

Circuit Court for Baltimore City
Case No. 121124004

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1866

September Term, 2022

STEVEN MELTON

v.

STATE OF MARYLAND

Arthur,
Shaw,
McDonald, Robert N.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Shaw, J.

Filed: February 7, 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).

This is an appeal from the Circuit Court for Baltimore City. At the conclusion of a jury trial, Appellant, Steven Melton, was convicted of first-degree murder and use of a handgun in the commission of a crime of violence. He was sentenced to life in prison for the murder conviction and twenty years' incarceration for the handgun conviction, to be served consecutively, with the first five years to be served without parole. Appellant presents three questions for our review:

1. Did the trial court err in admitting the surveillance video and still photographs that purported to be recordings of the events surrounding the homicide, where the video and photographs were never properly authenticated?
2. Did the trial court err by allowing the State to play Nekeyia Jamison's entire recorded statement in the presence of the jury?
3. Was the evidence insufficient to sustain the convictions?

BACKGROUND

On April 5, 2021, Dominic Carr was shot and killed after leaving an apartment located on Edgecombe Circle in Baltimore City. His wife, Nekeyia Jamison, and her children were inside the apartment, and when Mr. Carr left, Ms. Jamison immediately heard gun shots. She then walked outside of her apartment unit and found Mr. Carr lying on the floor of the apartment's landing. Ms. Jamison called the police and they arrived at the scene shortly thereafter. Mr. Carr was transported to a hospital where he later died. On April 12, 2021, Appellant was arrested and charged with the first-degree murder of Mr. Carr and the use of a handgun in the commission of a crime of violence.

The trial commenced on September 26, 2022, in the Circuit Court for Baltimore City. The State's first witness was Sergeant Steven Henson, from the Baltimore City Police

Department. At the time of the incident, Sergeant Henson was assigned to the Special Activities Unit, formerly known as the Computer Crimes Unit, which supports the agency in the recovery of video footage. Sergeant Henson testified that Detective Miller contacted him to retrieve video footage from the apartment complex where Mr. Carr was found. Sergeant Henson went to retrieve the video on April 6, 2021, and when he arrived at the location, he was notified by the property manager that the DVR system was in the storage area of one of the apartments. He testified regarding his process for ensuring that the DVR system worked properly and for retrieving the videos.

Sergeant Henson stated that he used a checklist when performing the video recovery, which indicated the location of the DVR system, the real time, the current date, the DVR time and the DVR date. Sergeant Henson testified that Detective Miller requested the video from five cameras and that he backed up the files from the DVR system onto his flash drive. Sergeant Henson identified his checklist as State’s Exhibit One. Additionally, he identified State’s Exhibit Three as one of the frames he recovered from the DVR system. When the State offered Exhibit Three into evidence, defense counsel objected, arguing the State failed to lay a proper foundation, and that Mr. Henson failed to state whom he spoke with and whether the DVR system had been properly maintained. The court overruled defense counsel’s objection and admitted State’s Exhibit Three.

The State then offered into evidence State’s Exhibit Four, a copy of the second surveillance video. The court stated, “[s]o what I’m going to receive is your continuing objection -- to the exhibit, and I’m going to overrule them pending the proper foundation

being laid through the Detective.” The court admitted the following exhibits into evidence: State’s Exhibit Four, a video depicting a second angle of Edgecombe Circle; State’s Exhibit Five, a video depicting a third angle of Edgecombe Circle; State’s Exhibit Six, a video depicting the parking lot of the apartment complex; State’s Exhibit Seven, a video depicting one of the apartments inside of the apartment complex; and State’s Exhibit Eight, a video depicting the alleyway of the apartment complex.

The State called Dr. Russell Alexander, Assistant Medical Examiner from the Office of the Medical Examiner for the State of Maryland, who was accepted as an expert in forensic pathology. Dr. Alexander testified that he performed an autopsy of Mr. Carr on April 6, 2021, and, thereafter, filed an autopsy report. He testified that Mr. Carr’s cause of death was multiple gunshot wounds, and the manner of his death was homicide.

