

Circuit Court for Prince George's County
Case No. CT190468X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1982

September Term, 2019

LAMONT ANTHONY VAUGHN

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 28, 2021

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Prince George’s County, Lamont Anthony Vaughn, appellant, was convicted of home invasion, robbery, second-degree assault, first-degree burglary, third-degree burglary, theft of goods valued between \$100 and \$1,500, conspiracy to commit home invasion, and conspiracy to commit first-degree burglary. His sole claim on appeal is that the trial court abused its discretion in allowing the State to impeach him with his prior convictions for carjacking and first-degree burglary. For the reasons that follow, we shall affirm.

Maryland Rule 5-609 “creates a three part test for determining whether a conviction is admissible for impeachment purposes.” *Jackson v. State*, 340 Md. 705, 712 (1995). For a prior conviction to be admissible: (1) it “must fall within the eligible universe,” that is, it must be either an “infamous” crime, or it must be a crime “relevant to the witness’s credibility;” (2) “the proponent must establish that the conviction is less than fifteen years old;” and (3) “the trial court must weigh the probative value of the impeaching evidence against the danger of unfair prejudice to the defendant” and determine that the former outweighs the latter. *Id.* at 712-13 (citations omitted). Mr. Vaughn concedes that his prior convictions for first-degree burglary and carjacking fall within the “eligible universe” of impeachable crimes. Moreover, the convictions occurred in 2010, approximately nine years before trial, so they are not excluded by the fifteen-year time limit. Therefore, the sole issue before this Court is whether the probative value of his convictions was outweighed by the danger of unfair prejudice.

In *Jackson*, the Court of Appeals set forth five non-exclusive factors to consider “in weighing the probative value of a past conviction against [its] prejudicial effect.”

These factors include: “(1) the impeachment value of the prior crime; (2) the point in time of the conviction and the defendant’s subsequent history; (3) the similarity between the past crime and the charged crime; (4) the importance of the defendant’s testimony; and (5) the centrality of the defendant’s credibility.” *Id.* at 717. Balancing these factors is a matter within the trial court’s discretion. *Cure v. State*, 195 Md. App. 557, 576 (2010). “When the trial court exercises its discretion in these matters, we will give great deference to the court’s opinion,” and we “will not disturb that discretion unless it is clearly abused.” *Jackson*, 340 Md. at 719 (internal citations omitted).

Mr. Vaughn claims that his prior convictions were for crimes that “were very similar to the crimes charged in the present case which created the danger of unfair prejudice.” He also asserts they had little probative value because they were approximately nine years old. We agree that there was an elevated risk for prejudice to Mr. Vaughn given the similarity between his past convictions and the charged offenses in this case. However, the prior convictions clearly had impeachment value. And the nine-year period between Mr. Vaughn’s prior convictions and the time of his trial did not weigh strongly against admission as that time period was only slightly more than half-way to Rule 5-609(b)’s fifteen-year outside limit. *See Fulp v. State*, 130 Md. App. 157, 168 (2000) (holding that “[t]he second factor is relatively neutral” where “[t]he conviction for assault with intent to murder occurred eight years previously, *i.e.*, not

exactly ancient history, yet not recent either”).¹ Most importantly, Mr. Vaughn’s testimony and his attendant credibility were central to his alibi defense, because he was the only witness who could have contradicted the victim’s testimony identifying him as the perpetrator of the charged offenses.² Thus, the probative value of the prior convictions was high. *Jackson*, 340 Md. at 721 (noting that when “credibility is the central issue, the probative value of the impeachment is great”).

Ultimately, the question we must answer is whether the court abused its discretion in applying the balancing test to determine whether the probative value of the use of Mr. Vaughn’s prior convictions as impeachment evidence outweighed the potential for prejudice in using the prior convictions. Here, only the third factor, the similarity between the past crimes and the charged crimes, clearly weighed against admissibility. The remaining factors were either neutral or weighed in favor of admissibility, most notably the importance of Mr. Vaughn’s testimony and the centrality of his credibility. Consequently, we hold that the trial court did not abuse its discretion in admitting evidence of Mr. Vaughn’s prior convictions.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**

¹ In fact, the court noted that Mr. Vaughn had been in custody for six of those nine years.

² Although Mr. Vaughn introduced time sheets from his job that showed that he had clocked into work the day of the robbery, the State asserted that it was possible for him to have left work for a period of time without clocking out. Thus, Mr. Vaughn’s testimony and attendant credibility were still central to his defense.