that name is linked to this case. And then the messages to Timothy Spearman phone number from this Text Now number, again, appear, or the text actually talks about the way that he is treating Vashti and it's in a borderline threatening tone.

DEFENSE COUNSEL: Objection.

THE COURT: Overruled.

DETECTIVE NEEDHAM: And then the text messages to Vashti, obviously, we've gone over in detail that they're framed in a way that the person, the messages coming from this TextNow number being sent to Ms. Presco are threatening in nature.

DEFENSE COUNSEL: Your Honor, objection. Move to strike. There's no expertise necessary for speculation of this nature.

THE COURT: Overruled. Denied.

The next day, the jury deliberated and became deadlocked. After further deliberations, the jury found Appellant guilty of both charges. Appellant was sentenced to three years for the perjury conviction, with all but 30 days suspended, and three years' probation; 30 days for the false statement conviction, concurrent with the perjury conviction; and a $500 fine for the false statement. She timely noted this appeal.

STANDARD OF REVIEW

A trial court's decision to admit expert testimony under Maryland Rule 5-702 is reviewed for an abuse of discretion. *Rochkind v. Stevenson*, 471 Md. 1, 10-11 (2020). This Court will not disturb the ruling unless it is predicated on an abuse of discretion, or an error of law. *Id.*

A court may abuse its discretion in admitting expert testimony "where there is an analytical gap between the type of evidence the methodology can reliably support and the evidence offered." *Harvin v. State*, 263 Md. App. 326, 343 (2024), *cert. denied*, 489 Md. 338 (2025) (citation omitted). Where an expert is purporting to be qualified by experience, they should close that "analytical gap" by explaining how their experience led to the conclusion reached and why that experience is a sufficient basis for the opinion. *See e.g.*, *Lewis v. State*, 262 Md. App. 251, 292 (2024) (finding the officer was qualified as an expert in narcotics investigations because of his experience, despite having little training); *Hall v. State*, 225 Md. App. 72, 94-95 (2015) (finding the officer was qualified as an expert in "deciphering and plotting cell phone records" because, *inter alia*, "he had been plotting and mapping cell phone tower data as a part of his regular duties with the technical surveillance unit for the past ten years and [] had experience plotting the records of appellant's cellular carrier, T–Mobile").

DISCUSSION

I. The Trial Court Properly Exercised Its Discretion in Accepting Detective Needham as an Expert in Cellphone Technology.

A. The Parties' Arguments

Appellant argues Detective Needham lacked the necessary qualifications to testify as an expert in cellular telephone technology. She cites to the fact that Detective Needham held no relevant undergraduate degree or professional certifications; his training was outdated, having last studied forensics in January 2018 and taken an FBI-sponsored course in 2016; and he admitted he had not remained current with advancements in the field since 2018, nor had he ever taught the subject or completed continuing education at institutions such as the University of Maryland or Johns Hopkins.

The State disagrees. The State highlights his "138 hours" of specialized training; his forensic proficiency in performing "cell dumps" and analyzing carrier records to determine user identity and location; and his hands-on experience with TextNow. Moreover, the State argues Detective Needham's training was sufficient, noting that Appellant produced no authority suggesting an officer "has an ongoing obligation to familiarize themselves with a particular technology." Either way, the State contends "nothing in the analysis of these records suggested there was particular technology beyond the expertise that Detective Needham detailed . . . that would have rendered his training through 2018 obsolete."

Appellant further cites *City Homes, Inc. v. Hazelwood* for the proposition that experts must "stay current" in their respective fields. 210 Md. App. 615, 684 (2013). In *Hazelwood*, this Court determined a pediatrician lacked the necessary qualifications to

testify as an expert on childhood lead poisoning. *Id.* Despite the pediatrician's contention that he stayed current on childhood lead poisoning issues, this Court alluded to several critical factors to reach the conclusion he was unqualified as an expert: he could not recall the names of the articles he allegedly read; held no certifications in lead risk assessment; had never been involved in testing soil or water for lead; and most importantly, had not received any specialized training or had any experience in treating children with lead poisoning or in identifying the source of a child's lead exposure. *Id.* at 684-86.

The State argues *Hazelwood* is unpersuasive because it is not analogous to the facts in the case at bar, where expertise centers on cellular telephone technology and not medicine. It instead cites to *Donati v. State*, a case where this Court upheld the admission of a detective's expert testimony in digital forensic examination because the detective had completed more than 240 hours of training in computer forensics; was certified as a computer forensic examiner; and was a member of various groups and a task force dealing with cybertechnology. 215 Md. App. 686, 706, 742-43 (2014).

