

Circuit Court for Montgomery County
Case No. 137606C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2011

September Term, 2021

CARLOS VIERA-APARICIO

v.

STATE OF MARYLAND

Kehoe,
Beachley,
Shaw,

JJ.

Opinion by Beachley, J.

Filed: December 5, 2022

*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.

On October 15, 2021, appellant Carlos Viera-Aparicio was convicted by a jury in the Circuit Court for Montgomery County of one count of Sexual Abuse of a Minor, two counts of Second Degree Sex Offense, and six counts of Third Degree Sex Offense. All charges related to appellant's ongoing sexual abuse of his stepdaughter, M.R.¹ Appellant presents the following issues for our review, which we have rephrased as follows:²

- I. Did the court err by admitting "victim-impact" testimony?
- II. Did the court err by admitting "other crimes" evidence?
- III. Did the court err by admitting expert testimony on topics that were not "beyond the ken" of the jurors, and that the victim was able to readily explain?

¹ M.R. and her sister, V.R., are both minors and will be referred to by their initials. Their mother shall be referred to as Ms. Viera.

² Appellant presented the following questions for our review:

1. Did the trial court err by admitting irrelevant and prejudicial victim-impact testimony during the State's case-in-chief, which allowed jurors to hear about extreme psychiatric and economic harm the victim and her family experienced, including being evicted from their home, forced to live in a shelter and becoming suicidal?
2. Did the trial court err by admitting unfairly prejudicial "other crimes" evidence that was not offered in conformity with either the traditional Md. Rule 5-404(b) exceptions, or the statutory exceptions provided for in Md. Code, Courts & Judicial Proceedings Art., § 10-923?
3. Did the trial court err by admitting overly broad expert testimony concerning a child's suicide attempt, cutting behaviors, and delayed disclosure when understanding those things were not beyond the ken of the jurors in this case because the victim was able to readily explain the decisions she made and her explanations were reasonable and in part, unrelated to the alleged abuse?

We conclude that the circuit court did not err by admitting “victim-impact” testimony, and that appellant failed to preserve the “other crimes” evidence and expert witness issues for appellate review. We shall therefore affirm.

FACTS AND PROCEEDINGS

Prior to meeting appellant, Ms. Viera had two children from another relationship, M.R. and her older sister V.R. Ms. Viera and appellant married in November of 2011 and had three children together as a result of their union. The family lived in Maryland until April of 2016, when they moved to Virginia. At that point, M.R. and V.R. began living with their biological father in Maryland, and visited Ms. Viera, appellant, and the other children “almost every weekend.” Approximately a year later V.R. resumed living with Ms. Viera, while M.R. continued to live with her father. M.R. testified that, while living with her father, she felt lonely and neglected, resulting in M.R. developing cutting behaviors and eventually attempting suicide. In November 2018, appellant, Ms. Viera, and the children went on a trip to Disney World in Florida. In January 2019, M.R. moved back in with appellant and Ms. Viera in Virginia.

At some point in 2018 before the trip to Disney World, M.R. told her mother that appellant had been touching and kissing her inappropriately. At the time, M.R. did not provide many details and Ms. Viera did not believe anything inappropriate had occurred. M.R. later told her friends about appellant’s abuse, and one of the friends contacted the police. M.R. was interviewed by police in Virginia on January 20, 2020. During that interview, M.R. reported that appellant began sexually abusing her when she was 5 or 6

years old. At trial, M.R. initially testified that she was in second grade when the abuse began, but later stated that she did not remember the first instance of abuse and was not sure exactly when it began.³ Anticipating an attack on M.R.'s credibility, the State elicited testimony from M.R. about the effects the abuse had on her and her family. M.R. testified that she did not disclose the abuse earlier because: (1) she was afraid appellant would hurt her or Ms. Viera; (2) she did not think anyone would believe her because "It's pretty hard to believe that your dad is touching you like that"; and (3) she did not want her younger siblings "to be fatherless . . . like I was. . . . I didn't want to see them in pain." Additionally, she testified that when she was younger, she "did not know about sex or anything involving that. I really, honestly, thought it was like a daughter/father thing. I did not know yet what anything was."

