Circuit Court for Baltimore City
Case No. 116266006

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2008

September Term 2017

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ADRIAN BROWN

v.

STATE OF MARYLAND

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Leahy,
Shaw Geter,
Salmon, James P.
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Salmon, J.

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Filed: November 14, 2018

Adrian Brown, appellant, was charged, in the Circuit Court for Baltimore City, with first-degree murder, second-degree murder, use of a firearm in the commission of a felony or crime of violence, and possession of a firearm by a disqualified person. A jury convicted Brown of possession of a firearm and acquitted him of first-degree murder. The jury could not reach a verdict on the remaining charges. Brown was retried on those charges, and this time the jury convicted him of second-degree murder and use of a firearm in the commission of a felony or crime of violence. The court sentenced Brown to a term of 30 years' imprisonment for second-degree murder, a consecutive term of twenty years' imprisonment for use of a firearm in the commission of a felony or crime of violence, and a concurrent term of five years' imprisonment for possession of a firearm by a disqualified person. In this appeal, Brown raises two questions for our review:

1. Did the circuit court err in admitting, at both trials, a cell phone recording made weeks before the incident?

2. Did the circuit court err in permitting impermissible rebuttal argument by the prosecutor at the first trial?

For reasons to follow, we answer both questions in the negative and affirm the judgments of the circuit court.

## BACKGROUND

In the late evening hours of August 27, 2016, Leticia Jones arrived at her home on Cliftview Avenue in Baltimore, where she lived with several people, including her mother, Tamera Jones, and her brother, Tykim Fisher. When she arrived, Leticia Jones observed her brother "sitting out front on the steps" with three of his friends. Approximately 20

minutes later, Leticia Jones observed appellant, Adrian Brown, whose grandmother lived nearby, approach the group holding a gun. According to Leticia Jones, Brown pointed the gun at the group and ordered "everybody to sit down." Around the same time, Tamera Jones, Leticia Jones's mother, looked out a basement window and observed Brown pointing a gun at Mr. Fisher. At some point during the confrontation, Brown and Fisher "started tussling," and Leticia Jones saw Brown shoot Mr. Fisher. Mr. Fisher was taken to the hospital where he was pronounced dead.

Approximately five days later, the police interviewed appellant. During that interview, which was recorded and later played for the jury at both trials, appellant admitted being at the scene at the time of the shooting but claimed that "all he knew" was that he "got shot" in the arm and then ran.[1] Regarding his relationship with Mr. Fisher, Brown stated that he and Mr. Fisher "had a few words" about a "week or two" prior to the shooting; that the "words" were "just little tedious little things like, you know, they from another area, you know, they just moved in the hood;" and that there may have been some instances of "disrespect" involving certain people, including Mr. Fisher, "sitting on [Brown's] grandmother's step." Brown also stated that Mr. Fisher was "young" and "had a chip on his shoulder."

[1] At the time of the interview, Brown did have an injury to his arm; however, the interviewing detective later testified that he had "no doubt that it was caused by some type of sharp object, most likely a knife." Brown was treated at the hospital for that injury, and the attending physician noted that the wound "appear[ed] more consistent with [a] slicing injury."

Prior to the first trial, defense counsel moved to exclude a recording made by Leticia Jones approximately 19 days before the shooting in which Brown could be heard "making threats" toward Leticia Jones. After hearing argument from both parties, the court listened to the recording. The transcript of the recording read:[2]

BROWN: It's your last day on this block.

[WOMAN]: Trust that.

BROWN: If you're making money, this is your last day.

[WOMAN]: Trust that. Nobody is (indiscernible) you.

* * *

BROWN: We – I'm not talking to you, okay? This is ya'll last day on this block. I'm not talking to you (indiscernible), okay? So we – stay in your lane. It's your last day on this block. I really don't know you or you, for real. This is your last day and I'm not playing. I don't give a f**k who your family is. This is my hood. This is (indiscernible). You (indiscernible) or wherever the f**k you from. N****rs love you, they come and (indiscernible) this b***h because n****rs ain't even (indiscernible) down this b***h. Do you understand?

So enjoy this night. I'm your worst nightmare. I ain't got to come up with b***h. I come back in three years and I'm – trust me, I don't have to come outside. That's all you have. This is all you have. This n****r is giving you something that you never had in their hood. Go the f**k back up there.