B. Analysis

We discern no abuse of discretion in the circuit court's admission of Detective Needham as an expert based on his qualifications in the field of digital forensics.[4]

In Maryland, "[e]xpert testimony is governed by the *Daubert-Rochkind* standard and Maryland Rule 5-702." *Covel v. State*, 258 Md. App. 308, 329 (2023) (citing *Daubert*

[4] While Detective Needham was formally admitted as an expert in "cellular telephones and cellular telephone technology[,]" we recognize this specialty as falling within the broader field of digital forensics.

v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993); *Rochkind*, 471 Md. at 1). Md. Rule 5-702 provides that expert testimony may be admitted "if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue." In making this determination, the court must analyze:

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

Md. Rule 5-702. In *Daubert*, the Supreme Court of the United States replaced the long-standing "general acceptance" test for admissibility of scientific evidence with a flexible framework of factors designed to assess the reliability of expert opinions. *See generally* 509 U.S. 579 (1993). Maryland formally adopted this standard in the seminal case, *Rochkind v. Stevenson*, 471 Md. 1, 26 (2020). To assist trial courts in applying this new standard under Maryland Rule 5-702, the *Rochkind* Court went on to identify the following ten factors to guide courts in determining the reliability of expert testimony:

> (1) whether a theory or technique can be (and has been) tested;
> (2) whether a theory or technique has been subjected to peer review and publication;
> (3) whether a particular scientific technique has a known or potential rate of error;
> (4) the existence and maintenance of standards and controls;
> (5) whether a theory or technique is generally accepted;
> (6) whether experts are proposing to testify about matters growing naturally and directly out of research they have conducted independent of the litigation, or whether they have developed their opinions expressly for purposes of testifying;
> (7) whether the expert has unjustifiably extrapolated from an accepted premise to an unfounded conclusion;
> (8) whether the expert has adequately accounted for obvious alternative explanations;

> (9) whether the expert is being as careful as he or she would be in his or her regular professional work outside his or her paid litigation consulting; and
> (10) whether the field of expertise claimed by the expert is known to reach reliable results for the type of opinion the expert would give.

Rochkind, 471 Md. at 35-36 (cleaned up).

The specific factors identified are neither exhaustive nor universally applicable to every case. *See Ingersoll v. State*, 262 Md. App. 60, 78 (2024). Trial courts are afforded broad discretion in selecting the method for determining reliability and reaching the ultimate reliability determination themselves. *See id.* Indeed, "[a] court's action in admitting or excluding such testimony seldom constitutes ground for reversal." *Bryant v. State*, 163 Md. App. 451, 472 (2005), *aff'd*, 393 Md. 196 (2006).

Although *Donati* was decided before Maryland formally adopted *Daubert*, its decision is useful here. Similar to the officer in *Donati*, Detective Needham established sufficient training and work experience to qualify as an expert. His qualifications—i.e., his 139 hours of specialized training and experience performing "cell dumps" and analyzing carrier records to determine user identity and location—provided the broad latitude necessary for the trial court to admit his testimony.

Appellant's emphasis on Detective Needham's lack of education is unavailing because education is just one factor in the Rule 5-702 analysis. An expert's qualifications need not encompass all five criteria; rather, a showing of any individual factor—knowledge, skill, experience, training, or education—is sufficient. *See* Md. Rule 5-702(a).

Furthermore, we find *Hazelwood* does not necessarily stand for the proposition that experts must stay current in their respective fields to testify as an expert at trial. In

Hazelwood, the pediatrician expressly stated he stayed current on childhood lead poisoning issues, yet this Court still found he was unqualified. 210 Md. App. at 684-86. In other words, the problem was not that the pediatrician's knowledge was outdated, but that his expertise was nonexistent. *See id.* Accordingly, it was not error to admit Detective Needham as an expert.

II. Appellant's Second Issue is Not Preserved.

a. The Parties' Arguments

In the alternative, Appellant argues that even if qualified, Detective Needham's testimony should have been excluded because it was not helpful to the trier of fact under Md. Rule 5-702. She states, "Text Now is a fairly simple app[,]" that provides users with a username and a private number for anonymous messaging. While the phone number may change, the username remains constant—a concept Appellant contends is easily understood by any juror after a "basic explanation is provided." She cites to *State v. Galicia* for the proposition that certain cellphone technology does not require "specialized knowledge." 479 Md. 341, 394 (2022) (holding testimony on the nature of Google's smartphone location tracking does not require an expert).