M.R. further testified that, as a result of her disclosure, her family "had to move out because [her] mother couldn't financially pay," and that her family "couldn't then find a place, so [they] ended up staying at a shelter for half a year." Appellant did not object to this testimony. M.R. testified over objection that, when appellant moved out of their home, M.R.'s mother "was depressed. We all were. She was just going through a lot financially and emotionally." M.R. testified that she was "sad and overwhelmed about everything that was happening. I had to talk a lot about the situation that I was in, and it was just overbearing that we had to live in the shelter for so long. So I got to a lot of points where

³ M.R. was 14 years old at the time of trial in October 2021.

I wanted to kill myself a lot.” She stated that her younger siblings “were confused and sad. They were wondering where their dad was, and if . . . he was coming back.” The reaction of her younger siblings “made [her] feel guilty.”

Ms. Viera testified that, after appellant left the household, the family was “evicted a few months later.” V.R. recounted that, when appellant left, Ms. Viera became “[s]lightly erratic,” “nervous,” and “anxious.” Both M.R. and Ms. Viera testified that at one point Ms. Viera asked M.R. to recant her allegations, but later “changed her mind.”

The State called an expert witness, Dr. Ellen Levin, to testify about common behaviors seen in child sexual abuse victims. Because Dr. Levin was not aware of any of the specific facts of this case, she provided general observations about the phenomenon of delayed disclosure by minors who are sexually abused. She testified that many victims of child sexual assault will delay disclosing the abuse for “months, years,” or never disclose the abuse. Dr. Levin relied on studies and her own experience working with child sexual abuse victims to describe some of the common reasons why children delay disclosing the abuse. According to Dr. Levin, these reasons include: the child feeling ashamed, embarrassed, or responsible for the abuse; the child repressing memories; younger children lacking an understanding of sex and the vocabulary to describe what happened; the abuser grooming the child such that the child views the abuse as normal; the family financially depending on the abuser; the child’s fear that the abuser’s children will lose their parent; the child feeling as though he or she will not be believed; the social taboo of sexuality; and the stigma of being known as someone who was sexually abused. Dr. Levin also opined

that children who have been sexually abused “can start cutting or just start to have thoughts of suicide as a way out of their situation.”⁴

On October 15, 2021, the jury returned guilty verdicts. Appellant was sentenced to 25 years’ imprisonment, with all but 15 years suspended, for sexual abuse of a minor. He received a suspended sentence totaling 80 years for the other convicted counts. Appellant timely appealed. We shall provide additional facts as necessary.

DISCUSSION

I. THE COURT DID NOT ERR IN ADMITTING VICTIM-IMPACT TESTIMONY

Appellant first argues that the court erred by admitting testimony about the negative effects M.R. and her family experienced as a result of M.R.’s allegations. Appellant characterizes this testimony as “victim impact testimony,” and argues that such testimony is admissible only during sentencing. Appellant further argues that the testimony was irrelevant to any issues in this case and was “extraordinarily prejudicial.”⁵

⁴ Several other witnesses testified, including appellant and three character witnesses. Their testimony is not relevant to any of the issues in this appeal.