[2] There are some minor discrepancies between the transcript in the record and that set forth in appellant's brief (which appears to be copied from the trial transcript from October 3, 2017). The transcript quoted above is from State's Exhibit 33, which was received in evidence at both trials.

You think it's funny? It's not funny. It's not your hood. You feeling me? And that's just real s**t. Don't say nothing to me.

* * *

BROWN: Man, f**k you.

MS. JONES: F**k you, too.

BROWN: F**k you.

MS. JONES: Okay, (indiscernible).

BROWN: Man, f**k you.

MS. JONES: All right.

BROWN: All right? F**k you for real.

* * *

BROWN: Keep running your mouth, I swear to God, I ain't even got to say much.

* * *

BROWN: I don't have to come outside, yo.

MS. JONES: I know.

BROWN: I'll pull up and bang you in your f**king face.

* * *

BROWN: You will be dead right now. I already told your mother. She must ain't told you n****rs. She must ain't told ya'll n****rs, did she?

MS. JONES: No, she (indiscernible).

BROWN: She didn't, did she? Well, all right.

MS. JONES: All right.

BROWN: Because you ain't nobody.

MS. JONES: Okay.

BROWN: She ain't told you n****rs, did she? This ain't your block.

MS. JONES: I don't want this block.

BROWN: Guess what? Enjoy this night, yo. I'm being real with you.

MS. JONES: Okay.

BROWN: All right? I'm being real. I be trying to be – I be trying to be political and nice in a nice way. All right, man, look, this ain't your hood, yo. I don't even be caring.

MS. JONES: That's cool.

BROWN: I really don't care. I don't. You ain't putting that work in. You ain't never put no work in. As a matter of fact –

* * *

BROWN: (Indiscernible). It's not yours. Enjoy this last night.

MS. JONES: Okay. All right.

* * *

BROWN: You're not – chill, yo. This is your last night.

MS. JONES: Okay.

BROWN: For real. Being nice to you n****rs on regardless of your mother. She really bugged that life.

MS. JONES: That's cool.

After the recording was played for the court, Leticia Jones was called as a witness at the motions hearing. She explained that, at the time the recording was made, she was outside with a group of people "freestyling" when Brown "interrupted" her and began talking to "another female." She further explained that, "at some point," Brown turned his attention to her and that she "talk[ed] back to him." Ms. Jones testified that she originally told the police that the recording was made on the night of the shooting. She admitted, however, that the recording was actually made approximately two weeks before the shooting.

Following Leticia Jones testimony, defense counsel argued that the recording was "not relevant" because it was "very unclear as to when exactly it was recorded" and because the victim, Mr. Fisher, was not present during the recording and was not the subject of the argument between Brown and Ms. Jones. Defense counsel also argued that, even if relevant, the recording was "completely prejudicial."

The court disagreed with defense counsel and ruled that the recording was both relevant and not unduly prejudicial. His oral decision was as follows:

> Mr. Brown's statement evidences his ill will as recorded to not only [Leticia] Jones, telling Ms. Jones when Ms. Jones frankly puts her head and nose in the conversation that she had no business in that night between Mr. Brown and another unidentified female, Mr. Brown then does turn his ill will and expresses it to Ms. Jones, letting her know, enjoy this, this is your last night on this block, you're all out of here, you're all out of here, your family's out of here. And that is an unequivocal, in the view of the Court, expression

> of Mr. Brown's ill will to what I will call the Jones family, for lack of a better term.
>
> This Court believes that those words of Mr. Brown, as captured, are relevant because they do express an ill will with regard to the safety, and that they're not a thinly veiled threat, notwithstanding the argument of [defense counsel]; that they evidenced Mr. Brown's state of mind to Leticia Jones and, derivatively, her family members, including the victim, the ill will toward the victim, as explained or buttressed by the statement that Mr. Brown gave to the homicide detectives about his feelings toward the victim, as to his observations about the victim's disrespect.
>
> There is probative value in that and the Court believes that the probative value, and I do find – and let me just, for the record, for everyone's edification, just say this first. Evidence against any defendant from the State, any State's evidence against a defendant by its very nature is prejudicial. The – of course, because it is designed to make any defendant in any case look bad, as in, that a crime was committed and it was this defendant who committed that crime. The issue is not whether probative value outweighs prejudice to the defendant. It's whether the probative value outweighs any undue [or] unfair prejudice to the [d]efendant. We begin with the premise that State's evidence against a defendant wouldn't be State's evidence unless it was prejudicial to the defendant.
>
> For the reasons I've just explained, finding that the time period of 20 to 18 days is definitely not so attenuated to fail to demonstrate a nexus between the ill will, which was evidenced by words that came out of this own [d]efendant's mouth against Ms. Jones and her family, including the victim, Mr. Fisher, and the words that came out of this [d]efendant, Mr. Brown's, own mouth, in his statement to the police about his disappointment in, at a minimum, and, frankly, disregard for and ill will that he had for this victim, Mr. Fisher, that that coincidence of those statements is something more than just coincidental. It is probative. And that probative value does outweigh undue and unfair prejudice against the [d]efendant or to be visited upon the [d]efendant. And for those reasons the [d]efense motion to preclude the audio recording made by Leticia Jones respectfully is denied.