As a preliminary matter, the State argues Appellant's issue is unpreserved because "she never objected during the detective's voir dire on the basis that TextNow was not the proper subject of expert testimony . . . [nor] after he was admitted as an expert[.]"The State contends Appellant only mentions in her brief that an objection was lodged when Detective Needham was accepted as an expert witness, and when he concluded Appellant sent the text messages.

On the merits, the State disputes the contention that "TextNow is a fairly simple app[.]" The State argues that Appellant's own brief identifies the need for a "basic explanation" of the technology, underscoring the necessity of Detective Needham's testimony. The State also cites to *Wilder v. State*, a case where the State was *required* to designate a witness as an expert to testify to details of cell site analysis. 191 Md. App. 319, 368 (2010).

The State distinguishes Appellant's reliance on *Galicia*—which dealt with "the most ubiquitous computer technology name around[,]" *see* 479 Md. at 395 (referring to Google's location tracking feature)—with this instant matter involving an application that is "far less widely known or understood." The State points out that *Galicia* addressed whether a court erred by allowing a lay witness to testify, *id.*, which is the "inverse" of the current issue. The State argues that when a court *permits* a lay person to talk about simple technology, it does not preclude a court from qualifying an expert to explain more complex technology.

b. Analysis

We hold Appellant's issue is procedurally barred due to a lack of preservation. Maryland Rule 8-131(a) provides that "[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court." *See* Md. Rule 8-131; *see also Barber v. Cath. Health Initiatives, Inc.*, 180 Md. App. 409, 438 (2008) (finding the rule encourages fair treatment and the orderly administration of the law). To preserve her claim for appellate review, Appellant bore the

burden of objecting to Detective Needham's testimony regarding TextNow on the basis that it constituted impermissible expert testimony.

Here, Appellant objected when Detective Needham was accepted as an expert witness, and intermittently to portions of his testimony regarding TextNow. Notably, Appellant did not object to his testimony regarding how TextNow operates, which concerns the bulk of her argument. Appellant's initial objection challenged only the weight of Detective Needham's testimony, not its admissibility. *See Ditto v. Stoneberger*, 145 Md. App. 469, 495 (2002). The objections that followed were too inconsistent to preserve this issue for appellate review. *Compare Gutierrez v. State*, 423 Md. 476, 489 (2011) (holding the appellant preserved her claim because defense counsel consistently objected to all the witness's statements that did not concern a particular event), *with Fone v. State*, 233 Md. App. 88, 113 (2017) (holding the appellant did not preserve his issue because he "did not object to any of the long line of questions that elicited the evidence he complains about on appeal"). Since Appellant failed to object each time the challenged testimony was elicited—and neglected to request a continuing objection—she waived her right to contest the admissibility of the evidence on appeal.

On the merits, Appellant's argument fails. This Court has upheld expert opinions on digital forensics, establishing it as an appropriate subject for expert testimony. *See e.g.*, *Donati*, 215 Md. App. at 743; *Stevenson v. State*, 222 Md. App. 118, 137 (2015). *Galicia* is not applicable because the holding is limited to the permissibility of lay witness testimony, not expert testimony like in this instant matter. *See* 479 Md. at 394.

Appellant's argument also contains an inherent contradiction that undermines her claim: by stating TextNow is easy to understand once a basic explanation is provided, Appellant admits that a gap in knowledge exists. Under Md. Rule 5-702, the role of an expert is precisely to provide that gap in knowledge to the jury. *See Johnson v. State*, 457 Md. 513, 530 (2018). If a juror requires an explanation to understand the nature of a username compared to a phone number, that information is, by definition, beyond the common knowledge of the average layperson. As such, we hold the circuit court appropriately determined an explanation of TextNow was helpful to the jury, *see* Md. Rule 5-702, and did not abuse its discretion in permitting Detective Needham to explain it.

III. Appellant's Third Issue is Not Preserved.

a. The Parties' Arguments

Appellant further argues Detective Needham's conclusion that Appellant sent the text messages was erroneous because it invaded the province of the jury. She states, "Needham's testimony was not based on his 'knowledge, skill, experience, training, or education,' as required by Md. Rule 5-702(1), but was rather Needham's interpretation of the messages, based on their content. The task of interpretation should have been left to the jury[.]" Appellant cites *Brady v. Ralph M. Parsons Company* for the proposition that expert testimony is inadmissible where an inference could be made without the help of an expert. 82 Md. App. 519, 539 (1990).

The State argues that the claim is "largely unpreserved" because the defense allowed the majority of Detective Needham's testimony to enter the record without objection to the question regarding what he determined was the "common connection" between the phone

numbers contacted by the 8159 number, the question regarding *why* he determined there is a "common connection," or any of his explanations about the texts to Curtis or Davis. In effect, because defense counsel only objected to Needham's conclusion that Appellant was the "common denominator" among the texts, Appellant has waived this issue. The State argues that even if this specific part was admitted in error, it was harmless.