Special Agent Michael Fowler with the Federal Bureau of Investigation also testified, and was accepted as an expert in historical cellular record analysis. Special Agent Fowler was asked to analyze the cell site tower records in relation to the case. He completed a report for the investigation based on a T-Mobile cell phone that was recovered from Appellant’s residence. He stated that on the day of the incident, at 11:00 a.m., the first cellular record was located just south of Pimlico and south of Sinai Hospital on Edgecombe, Central Park Heights area, in Baltimore. He testified that there was a lot of call activity between the hours of 11:00 a.m. and 11:30 a.m., and that the cell phone was in the general vicinity of Edgecombe Circle, from 11:00 a.m. up until 1:31 p.m. on April 5, 2021. He noted the last cellular record was around 1:31 p.m., and that the next record

picked up at 2:09 p.m., which was roughly a thirty-minute gap in the records. He testified that at 2:09 p.m., the cellular record moved from the Edgecombe area to an area southwest of Druid Hill Park.

The State then called Ms. Jamison. Ms. Jamison stated that she shares two children with Appellant. She testified that she had been in a relationship with Appellant in the past, but that they were no longer together. She confirmed that she married Mr. Carr on July 26, 2020, and at the time, Appellant was unaware of their relationship. Ms. Jamison recounted an altercation that occurred between Mr. Carr and Appellant in March of 2021 at her apartment. She stated that, once Appellant became aware of their relationship, she feared for Mr. Carr’s safety as well as her own. Ms. Jamison also testified regarding the events that occurred before and after the homicide. She denied being shown a video during her interview with detectives on April 7, 2021, where she identified Appellant as the perpetrator. The State showed Ms. Jamison the transcript of the interview to refresh her recollection, and after reading the transcript, she again denied being shown a video. The State then showed the video to Ms. Jamison for identification purposes only, and she stated that she did not recall watching the video.

On cross examination, defense counsel asked Ms. Jamison about the sweatshirt that was tied to her identification of Appellant. Ms. Jamison agreed to the following statements: that her identification of Appellant was made based off a unique sweatshirt; that several other people in the neighborhood wear that sweatshirt; that Appellant supported the local

community by handing out these unique sweatshirts; and that her description of Appellant was based solely on the sweatshirt.

Ms. Jamison on redirect examination, again denied watching a video where she identified Appellant at her interview with the detectives on April 7, 2021. The State explained to the court that Ms. Jamison identified Appellant in the video immediately after viewing it during her interview with the detectives. Over defense counsel’s objection, the court allowed the State to play the video interview. The State introduced the video as State’s Exhibit Sixteen and Ms. Jamison confirmed that the video was a fair and accurate representation of her interview with the detectives. The video was played, but not entered into evidence. Defense counsel renewed his objection to the playing of the video.

The State’s last witness was Detective Frank Miller from the Baltimore City Police Department’s Homicide Unit. Detective Miller testified that on April 5, 2021, he arrived at the Edgewcombe Circle North location, at approximately 2:20 p.m. He testified that he spoke with Ms. Jamison, and after their conversation, his team began canvassing the area for video footage. He testified that they looked at a video from the apartment complex camera and requested that a detective recover it. The State showed Detective Miller the video recovered from the Baltimore City Police Department, and Detective Miller stated that he recognized the video, where the video was located, and maintained that it was a fair and accurate depiction of the video he watched at the Edgewcombe Circle address on April 5, 2021.

The State offered the video into evidence as State’s Exhibit Three. It had previously been identified by Sergeant Henson who recovered it. Defense counsel objected to the admission of the exhibit, and the additional videos which included State’s Exhibits Four, Five, Six, Seven and Eight. Defense counsel argued he was not provided with any clarification as to whether the DVR system was properly or regularly maintained. The State argued that Sergeant Henson testified that the videos were properly maintained, and that the foundation was properly laid by his testimony. All exhibits were admitted into evidence over defense counsel’s objections.