At Brown's first trial, the circuit court admitted into evidence the recording Leticia Jones made prior to the shooting. In addition, Leticia Jones testified to her observations at the time her brother was shot. Later, during closing argument, defense counsel commented

on Ms. Jones' credibility, stating that she was "not a credible witness" because she told "lies" to the police and because she thought "this whole thing is a joke." During its rebuttal argument, the State also commented on Ms. Jones' testimony:

> [STATE]: Leticia Jones will never get to see her brother again. She will never get to have her children play with their uncle. She knows who took her brother away because she saw it happen. She's not lying about who did it because –
>
> [DEFENSE]: Objection.
>
> THE COURT: Overruled.
>
> [STATE]: What would be her motivation to lie? Everybody that knew Adrian Brown that testified in this courtroom said prior to that night they didn't think they had major issues. They didn't think it was going to lead to this. But it did, ladies and gentlemen.

As mentioned earlier, the jury in the first trial convicted Brown of possession of a handgun but could not reach a verdict on the charges of second-degree murder and use of a handgun in the commission of a felony or crime of violence, but Brown was later retried on those two charges.

At Brown's second trial, Leticia Jones again testified to her observations at the time her brother was shot. In addition, the court admitted into evidence the recording of Brown's conversation with Mr. Jones that was made prior to the shooting. During rebuttal argument at the second trial, the State commented on the recording:

> And yes, [Ms. Jones] lied about the recording because she thought that it would help. But the recording wasn't a confession. All the recording did was tell you who Adrian Brown really is. When no one is looking and when Adrian Brown thinks that nobody is listening, ladies and gentlemen, the recording that [Ms. Jones] put on her phone tells you exactly who he is.
>
> When Adrian Brown isn't sitting in this courtroom and when Adrian Brown isn't being interviewed about whether or not he committed a murder, this is what Adrian Brown really sounds like, ladies and gentlemen.
>
> (Recording played.)
>
> When no one was looking and when Adrian Brown doesn't think anybody is recording him that's who he really is. I'm your worst nightmare. This is you all's last night on this block. I don't care when he made that recording. That's who Adrian Brown is when he thinks nobody is looking.

Counsel for Brown did not voice an objection at any time to the remarks just quoted.

## DISCUSSION

### I.

Brown first argues that that the circuit court erred in admitting, at both trials, the recording made by Leticia Jones prior to the shooting. He maintains that the recording was not relevant to the shooting of Mr. Fisher because Mr. Fisher "was not even present during the recording or mentioned by name" and that, as a result, "it would be purely speculative to view the recording as evidence that Mr. Brown held a grudge against [Mr.] Fisher." Brown stresses that the State "never attempted to explain how the dispute involved Tykim Fisher directly or indirectly" and that the State "failed to proffer how the recording was material to Mr. Brown's charges." He also argues that, even "if the recording was relevant, it was only marginally so" and that, in comparison, "the danger of unfair prejudice was palpable." In support, Brown asserts that, because the recording depicts him "cursing and

telling Leticia Jones to leave," the jurors likely "ran wild in speculating about the nature of their dispute" and "might have convicted [him] only because they thought he acted like a 'bad guy' in the recording[.]"

The State counters that the recording was relevant to show Brown's motive and intent to murder Mr. Fisher. The State argues that Brown's threats, despite being directed at Leticia Jones, "encompassed the Jones' family," which included Mr. Fisher. The State also asserts that the recording showed that Brown's accosting of Mr. Fisher on the night of the shooting was not a random act but instead was part of Brown's "target[ing]" of the Jones' family. Regarding Brown's claim that the jury may have misused the evidence, the State points out that the court instructed the jury to decide the case based solely on the evidence and "there is no basis in the record to believe that the jury deviated from [that] instruction[.]"