⁵ Appellant additionally argues that the court erred in admitting photos of the victim when she was 5, 6, and 7 years old. Appellant argues that, because M.R. testified that the abuse started when she was 8 years old, the photos were not relevant. The appellant’s entire argument on this issue consists of a single paragraph and footnote, and contains no citation to any legal authority. First, appellant has not adequately briefed this issue, and we therefore decline to address it. *See Tallant v. State*, 254 Md. App. 665, 689 (2022) (“Maryland courts have the discretion to decline to address issues that have not been adequately briefed by a party[, and] an appellate court will not search for law to sustain a party’s position.”). We also note that, although M.R. testified that the abuse began when she was in second grade, she later testified that she did not remember exactly when the abuse started. Appellant’s limited argument on this point has not persuaded us that the

The State responds that the testimony was relevant as anticipatory rehabilitation “to rebut the defense’s allegation of fabrication.” The State also argues that appellant failed to object to certain statements when they were first made, thereby failing to preserve for appeal any challenge regarding those statements.

“[T]he admission of evidence is committed to the sound discretion of the trial court.” *Montague v. State*, 471 Md. 657, 675 (2020) (quoting *Portillo Funes v. State*, 469 Md. 438, 479 (2020)). In determining whether to admit evidence, the trial court must undertake a two-step inquiry, deciding “first, whether the evidence is legally relevant, and, if relevant, then whether the evidence is inadmissible because its probative value is outweighed by the danger of unfair prejudice, or other countervailing concerns as outlined in Maryland Rule 5-403.” *State v. Simms*, 420 Md. 705, 725 (2011). A court does not have discretion to admit irrelevant evidence. Rule 5-402.

a. The Evidence is Relevant

Evidence is relevant if it has “any tendency to make 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.” Rule 5-401. “Having ‘any tendency’ to make ‘any fact’ more or less probable is a very low bar to meet.” *Montague*, 471 Md. at 674 (quoting *Williams v. State*, 457 Md. 551, 564 (2018)).

admission of these three photographs was prejudicial, and we see no abuse of discretion in their admission.

Md. Rule 5-616(c) provides:

A witness whose credibility has been attacked may be rehabilitated by:

- (1) Permitting the witness to deny or explain impeaching facts, except that a witness who has been impeached by prior conviction may not deny guilt of the earlier crime;
- (2) Except as provided by statute, evidence of the witness's prior statements that are consistent with the witness's present testimony, when their having been made detracts from the impeachment;
- (3) Evidence through other witnesses of the impeached witness's character for truthfulness, as provided in Rule 5-608(a); or
- (4) Other evidence that the court finds relevant for the purpose of rehabilitation.

The Committee Note to the Rule states: "This Rule is intended to illustrate the most frequently used methods of impeachment and rehabilitation. It is not intended to be exhaustive or to foreclose other legitimate methods." This statement is consistent with subsection (c)(4)'s language permitting the admission of "[o]ther evidence that the court finds relevant for the purpose of rehabilitation."

"[A] witness's credibility is always relevant." *Devincentz v. State*, 460 Md. 518, 551 (2018) (emphasis removed) (citing *Smith v. State*, 273 Md. 152, 157 (1974)). In *Blair v. State*, 130 Md. App. 571, 596 (2000), we noted, in assessing rehabilitative evidence contemplated by Rule 5-616(c)(2), that "a witness's rehabilitative prior consistent statement is relevant if it tends to detract from an attack on the witness's credibility." Although witness rehabilitation evidence normally is admitted after the witness's credibility is attacked on cross-examination, this Court has held that "[a]nticipatory

rehabilitation evidence may be introduced during the direct examination of a witness for the State ‘if the opening statement of [the defendant’s] trial counsel predicts that jurors will receive evidence that would—when presented—“open the door” to the [rehabilitation evidence].’” *Fullbright v. State*, 168 Md. App. 168, 184 (2006) (second and third alterations in original) (quoting *Hopkins v. State*, 137 Md. App. 200, 208 (2001)).

Against this backdrop, we note that defense counsel made clear in her opening statement that M.R. fabricated her allegations of sexual abuse, telling the jury that

[E]ach and every one of you are the sole judges of credibility. You decide what should be believed, and you decide what is a fabrication. . . . [S]omeone is going to take that stand and they’re going to make an accusation, and they’re going to tell a story. And make no mistake, it is, in fact, a story.