Detective Miller further testified through his investigation of the case, his team identified the suspect’s car as a 2000 gray-green Buick, which was captured in the video footage outside of the apartment complex on the day of the incident. An arrest and a search warrant were executed on April 12, 2021, at 7:51 p.m. The State introduced Exhibit Twenty-Eight, a certified MVA record for a 2000 Buick with a license plate registered to Appellant. Detective Miller testified that when he went to Appellant’s residence to serve the arrest warrant, the 2000 Buick was parked outside his residence. He also testified that he recovered a T-Mobile cell phone from Appellant’s residence and obtained a search warrant for its contents.

A stipulation was entered into evidence that Appellant had previously been convicted of a crime that prohibited him from possessing a regulated firearm. At the end of the State’s case, Appellant moved for Judgment of Acquittal, arguing a prima facie case had not been made. The court denied the motion. Appellant did not present evidence and

after he rested his case, he renewed his Motion for Judgment of Acquittal which the court subsequently denied. Following jury deliberations, Appellant was found guilty of first-degree murder and use of a handgun in the commission of a crime of violence. On December 2, 2022, the court sentenced Appellant to the following: “[a]s to Count 1, first degree murder, the sentence is life. As to Count 3, use of a handgun in the commission of a crime of violence the maximum penalty is 20 years. The sentence is 20 years, to be served consecutive to Count 1. And the first five years will be served without parole.” Appellant timely appealed.

DISCUSSION

I. The court did not err in admitting the surveillance video and still photographs.

On appeal, a trial court’s evidentiary rulings are reviewed for an abuse of discretion. *See Hajireen v. State*, 203 Md. App. 537, 552 (2012). Thus, admissibility of evidence determinations are “left to the sound discretion of the court.” *Easter v. State*, 223 Md. App. 65, 74 (2015). A trial court abuses its discretion where “no reasonable person would take the view adopted by the [trial] court,” or when the court acts “without reference to any guiding rules or principles.” *King v. State*, 407 Md. 682, 697 (2009).

Appellant argues the trial court abused its discretion in admitting into evidence surveillance videos and still photographs that were not properly authenticated. He contends the State failed to “establish that the videotape and photographs represent what they portray.” He asserts that neither Sergeant Henson or Detective Miller offered any testimony as to the name of the DVR system; the name of the person in charge of the DVR

system; how the system operated; when and how the system was maintained; when the last system maintenance was performed on the DVR system; who had access to the DVR system; or whether the DVR system was secured in any way. Because the State relied heavily on the admitted video and photographs to identify Appellant as the perpetrator, he asserts that the error was not harmless, and reversal is required. Appellant relies on *Washington v. State*, 406 Md. 642 (2008).

The State argues the court properly exercised its discretion in admitting the surveillance videos and still photographs. The State asserts that Sergeant Henson’s testimony about the procedures he followed in obtaining the videos, and Detective Miller’s testimony that the videos were accurate copies of what he observed on the apartment’s surveillance system, were sufficient to authenticate them. The State contends that through the officers’ collective testimony, the State laid a sufficient foundation under the “silent witness” theory.

Md. Rule 5-901(a) provides, “[t]he requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.” The rule contains examples of authentication or identification conforming with its requirements, including “[t]estimony of a witness with knowledge that the offered evidence is what it is claimed to be.” Md. Rule 5-901(b)(1). The requirement is “satisfied if sufficient proof has been introduced so that a reasonable juror could find in favor of authenticity or identification.” *Sublet v. State*, 442 Md. 632, 666 (2015). A court “need not find that the evidence is

necessarily what the proponent claims, but only that there is sufficient evidence that the jury ultimately might do so.” *Jackson v. State*, 460 Md. 107, 116 (2018) (quoting *United States v. Safavian*, 435 F. Supp. 2d 36, 38 (D.D.C. 2006)). “The threshold of admissibility is, therefore, slight.” *Id.*