Evidence is relevant if it makes "the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Md. Rule 5-401. In other words, evidence is relevant if it is both material and probative. "Evidence is material if it bears on a fact of consequence to an issue in the case." *Smith v. State*, 218 Md. App. 689, 704 (2014). "Probative value relates to the strength of the connection between the evidence and the issue…to establish the proposition that it is offered to prove." *Id.* (citations and quotations omitted). We review the court's determination of relevancy under a *de novo* standard. *State v. Simms*, 420 Md. 705, 725 (2011).

Even if legally relevant, however, "evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice[.]" Md. Rule 5-403. "We determine whether a particular piece of evidence is unfairly prejudicial by balancing the inflammatory character of the evidence against the utility the evidence will provide to the jurors' evaluation of the issues in the case." *Smith*, 218 Md. App. at 705. "To justify excluding relevant evidence, the 'danger of unfair prejudice' must not simply outweigh 'probative value' but must, as expressly directed by Rule 5-403, do so 'substantially.'" *Newman v. State*, 236 Md. App. 533, 555 (2018) (footnote omitted). "This inquiry is left to the sound discretion of the trial judge and will be reversed only upon a clear showing of abuse of discretion." *Malik v. State*, 152 Md. App. 305, 324 (2003).

In addition, Maryland Rule 5-404(b) prohibits the use of "other crimes, wrongs, or acts…to prove the character of a person in order to show action in conformity therewith." "A 'bad act' is an act or conduct 'that tends to impugn or reflect adversely upon one's character[.]'" *Smith*, 218 Md. App. at 709 (quoting *Klauenberg v. State*, 355 Md. 528, 546 (1999)). The purpose of the rule is "to prevent the jury from developing a predisposition of guilt based on unrelated conduct of the defendant." *Id.* at 709-10 (citations and quotations omitted).

Rule 5-404(b) does not prohibit the use of all "bad act" evidence. To the contrary, the rule expressly permits the use of such evidence "for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identify, or absence of mistake or accident." If a trial court determines that the evidence is admissible

for one or more of those "other purposes," the court must then carefully weigh the "necessity for and probative value of the other crimes evidence…against any undue prejudice likely to result from its admission."[3] *Jackson v. State*, 230 Md. App. 450, 459 (2016) (quoting *Snyder v. State*, 361 Md. 580, 603-04 (2000)). We review the trial court's initial determination of admissibility *de novo*. *Smith*, 218 Md. App. at 710. The trial court's balancing determination, however, is reviewed for abuse of discretion. *Id.*

Against that backdrop, we hold that the recording made by Leticia Jones prior to the shooting was legally relevant. The recorded comments made by Brown to Ms. Jones, which concerned Ms. Jones' presence in Brown's "hood" and involved direct threats of violence, was directed not just at her but to her entire family, which included the victim, Mr. Fisher. When considered in conjunction with Brown's statements to the police, in which he stated that he and Mr. Fisher "had words" regarding, among other things, Mr. Fisher's presence in Brown's "hood," the recording was relevant in showing why an armed Brown had accosted Mr. Fisher as he sat on the steps of his home on the night of the shooting. *See Jackson*, 230 Md. App. at 460 (noting that "'evidence of previous quarrels and difficulties between a victim and a defendant is generally admissible to show motive.'") (quoting *Snyder*, 361 Md. at 605). In that same vein, the recording was also probative of Brown's intent, as Brown's general animosity toward Ms. Jones and her family made it more probable than not that Brown approached Mr. Fisher intending to kill

[3] The trial court must also decide "whether the accused's involvement in the other crimes is established by clear and convincing evidence." *Jackson*, 230 Md. App. at 459 (quoting *Snyder*, 361 Md. at 603-04). Brown does not contest this aspect of the circuit court's ruling.

him. *See Spencer v. State*, 450 Md. 530, 568 (2016) ("The required *mens rea* of intent to kill may be proved by circumstantial evidence[,]" and "[t]he trier of fact may infer the existence of the required intent from surrounding circumstances such as the accused's acts, conduct and words.") (citations and quotations omitted).