When the issue came up at trial, the prosecutor directly addressed it, stating,

Your Honor, ultimately what the Defense is going to be arguing is that this is a fabrication because she has some motive. It’s incredibly relevant that she saw her mom being sad, that she saw her mom crying, staying alone in her room, and yet, she never recanted this. She’s also going to say that her mom told her to recant, and she never recanted. That’s a huge part of the credibility of this witness.

There is no doubt that M.R.’s credibility, or lack thereof, was the cornerstone of appellant’s defense at trial. The testimony that appellant now argues was improperly admitted victim impact testimony concerned the negative impact that M.R.’s disclosure had on M.R. and her family. The negative impact was both financial (due to appellant no longer living with the family and contributing to expenses) and psychological. Appellant specifically objects to the following testimony:

- M.R. expressed suicidal thoughts;

- M.R.’s younger siblings were “confused and sad,” causing M.R. to feel guilty;
- Ms. Viera was depressed, and the family went “through a lot financially and emotionally”;
- V.R.’s testimony that Ms. Viera became “nervous” and “anxious”; and
- Ms. Viera’s testimony that the family was forced to live in a shelter.

As to financial repercussions, appellant failed to object to M.R.’s testimony that the family “had to move out” of their home because Ms. Viera could not afford rent, and that the family had to live in a shelter “for half a year.” Appellant’s later objection to similar testimony from Ms. Viera that the family was evicted “a few months” after appellant left the home did not serve to “undo” this initial waiver. *See Paige v. State*, 226 Md. App. 93, 124 (2015) (“[W]here competent evidence of a matter is received, no prejudice is sustained where other objected to evidence of the same matter is also received.” (quoting *Yates v. State*, 429 Md. 112, 120–21 (2012))).

The other victim impact testimony described above is relevant to the issue of M.R.’s credibility. It is clear that M.R. fully understood the negative impact her abuse allegations had on her mother and siblings. Indeed, at some point after M.R. spoke with the police about her allegations, Ms. Viera asked M.R. to recant. That Ms. Viera later “changed her mind” did not lessen M.R.’s understanding of the effect the allegations had on the household. M.R.’s steadfast refusal to recant her allegations was relevant because it had the “tendency” to make it “more probable” that M.R., despite the guilt she expressed for

the repercussions to her family, was telling the truth.⁶ See Rule 5-401. Additionally, M.R.’s testimony that she considered suicide after her disclosure, combined with Dr. Levin’s testimony that child sexual abuse victims are frequently suicidal, constituted evidence that the jury could consider in evaluating M.R.’s credibility against the defense theory of fabrication. We therefore conclude that this evidence was relevant because it tended to “detract from an attack on [M.R.’s] credibility.” See *Blair*, 130 Md. App. at 596; cf. *Parker v. State*, 156 Md. App. 252, 273 (2004) (holding that evidence of victim’s “mood and actions following the (alleged) rape demonstrated, albeit circumstantially, that [victim] had not engaged in consensual sex”).

b. The Court Did Not Abuse Its Discretion in Admitting the Evidence

We review a trial court’s determination of admissibility under Rule 5-403 for abuse of discretion. *Montague*, 471 Md. at 673–74 (citing *Portillo Funes*, 469 Md. at 478). “Appellate ‘courts are generally loath to reverse a trial court unless the evidence is plainly inadmissible under a specific rule or principle of law or there is a clear showing of an abuse of discretion.’” *Id.* at 674 (quoting *Portillo Funes*, 469 Md. at 479).

The testimony here was highly probative of M.R.’s credibility. As discussed above, M.R.’s refusal to recant even though doing so might have prevented her family from suffering severe financial consequences (including eviction), and might have alleviated her

⁶ We recognize that the details of M.R.’s version of events varied over time, but M.R. never recanted her claim that appellant sexually abused her.

mother's anxiety and her siblings' distress, tends to show that M.R. did not fabricate her allegations.