Maryland recognizes two distinct rules for the admission of photographs and videotapes.¹ See *Washington*, 406 Md. at 652. The first method is known as the “pictorial testimony” theory, where photographs are admissible to illustrate testimony of a witness when that witness testifies from first-hand knowledge that the photograph fairly and accurately represents the scene or object it purports to depict as it existed at the relevant time. See *Dep’t of Pub. Safety & Corr. Services v. Cole*, 342 Md. 12, 20–21 (1996). The second method is referred to as the “silent witness” theory, which does not require first-hand knowledge, and instead may permit verification to be inferred “from other evidence which supports the reliability of the photographic product....” *Cole*, 342 Md. at 22. Our Supreme Court has not adopted “‘any rigid, fixed foundational requirements’ for the admission of evidence under the ‘silent witness’ theory.” *Jackson*, 460 Md. at 117 (quoting *Cole*, 342 Md. at 26).

In *Washington v. State*, the Maryland Supreme Court examined the foundational requirements for the admission of surveillance videotape. 406 Md. 642 (2008). There, the Petitioner was charged with attempted first-degree murder following an argument and

¹ *Jackson*, 460 Md. at 116 (citing *Washington*, 406 Md. at 651) (“for purposes of admissibility, a videotape is subject to the same authentication requirements as a photograph.”).

shooting outside of a bar. *Id.* at 644–45. The State sought the introduction of a videotape recording made by surveillance cameras inside and outside the bar that showed that the Petitioner was present on the night of the crime. *Id.* at 646. The bar owner testified as to the type of security system that was in place, where the cameras were located, and that the system recorded twenty-four hours a day. *Id.* The bar owner also testified that the police called him after the incident and requested to see the surveillance tapes and that a technician came out the next day to print a CD with the surveillance footage. *Id.*

Defense counsel objected to the admissibility of the tape, arguing there was a lack of foundation to establish the authenticity of the original CD under the business records exception. *Id.* Defense counsel argued the testimony established only that the CD was computer generated, and that an unknown person copied a video from the system onto a CD. *Id.* The State countered that even if the tape was not authenticated under the business records exception, it was authenticated under the “silent witness” rule, based upon the bar owner’s testimony. *Id.* at 646. The court admitted the CD into evidence. *Id.* The Petitioner was subsequently found guilty of assault and three handgun violations. *Id.* at 648. He appealed and this Court held that the trial court abused its discretion in admitting the videotape and still photographs, but that, the error was harmless. *Id.*

The Maryland Supreme Court granted certiorari to consider whether the trial court’s admission of the surveillance videotapes and photographs into evidence was an abuse of discretion, and if so, whether the error was harmless. *Id.* at 649. The Court stated, “[g]enerally, surveillance tapes are authenticated under the silent witness theory, and

without an attesting witness.” *Id.* at 653. The Court noted that, “[c]ourts have admitted surveillance tapes and photographs made by surveillance equipment that operates automatically when ‘a witness testifies to the type of equipment or camera used, its general reliability, the quality of the recorded product, the process by which it was focused, or the general reliability of the entire system.’” *Id.* at 653. The Court reasoned:

The videotape recording, made from eight surveillance cameras, was created by some unknown person, who through some unknown process, compiled images from the various cameras to a CD, and then to a videotape. There was no testimony as to the process used, the manner of operation of the cameras, the reliability or authenticity of the images, or the chain of custody of the pictures. The State did not lay an adequate foundation to enable the court to find that the videotape and photographs reliably depicted the events leading up to the shooting and its aftermath. Without suggesting that manipulation or distortion occurred in this case, we reiterate that it is the proponent’s burden to establish that the videotape and photographs represent what they purport to portray. The State did not do so here.

Id. at 655.

The Court then held that the trial court erred in admitting the videotape and still photographs without first requiring an adequate foundation to support a finding that the matter in question was what the State claimed it to be. *Id.* at 655–56. Because the State relied heavily on the videotape, the Court determined that the trial court’s error was not harmless beyond a reasonable doubt. *Id.* at 658.