On the merits, the State points out that under Md. Rule 5-704(a), testimony is not automatically prohibited just because it "embraces an ultimate issue to be decided" by the jury. *See* Md. Rule 5-704(a). The State argues that because Detective Needham provided an objective basis for his conclusions—i.e., the investigation results—rather than an opinion on witness truthfulness, his testimony did not "encroach on the jury's function."

b. Analysis

As a preliminary matter, we hold Appellant failed to preserve this issue. A party must consistently object or request a continuing objection to maintain a challenge. *Cf.* Md. Rule 8-131(a). Here, Appellant did not object to the basis of Detective Needham's conclusion, rendering this issue unpreserved. Moreover, by failing to lodge a timely objection, the defense essentially conceded the admissibility of the underlying information. Consequently, even if this issue is preserved and Needham's conclusion invaded the province of the jury, his testimony constitutes harmless error. *See also infra* Section IV.b. (discussing harmless error).

On the merits, we hold Detective Needham's testimony did not invade the province of the jury. Maryland Rule 5-704(a) provides, "testimony in the form of an opinion or inference otherwise admissible is not objectionable merely because it embraces an ultimate

issue to be decided by the trier of fact." *See* Md. Rule 5-704(a). A witness may nevertheless "invade the province of the jury" if they give a legal conclusion rather than a factual conclusion. *See Henson v. State*, 212 Md. App. 314, 327 (2013). "[T]here is no hard and fast rule for the acceptance or rejection of expert opinion evidence as to ultimate facts that may tend to encroach upon the jury's function to determine guilt or innocence, or the credibility of witnesses, or to resolve contested facts." *Cantine v. State*, 160 Md. App. 391, 406 (2004) (cleaned up) (citation omitted). Rather, "[f]or each case, the court must weigh the usefulness of the expert opinion against the prejudice to the defendant." *Id.*

An investigating officer's factual conclusions are admissible so long as they are supported by a proper evidentiary basis and do not violate other rules of evidence. *See Daniel v. State*, 132 Md. App. 576, 590 (2000). "This [premise] is particularly evident when one considers that *even the statements that led [an officer] to arrest the individual would be admissible* to show that the officer relied on and acted upon those statements." *Id.* (emphasis in original); *see also Cantine*, 160 Md. App. at 405-06 (holding an officer's testimony that the defendant "takes care of business, as far as collecting money and distributing narcotics," that co-defendant was "under [defendant] in the organization," that another individual was the "carrier for [defendant and co-defendant]" and that defendant and co-defendant were among three persons that "control[led] the heroin organization throughout [city]" did not impermissibly invade province of jury to determine guilt).

Here, Detective Needham concluded Appellant sent the text messages based on the evidentiary record. This is a factual conclusion, not a legal one. At no point did Needham express an opinion regarding the guilt or innocence of Appellant or that the State

established the elements of the offense of perjury or making a false statement. The jury was free to reject his conclusion and determine Appellant's guilt or innocence based on the evidence presented. As such, Needham's testimony did not "invade the province of the jury," as Appellant argues.

IV. Appellant's Fourth Issue is Moot.

a. The Parties' Arguments

Appellant argues Detective Needham's testimony was the decisive factor in the trial, making the error harmful. She points to the hung jury on the second day of trial, maintaining "[t]his was not an open-and-shut case." The State concisely argues that any alleged error was harmless because the majority of Detective Needham's testimony entered the record unchallenged and was corroborated by independent sources.

b. Analysis

Appellant's final issue is moot because, as discussed *supra*, the circuit court did not err in admitting Detective Needham as an expert nor in admitting his testimony. *See e.g.*, *Sanders v. State*, 66 Md. App. 590, 600 (1986) (finding an argument on harmless error is moot because it was already determined the trial court did not err). Accordingly, this Court need not reach the merits of Appellant's final contention.

Regardless, even if it was error in admitting the detective's expert testimony, it was not prejudicial. *See Dionas v. State*, 436 Md. 97, 109 (2013) (recognizing that an error is harmless when it results in no prejudice to the defendant). The State's case was independently supported by Officer Martin's testimony and an array of incriminating facts, such as: the contents and verbiage of the texts; the recipients of the texts; the name and

email the phone number was listed under; and Curtis's incapacity to send them while he was in custody. Therefore, any error in admitting Detective Needham's testimony was harmless.

CONCLUSION

We hold the circuit court did not err in admitting Detective Needham as an expert witness or in admitting his testimony. Accordingly, we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.