Furthermore, the prejudicial effect of this testimony is less severe than other forms of victim impact evidence. The negative effects on M.R. and her family were related to her disclosure of the abuse and, as rehabilitative evidence, allowed the jury to evaluate M.R.'s credibility. Moreover, other testimony made clear that appellant was forced to leave the home because of *allegations* of abuse, rather than as a result of findings or conclusions that abuse occurred. Ms. Viera corroborated this point, testifying that, after M.R. was first interviewed by the police, "[Appellant] had to leave the home. They told us that we couldn't go back home until he left." A reasonable juror would understand that an alleged offender could not remain in the same home as the accuser pending adjudication of the charges, thereby mitigating the potential for the jury to improperly use the rehabilitative evidence for a purpose other than to counter an attack on M.R.'s credibility.

The prejudice to appellant here arises primarily from the victim impact testimony's tendency to engender sympathy for M.R. and her family, but this prejudice does not clearly outweigh the probative effect of the evidence. "The fact that such evidence incidentally may have engendered sympathy for [the victim] is not error." *Young v. State*, 370 Md. 686, 720 (2002). We fail to discern any abuse of discretion by the trial court in admitting this evidence.

II. APPELLANT FAILED TO PRESERVE THE “OTHER CRIMES” EVIDENCE ISSUE FOR APPELLATE REVIEW

Appellant next argues that the court erred by allowing M.R. to testify about instances of abuse by appellant that occurred in Virginia and Florida. Appellant argues that this testimony constituted “other crimes” evidence not admissible under Rule 5-404(b).⁷ Appellant further argues that, to the extent the testimony may have been admissible under Md. Code (1974, 2020 Repl. Vol.), § 10-923 of the Courts & Judicial Proceedings Article (“CJP”),⁸ the State failed to make a timely disclosure of its intent to elicit such evidence.

⁷ Rule 5-404(b) provides:

Evidence of other crimes, wrongs, or other acts including delinquent acts as defined by Code, Courts Article § 3-8A-01 is not admissible to prove the character of a person in order to show action in the conformity therewith. Such evidence, however, may be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity, absence of mistake or accident, or in conformity with Rule 5-413.

⁸ CJP § 10-923 provides, in pertinent part:

(b) In a criminal trial for a sexual offense listed in subsection (a)(1), (2), or (3) of this section, evidence of other sexually assaultive behavior by the defendant occurring before or after the offense for which the defendant is on trial may be admissible, in accordance with this section.

(c) (1) The State shall file a motion of intent to introduce evidence of sexually assaultive behavior at least 90 days before trial or at a later time if authorized by the court for good cause.

...

The State responds that appellant failed to preserve this issue by failing to object to M.R.'s testimony concerning the abuse in Virginia and Florida. Aside from preservation, the State contends that the evidence did not constitute "other bad acts" evidence under Rule 5-404(b) because appellant's "acts of abuse against M.R. both inside and outside of Maryland formed an indivisible, continuing course of sexual child abuse." Alternatively, the State argues that the evidence was admissible as "other bad acts" under Rule 5-404(b) or under the common-law sexual propensity exception.

We conclude that appellant failed to preserve this issue. On October 7, 2021, the State filed a Motion in Limine to Introduce Evidence of Other Crimes, Wrongs, or Acts that Occurred Outside of Montgomery County. Prior to opening statements, the court heard argument on the motion. The court granted the State's motion, stating, "This determination, of course, will be subject to further review if it turns out not to satisfy me, the State has met the requisite burden with respect to this testimony."⁹

(e) The court may admit evidence of sexually assaultive behavior if the court finds and states on the record that:

(1) The evidence is being offered to:

(i) Prove lack of consent; or

(ii) Rebut an express or implied allegation that a minor victim fabricated the sexual offense[.]