The facts of the present case are quite distinguishable from *Washington*. In *Washington*, the State relied solely on the testimony from the bar owner and failed to call the person who copied and compiled the video as a witness. As the Supreme Court stated, “[t]here was no testimony as to the process used, the manner of operation of the cameras,

the reliability or authenticity of the images, or the chain of custody of the pictures.” *Id.* at 655. In the present case, Sergeant Henson testified that he retrieved the video footage from the apartment complex the day after the murder. He stated that he was notified by the property manager where the DVR system was located on the property, and he described the process he used to ensure the system worked properly:

Basically, what I do is I go to the system. I make sure it’s working [properly] by looking at the monitor and seeing that the time appears on there and that the frame appears - - the different cameras that are up there. And then when I notice that the DVR time was idling two minutes slow compared to the real time.

Sergeant Henson also testified that he retrieved video footage from cameras four, nine, ten, twelve, and thirteen from the day of the incident. He stated:

So for those cameras what I did was I went to the DVR. I looked at file management or backup or search. I found the time and date that he requested. I would deselect all the cameras and just select those that he requested, at which time I would hit backup and it goes into my flash drive.

Detective Miller testified to the following:

[THE STATE]: Detective, I am going to show you what’s been marked as State’s Exhibit No. 3 for identification.

[THE STATE]: I’ll show you a few seconds shortly.

(Video played.)

[THE STATE]: And do you recognize what is -- or do you recognize this video?

[DETECTIVE MILLER]: Yes.

[THE STATE]: Is this the video that you looked at after Cybercrimes recovered?

[DETECTIVE MILLER]: Yes.

[THE STATE]: And where is this video located?

[DETECTIVE MILLER]: It's the -- it's the camera that's in the alley next to where that red dot is on the backside of the alley.

[THE STATE]: And this is a fair and accurate depiction of the video you watched from [] Edgecombe Circle from April 5th of 2021?

[DETECTIVE MILLER]: Yes.

Based on this record, we hold that the court properly exercised its discretion in finding that the surveillance videos and still photographs were authenticated by the testimony of the officers describing the equipment, the process of retrieval, and identifying the footage as what they viewed on the cameras. As stated in *Jackson v. State*, the court “need not find that the evidence is necessarily what the proponent claims, but only that there is sufficient evidence that the jury ultimately might do so.” 460 Md. at 116 (quoting *Safavian*, 435 F. Supp. 2d at 38).

II. The court did not err in allowing the State to play Ms. Jamison’s entire recorded statement.

“‘Hearsay’ is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Md. Rule 5-801(c). Hearsay is inadmissible at trial unless it falls within an exception to a hearsay rule excluding such evidence or is “permitted by applicable constitutional provisions or statutes.” Md. Rule 5-802. “Unlike other evidence, a trial court has no discretion to admit hearsay in the absence of a provision providing for its admissibility. Hearsay is thus an issue of law, not fact. Whether evidence is hearsay is reviewed *de novo*, without deference

to the trial court.” *Young v. State*, 234 Md. App. 720, 733 (2017) (internal citations and quotations omitted).

Appellant argues the trial court erred in admitting Ms. Jamison’s statements that identified him as the perpetrator and in further playing the entirety of her interview with detectives to the jury. Appellant contends that Ms. Jamison’s recorded statements were erroneously admitted as prior inconsistent statements and did not meet the requirements of Md. Rule 5-802.1(a).

Conversely, the State argues the court properly permitted it to play Ms. Jamison’s recorded statements under Md. Rule 5-802.1(e), the recorded recollection exception. The State argues the recorded interview concerned matters the witness once had knowledge about but could not remember at trial. Specifically, the State argues that Ms. Jamison testified that she could not remember the answers to many of the State’s questions, particularly as they pertained to her interview with the detectives.

Md. Rule 5-802.1 provides that certain statements “previously made by a witness who testifies at the trial or hearing and who is subject to cross-examination concerning the statement are not excluded by the hearsay rule.” The relevant subsections are as follows:

A statement that is inconsistent with the declarant’s testimony, if the statement was (1) given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding or in a deposition; (2) reduced to writing and was signed by the declarant; or (3) recorded in substantially verbatim fashion by stenographic or electronic means contemporaneously with the making of the statement;

Md. Rule 5-802.1(a).