The circuit court did not abuse its discretion in admitting the recording. First, we disagree with Brown's assertion that the recording was "marginally" relevant. As discussed, the evidence was clearly probative of both motive and intent. Furthermore, even though the recording may have resulted in some prejudice to Brown, we cannot say that that prejudice was unfair or that it outweighed the evidence's obvious probative value. *See Odum v. State*, 412 Md. 593, 615 (2010) ("It has been said that 'probative value is outweighed by the danger of '*unfair*' prejudice when the evidence produces such an emotional response that logic cannot overcome prejudice or sympathy needlessly injected into the case.'") (citation omitted) (emphasis in original).

Brown argues that the "risk of unfair prejudice almost certainly came to fruition" when, during rebuttal argument in the second trial, the prosecutor made several "egregious" arguments, including that the recording showed "who Adrian Brown really is … when [he thinks] no one is looking" and that he's "your worst nightmare." Brown avers that, by making those comments, "the prosecutor essentially admitted that, in the State's view, the jury should just regard the recording as character evidence demonstrating who [he] 'really is.'"

Brown's arguments are unavailing. To begin with, Brown did not object at the time the comments were made, therefore, to the extent that Brown contends that the argument was improper, that issue was not preserved. Md. Rule 8-131(a). Moreover, Brown cites no case, and we are aware of none, in which this Court or the Court of Appeals has held that a trial court erred in admitting evidence because of a statement or comment later made about that evidence during closing argument.

**II.**

Brown's second argument is that "the circuit court erred when it permitted the prosecutor, during rebuttal argument at [the] first trial, to vouch for Leticia Jones' credibility." Brown contends that the prosecutor "implored the jury to accept [her] opinion that Leticia Jones testified credibly" when the prosecutor stated that Ms. Jones was "not lying about who did it." According to Brown, that comment constituted impermissible "vouching" and, as a result, the court erred in permitting it.

The State counters that the prosecutor's comment fell within the bounds of acceptable argument because the comment "did not imply that [the prosecutor] knew information that bore on Leticia Jones' credibility that was not before the jury." Instead, according to the State, the prosecutor's comment "amounted to an argument that Leticia Jones was being truthful based on the testimony given at trial." The State also maintains that the comment was appropriate in light of defense counsel's closing argument, in which counsel "attacked Leticia Jones' credibility at length."

"Closing arguments are an important aspect of trial, as they give counsel 'an opportunity to creatively mesh the diverse facets of trial, meld the evidence presented with plausible theories, and expose the deficiencies in his or her opponent's argument.'" *Donaldson v. State*, 416 Md. 467, 487 (2010) (citation omitted). Closing arguments also provide counsel with an opportunity "to 'sharpen and clarify the issues for resolution by the trier of fact in a criminal case' and 'present their respective versions of the case as a whole.'" *Whack v. State*, 433 Md. 728, 742 (2013) (citations omitted). "The very premise of our adversary system of criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free." *Id.* (citations and quotations omitted).

To that end, "'attorneys are afforded great leeway in presenting closing arguments to the jury.'" *Anderson v. State*, 227 Md. App. 584, 589 (2016) (quoting *Degren v. State*, 352 Md. 400, 429 (1999)). As the Court of Appeals has explained:

> While arguments of counsel are required to be confined to the issues in the cases on trial, the evidence and fair and reasonable deductions therefrom, and to arguments of opposing counsel, generally speaking, liberal freedom of speech should be allowed. There are no hard-and-fast limitations within which the argument of earnest counsel must be confined – no well-defined bounds beyond which the eloquence of an advocate shall not soar. He may discuss the facts proved or admitted in the pleadings, assess the conduct of the parties, and attack the credibility of witnesses. He may indulge in oratorical conceit or flourish and in illustrations and metaphorical allusions.

*Donaldson*, 416 Md. at 488-89 (citations omitted).

"Despite this lack of 'hard-and-fast limitations' on closing arguments, one technique in closing argument that consistently has garnered [] disapproval, as infringing on a defendant's right to a fair trial, is when a prosecutor 'vouches' for (or against) the credibility of a witness." *Spain v. State*, 386 Md. 145, 153 (2005). "Vouching typically occurs when a prosecutor 'place[s] the prestige of the government behind a witness through personal assurances of the witness's veracity…or suggest[s] that information not presented to the jury supports the witness's testimony.'" *Id.* (citations omitted). Such vouching is generally improper because it "can convey the impression that evidence not presented to the jury, but known to the prosecutor, supports the charges against the defendant and can thus jeopardize the defendant's right to be tried solely on the basis of the evidence presented to the jury[.]" *U.S. v. Young*, 470 U.S. 1, 18 (1985); *accord Sivells v. State*, 196 Md. App. 254, 278 (2010). In addition, prosecutorial vouching "carries with it the imprimatur of the Government and may induce the jury to trust the Government's judgment rather than its own view of the evidence." *Id.* at 18-19.