⁹ Although the court expressed its view that evidence of the Virginia and Florida abuse was admissible, the court further noted that, if it were to admit the "other crimes" evidence, it would need to find by clear and convincing evidence that those crimes occurred.

Appellant did not raise any objection to M.R.'s testimony at trial about sexual abuse that occurred in Virginia and Florida. On the contrary, defense counsel specifically cross-examined M.R. about her reports of abuse in Virginia and Florida, thereby eliciting further testimony on the topic. M.R.'s mother also testified, without objection, about events related to the abuse occurring in Florida.

Our courts have clearly stated what is required to preserve for appellate review a motion in limine ruling that has the effect of denying a request to exclude the evidence at trial.¹⁰ In *Reed v. State*, the Court of Appeals adopted principles this Court enunciated in *Hickman v. State*, 76 Md. App. 111, 117 (1988):

We glean the following propositions from *Prout*.^[11] Whether the motion *in limine* is made before trial or during trial, a court's ruling which has the effect of admitting contested evidence does not relieve the party, as to whom the ruling is adverse, of the obligation of objecting when the evidence is actually offered. Failure to object results in the non-preservation of the issue for appellate review. On the other hand, when the effect of the ruling [on a motion *in limine*] is to exclude the evidence, and the trial judge intends that ruling to "be the final word on the matter," a contemporaneous objection made at the time of the ruling ordinarily preserves the issue for appellate review.

Reed v. State, 353 Md. 628, 637–38 (1999) (quoting *Hickman*, 76 Md. App. at 117). The *Reed* Court then concluded:

In sum, the rule from *Prout* as to rulings on motions *in limine* that result in the admission of evidence is that the contemporaneous objection rule ordinarily applies. When the evidence, the admissibility of which has been contested previously in a motion *in limine*, is offered at trial, a

¹⁰ Even though the State, as the movant in this case, sought to admit the evidence, the court's ruling had the effect of denying appellant's request to exclude the evidence.

¹¹ *Prout v. State*, 311 Md. 348 (1988).

contemporaneous objection generally must be made pursuant to Maryland Rule 4-323(a) in order for that issue of admissibility to be preserved for the purpose of appeal.

Id. at 638.

Applying these established principles, by failing to contemporaneously object to M.R.'s and her mother's testimony about abuse that occurred in Virginia and Florida, appellant did not preserve for review any objection to the admission of that evidence. The lack of preservation is even more glaring in the instant case because the trial judge made clear that his motion in limine ruling to admit the evidence was "subject to further review" to ensure that the State met its "requisite burden" as to the proffered testimony. Thus, it was necessary for appellant to object to the trial testimony "to let the court know that the party still believes the evidence should be excluded, and give[] the court the opportunity to make a more informed decision with the benefit of the evidence adduced since the initial ruling." *Huggins v. State*, 479 Md. 433, 447 n.7 (2022) (citing *Reed*, 353 Md. at 643). The trial court here was not afforded that opportunity, further confirming our conclusion that the issue was not preserved.¹²

¹² In his reply brief, appellant argues that this Court should rely upon *Watson v. State*, 311 Md. 370 (1988), to hold that requiring appellant to object when the evidence was presented would be "to exalt form over substance." *Watson*, however, is distinguishable. Prior to trial in *Watson*, the trial court ruled against Watson's motion to exclude evidence related to his prior convictions, finding that the convictions were for infamous crimes and would therefore be admissible to impeach his testimony. *Id.* at 371–72. "At the close of Watson's direct testimony, the State informed the court that it intended to introduce Watson's prior convictions on cross-examination." *Id.* at 372. At that point, the trial judge reiterated his pretrial ruling. *Id.* The State cross-examined Watson concerning his prior convictions without objection by defense counsel. *Id.* On