A statement that is in the form of a memorandum or record concerning a matter about which the witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, if the statement was made or adopted by the witness when the matter was fresh in the witness's memory and reflects that knowledge correctly. If admitted, the statement may be read into evidence but the memorandum or record may not itself be received as an exhibit unless offered by an adverse party.

Md. Rule 5-802.1(e).

Md. Rule 5-802.1(e) does not require the witness to have no present memory of the recorded facts, but instead, the witness is only required to have “some impairment.” *Sanders v. State*, 66 Md. App. 590, 599 (1986). The Supreme Court in *Hall v. State*, stated the following regarding Rule 5-802.1(e):

It has been urged in argument that the entry or memorandum can only be used where the witness has no present independent recollection of the transaction referred to. But its admissibility depends upon no such distinction. If the witness swears that he made the entry or memorandum in accordance with the truth of the matter, as he knew it to exist at the time of the occurrence, whether he retains a present recollection of the facts or not, the entry or memorandum is admissible or though he may have a present recollection, of doubtful or varying degree of certainty, it may be, independently of the memorandum, the paper is admissible as means of verification or confirmation of what he states from memory.

Hall v. State, 223 Md. 158, 176 (1960).

Here, Ms. Jamison failed to recall several incidents and her prior statements when called to testify at trial. When asked about the altercation between Appellant and Mr. Carr in March of 2021, she stated, “I really don’t remember everything.” When asked about the day of the homicide, she failed to recall when Mr. Carr left her apartment. When asked about her communications with Appellant, she stated, “Yeah, he sent me messages. I mean, not about Dominic, I don’t think. I can’t remember. This is years ago, so.” When asked

whom she identified in a photograph that the detective showed her on the day of the murder, she responded, “I’m not sure.” She also testified, on several occasions, that she did not recall watching a video taken by the detectives, where she identified Appellant as the perpetrator. On direct examination, the State asked Ms. Jamison “at any time did you observe, [], a video?” and she responded: “No.” The State then showed her the transcript of her recorded interview to refresh her recollection, and she stated: “I don’t recall seeing a video, ma’am.” After viewing the video interview, she stated: “I told you, I remember seeing pictures. I can’t I mean you showed me a video of me watching a video, so I’m guessing I watched a video, but I don’t recall watching the video. I don’t remember it. I’ve got PTSD, so I forget a lot of stuff.”

The court initially ruled that the video would be allowed based on Md. Rule 5-802(a) but later reconsidered its ruling. The court ultimately allowed the State to play the recorded interview to the jury, stating: “it’s the Court’s interpretation that this is a 5-802.1(e) statement and doesn’t fall under (a).”

During the video, Ms. Jamison states, “[t]his is my children’s father” after viewing a surveillance video taken outside of her apartment complex on the day of the homicide. She also described her relationship with Mr. Carr, the altercation that occurred between Mr. Carr and Appellant in March of 2021, her fear of Appellant after he found out about her relationship with Mr. Carr, the events leading up to Mr. Carr being killed, the sweatshirt the perpetrator was wearing, and she identified a neighbor who witnessed the altercation between Mr. Carr and Appellant in March of 2021.

In our view, the court properly admitted the video as a past recollection recorded based on Ms. Jamison’s inability to recall the information that she provided to detectives during her interview. The record is clear that Ms. Jamison failed to recollect certain events, including the altercation between Appellant and Mr. Carr, the day of the shooting, and her interview with the detectives. The State attempted on several occasions to refresh her recollection by showing her a transcript of her interview and a video of her watching the recorded interview where she identified Appellant as the perpetrator. While Ms. Jamison agreed the video was a fair and accurate depiction of her interview with the detectives, she, nevertheless, had no recollection of seeing the video during her interview. Ms. Jamison did recall some events in her live testimony that corresponded with the statements she made in the recorded interview, but her failure to recall events surrounding the homicide, and her failure to recall watching the video in her interview, demonstrated “some impairment” of her present recollection. *Sanders*, 66 Md. App. at 599.