That said, comments by the State regarding a witness's credibility do not automatically constitute prosecutorial vouching and may be appropriate depending on the circumstances:

> No one likely would quarrel with the notion that assessing the credibility of witnesses during a criminal trial is often a transcendent factor in the factfinder's decision whether to convict or acquit a defendant. During opening and closing arguments, therefore, it is common and permissible generally for the prosecutor and defense counsel to comment on, or attack, the credibility of the witnesses presented.

> Part of the analysis of credibility involves determining whether a witness has a motive or incentive not to tell the truth. Attorneys therefore feel compelled frequently to comment on the motives, or absence thereof, that a witness may have for testifying in a particular way, so long as those conclusions may be inferred from the evidence introduced and admitted at trial.

*Spain*, 386 Md. at 154-55 (internal citations and footnote omitted); *See also Sivells*, 196 Md. App. at 278 ("The rule against vouching does not preclude a prosecutor from addressing the credibility of witnesses in its closing argument.").

"The determination whether counsel's 'remarks in closing were improper and prejudicial, or simply a permissible rhetorical flourish, is within the sound discretion of the trial court to decide.'" *Id.* at 271 (citations omitted). We generally defer to the judgment of the trial court because it "is in the best position to determine whether counsel has stepped outside the bounds of propriety during closing argument." *Whack*, 433 Md. at 742. "As such, we do not disturb the trial judge's judgment in that regard unless there is a clear abuse of discretion that likely injured a party." *Id.* (citations and quotations omitted). An abuse of discretion occurs when a trial judge exercises his or her discretion "in an arbitrary or capricious manner or when he or she acts beyond the letter or reason of the law." *Brewer v. State*, 220 Md. App. 89, 111 (2014) (citations and quotations omitted).

Turning to the instant case, we hold that the circuit court did not abuse its discretion in permitting the prosecutor's comment. The prosecutor's full comment – that Leticia Jones was "not lying about who did it because what would be her motivation to lie?" – was followed by a direct reference to trial testimony regarding Brown's relationship with the victim, Mr. Fisher. At no time did the prosecutor indicate that her comment about Ms.

Jones' "motivation to lie" was based on information not presented to the jury, nor did the comment suggest that the prosecutor was providing some sort of personal assurance regarding the veracity of Ms. Jones' claims. Rather, the prosecutor was simply asking the jury a rhetorical question about whether Ms. Jones had a motivation to lie in light of the evidence presented at trial. Again, commenting on a witness's motivation, or lack thereof, to tell the truth is within the bounds of acceptable argument, provided that the comment is supported by the evidence, which, in this case, it was.

For those reasons, Brown's reliance on *Sivells v. State* is misplaced. In that case, this Court held that the State committed improper vouching where the prosecutor argued that two police witnesses "would risk losing their pensions and jobs if they gave false testimony"; that they were "'honorable men' because of what they do"; and that "they told the truth." *Sivells*, 196 Md. App. at 278-79. In so holding, we noted that "there was no evidence to support the prosecutor's statement that the police would lose their pensions or their livelihood if they 'made things up'" and that the prosecutor's "repeated references to the officers as 'honorable men'…were not tied to the evidence[.]" *Id.* at 280. We also noted that the prosecutor's statement that the officers "told the truth" was not supported by the evidence but rather was the prosecutor's "personal opinion." *Id.*

Here, by contrast, the prosecutor's isolated comment regarding Leticia Jones' lack of motivation to lie was made in light of the evidence presented and was not an expression of the prosecutor's personal opinion. *See Spain*, 386 Md. at 155-56 (holding that prosecutor's comments about a police witness's absence of a motive to lie were not

improper because they "did not express any personal belief or assurance on the part of the prosecutor as to the credibility of the officer" and because the comments did not "explicitly invoke the prestige or office of the State or the particular police department or unit involved.").

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