III. APPELLANT WAIVED ANY OBJECTION TO THE EXPERT TESTIMONY

Finally, appellant argues that the court erred in allowing Dr. Levin to provide expert testimony concerning the reasons for “delayed disclosure” by child sexual abuse victims, and the prevalence of suicide attempts and cutting behavior among abuse victims. Specifically, appellant identifies three reasons why Dr. Levin’s testimony was either irrelevant or constituted improper bolstering of M.R.’s testimony: (1) M.R. testified clearly about her reasons for delaying her disclosure of the abuse, thereby obviating the necessity of expert testimony; (2) M.R. testified that her suicide attempt and cutting behavior were unrelated to the sexual abuse; and (3) expert testimony concerning delayed disclosure is no longer appropriate because “in the era of ‘Me Too,’ . . . there is no reason to believe that

those facts, the Court of Appeals held that Watson preserved his objection to admission of his prior convictions “in spite of the fact that he did not object at the precise moment the testimony was elicited.” *Id.* at 372 n. 1.

In the case *sub judice*, the trial judge ruled prior to trial on the motion *in limine* to admit Watson’s prior convictions. Thus, standing alone, Watson’s objection to the trial court’s pretrial ruling would be insufficient to preserve his objection for our review. However, the trial judge reiterated his ruling immediately prior to the State’s cross-examination of Watson. It was during this cross-examination that the State elicited Watson’s prior convictions. As we see it, requiring Watson to make yet another objection only a short time after the court’s ruling to admit the evidence would be to exalt form over substance.

Id. As the Court of Appeals later noted in *Reed*, 353 Md. at 636 n. 4, *Watson* is “limited to its specific circumstances.” In the present case, the court did not reiterate its ruling immediately prior to the testimony about abuse that occurred in Virginia and Florida. The court’s initial ruling therefore “stand[s] alone” as the only ruling on the issue, necessitating a contemporaneous objection to preserve the issue for appeal.

jurors do not readily understand the reality that victims of sexual abuse commonly do not report it right away, delay, and sometimes never disclose it at all.”

The State responds, first, that appellant failed to preserve this issue by not objecting to Dr. Levin’s testimony. Second, the State responds that expert testimony about delayed disclosure is still appropriate, having been considered by this Court as recently as 2018 in *Walter v. State*, 239 Md. App. 168 (2018).

Prior to trial, appellant filed a motion in limine to exclude Dr. Levin’s testimony, raising the “Me Too” argument referred to above, as well as other grounds for exclusion that are not relevant to this appeal. As with the “other crimes” evidence discussed in Part II of this opinion, the court heard argument on the admissibility of the expert testimony prior to opening statements. The vast majority of the argument related to appellant’s challenge to Dr. Levin’s methodology under the *Daubert*¹³ standard. After hearing argument, the court issued its ruling, thoroughly analyzing and rejecting appellant’s *Daubert* claim. The court further concluded: “with respect to the . . . Me Too issue, I don’t believe that that changes the analysis with respect to the appropriateness of the expert testimony.” The court therefore denied appellant’s motion in limine to exclude Dr. Levin’s testimony.

During Dr. Levin’s trial testimony, defense counsel only raised seven objections;

¹³ *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), adopted in Maryland in *Rochkind v. Stevenson*, 471 Md. 1 (2020).

notably, none of those objections relate to the issues appellant now raises on appeal. Appellant never raised an objection to Dr. Levin's testimony based on "improper bolstering," nor did appellant assert that the expert testimony was irrelevant because M.R. herself provided clear testimony about the reasons for her delayed disclosure. Similarly, appellant raised no objection based on his assertion on appeal that the "Me Too" movement makes delayed disclosure testimony unnecessary. Appellant has therefore failed to preserve these issues for review. *See Reed*, 353 Md. at 638 ("When the evidence, the admissibility of which has been contested previously in a motion *in limine*, is offered at trial, a contemporaneous objection generally must be made pursuant to Maryland Rule 4-323(a) in order for that issue of admissibility to be preserved for the purpose of appeal.").

**JUDGMENTS OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**