As stated, Md. Rule 5-802.1(e) does not require that the witness have no present memory of all of the recorded facts. *Id.* at 596. Rather, it is applicable where the testimony demonstrates that the witness has “insufficient recollection to enable the witness to testify fully and accurately.” Md. Rule 5-802.1(e). Because the court properly allowed the State to play the entire recorded interview under Md. Rule 5-802.1(e), we need not address the applicability of Md. Rule 5-802.1(a).

III. The evidence was sufficient to sustain Appellant’s convictions.

When reviewing the sufficiency of evidence, appellate courts do not retry the case. *See Hayes v. State*, 247 Md. App. 252, 306 (2020). “It is the responsibility of the appellate court, in assessing the sufficiency of the evidence to sustain a criminal conviction, to determine ‘whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *Koushall v. State*, 479 Md. 124, 148 (2022) (quoting *Taylor v. State*, 346 Md. 452, 457 (1997)). “[O]ur concern is only whether the verdict was supported by sufficient evidence, direct or circumstantial, which could fairly convince a trier of fact of the defendant’s guilt of the offenses charged beyond a reasonable doubt.” *Taylor*, 346 Md. at 457. “Circumstantial evidence is sufficient to sustain a conviction, but not if that evidence amounts only to strong suspicion or mere probability. Although circumstantial evidence alone is sufficient to sustain a conviction, the inferences made from circumstantial evidence must rest upon more than mere speculation or conjecture.” *Hall v. State*, 233 Md. App. 118, 137 (2017) (internal citation omitted).

Appellant contends the evidence was legally insufficient to sustain his convictions because the identity evidence produced was entirely circumstantial and was based on an identification of a sweatshirt that was commonly worn by multiple people in the neighborhood. Appellant argues there were no eyewitnesses to the shooting and there was no physical evidence tying him to the crime. The State argues the evidence was sufficient.

We agree with Appellant that the State’s evidence was largely circumstantial. We find, however, it was sufficient to support the jury’s findings that resulted in Appellant’s convictions. Dr. Alexander testified that the cause of death of Mr. Carr was multiple gunshot wounds, and the manner of his death was homicide. Special Agent Fowler testified that the cell phone recovered from Appellant’s residence was in the general vicinity of the Edgcombe Circle apartment building at the time of the murder. Ms. Jamison identified Appellant in the video footage from the apartment complex and stated “[t]his is my children’s father,” based on the sweatshirt he was wearing. A surveillance camera captured a 2000 Buick driving past the apartment complex shortly before the murder, which resembled a 2000 Buick that was registered to Appellant. The video footage depicted a person wearing a sweatshirt approaching the apartment complex before the murder occurred and running away from the apartment complex shortly after the murder. Finally, Ms. Jamison testified that she feared for her safety once Appellant became aware of her relationship with Mr. Carr and feared for Mr. Carr’s safety prior to his death if Appellant were to find out about their relationship.

Viewing the evidence in the light most favorable to the prosecution, we hold the evidence was sufficient to support Appellant’s conviction for first-degree murder and use of a handgun in the commission of a crime of violence. The inferences made from the circumstantial evidence were “more than mere speculation or conjecture.” *Hall*, 233 Md. App. at 137. “It is not our role, in assessing the sufficiency of the evidence, to determine ‘whether the [trier of fact] could have drawn other inferences [,] . . . refused to draw

inferences, or whether we would have drawn different inferences from the evidence.”
State v. Manion, 442 Md. 419, 445 (2015) (citing *Smith v. State*, 415 Md. 174, 184 (2010)).
“[O]ur concern is only whether the verdict was supported by sufficient evidence, direct or
circumstantial, which could fairly convince a trier of fact of the defendant’s guilt of the
offenses charged beyond a reasonable doubt.” *Id.* (citing *Taylor*, 346 Md. at 457).

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