UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1302

September Term, 2013

LEO ARTHUR BROWN

v.

STATE OF MARYLAND

Berger,
Reed,
Davis, Arrie W.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: September 30, 2016

A jury in the Circuit Court for Montgomery County convicted Leo Brown, Appellant, of possession of marijuana and resisting arrest. Appellant was sentenced to a term of one year imprisonment, all suspended, and five years of probation. In this appeal, Appellant presents the following question for our review:

> Did the trial court err in permitting a detective to testify to the meaning of rap lyrics found written on a piece of paper in Appellant's pocket at the time of his arrest?

Finding no error, we affirm.

BACKGROUND

On April 9, 2013, Officer Michael Giacalone and Officer Jared Maurer were on patrol in Officer Maurer's cruiser when they noticed a vehicle with its rear break-light out. The officers "ran a routine registration check" and discovered that the vehicle's registration was suspended. The officers initiated a traffic stop of the vehicle. The vehicle contained five occupants, including Appellant, who was the "backseat, middle passenger." Upon initiating the traffic stop, Officer Giacalone approached the driver side of the vehicle and asked the driver for his license and registration. After retrieving these items from the driver, Officer Giacalone went back to the police cruiser and began the process of issuing a citation. Before long, several more officers had arrived on the scene. Some of these officers, including Officer Maurer, indicated that they "smelled the odor of marijuana," so Officer Giacalone "requested a K-9."

Prior to the arrival of the K-9 unit, Officer Maurer made contact with the vehicle's passenger, at which time he "kept getting strong odors of fresh marijuana." Officer Maurer then told the vehicle's occupants that he detected the odor of marijuana "on a particular

person," who was later identified as Appellant. Shortly thereafter, the K-9 unit arrived and conducted a scan of the car, at which time the "K-9 officer indicated his dog gave a positive alert." Officer Maurer then began searching the occupants of the vehicle.

During his search of Appellant, Officer Maurer noticed "an abnormal lump in [Appellant's] groin region" that "felt like a bag of marijuana." Officer Maurer then attempted to place Appellant under arrest, at which time Appellant "ripped away" from Officer Maurer and "started to run." Appellant "cut between" two police vehicles that were parked at the scene and ran towards a building. Officer Maurer gave chase, and Appellant was quickly apprehended.

Officer Michael Hartman, who had arrived on the scene to assist in the stop, witnessed Appellant running from Officer Maurer. Officer Hartman gave chase as well, following "the same path" as Appellant. On his way back to the scene following the chase, Officer Hartman located a bag of marijuana underneath his vehicle, which was positioned adjacent to another police car. Officer Hartman indicated that Appellant had run through the same location where the marijuana was found. Appellant was ultimately arrested and charged.

At trial, Detective Jason Cokinos was called by the State as an expert in "the area of narcotic distribution and trafficking." Detective Cokinos testified that, prior to trial, the State asked him to review Appellant's case in order to form an opinion as to whether Appellant possessed the marijuana with the intent to distribute it. Detective Cokinos first testified that the marijuana found at the scene was "individually packaged in glassine bags," which the detective stated was indicative of drug dealing. Detective Cokinos also

discussed the fact that Appellant, prior to his arrest, was on his way to "Passions Night Club," which Detective Cokinos indicated was a "high drug area."

One of the items Detective Cokinos reviewed was a handwritten document containing "rap lyrics" found on Appellant's person at the time of his arrest. The lyrics included several generic references to drugs, "snitches," and drug dealing.[1] Prior to the State's questioning of Detective Cokinos about the lyrics, defense counsel asked the trial court for a bench conference, at which time the following colloquy ensued:

> [STATE]: This is a document that was found on [Appellant] that Detective Cokinos used in analyzing and reviewing the case. It was found with all of his pretrial documents.
>
> THE COURT: This officer used it to form his opinion?
>
> [STATE]: Yeah, it's one of the many things that he used.
>
> THE COURT: One of the things he – and you are objecting to it?

[1] Appellant admits that "[t]he rap lyrics in [their] entirety were not admitted at trial, but only shown to the detective as part of State's Exhibit 4 that was marked for identification." Nevertheless, Appellant included the lyrics in his brief as Appendix 1. The lyrics read as follows:

> These snitches wanna hold me back mad at me cuz I got dat sack cuz I be living large from pumping out them traps moving hard molly or dat pack these [expletives] start telling like they working at bank these streets [expletive] up I don't who 2 thank this [expletive] getting real can't tell who ain't these [expletive] copping deals on they [expletive] mans. Like DAM! Whatever happened to the street codes they play the role till that cell close then everybody falling like dominos I swear on my kids I rather die slow than ratting on any [expletive] cuz the life I chose cuz it's in my soul to ride benzo's, get big money, and rock designer clothes.

> [DEFENSE]: These are rap lyrics....This is just prejudicial [unintelligible] stuff like that, but it is rap lyrics. It has nothing to do with this case.
>
> THE COURT: All right, okay. Let me read it.

After reviewing the lyrics and discussing the matter in greater detail with both the State and defense counsel, the trial court found as follows:

> I'll overrule the objection, and I think there's enough references, even from a layperson like myself, that deal with drugs. [Detective Cokinos is] an expert, he can certainly analyze it. And you could have taken it to your own expert, and you can certainly cross-examine him on it. All right, he authored this letter….As far as we know he did. At least he's got it, it's in writing. Now, whether he wrote it or not, he can take the [stance][2] that he didn't write it. But he's carrying it. It certainly shows authorship or acceptance as a code or a live-by. And I think there's enough in there that's probative of intent to distribute. It may be probative of also other things too, as far as maybe just usage. But you can cross-examine him.

Although the trial court allowed Detective Cokinos to testify about the rap lyrics, the court ruled that any questioning must be limited to those lyrics that directly relate to drugs. Detective Cokinos then testified as follows:

> [STATE]: Now, just focusing on anything about narcotics and controlled dangerous substances, can you tell the ladies and gentlemen of the jury what is in that document?
>
> * * *
>
> [WITNESS]: Okay. There's wordings such as – well it starts off by talking about snitches. Snitches in the drug business are people that rat out to the police or cooperators that turn in other people, that turn in people from the neighborhood or people

[2] The trial transcript reads, "…he can take the **stands**," which we assume is a typographical error.

from other drug dealers, things of that nature. So, people who are involved in drug trafficking, drug dealing, you know, snitches are not their friend. And sometimes snitching can be another drug dealer that's ratting out another drug dealer to eliminate their competition, right? People who are jealous because somebody's dealing drugs, they're coming into quick money, they're able to afford new shoes, new cars, whatever it may be, people are jealous of that. So, they'll snitch sometimes, they'll rat out to the police to try to bring those people back down to their level essentially.

So, the first sentence of this says, "These snitches want to hold me back," which, you know, that's usually what happens. "Mad at me 'cause I got that sack." So the snitches, like I said, they're jealous, they're mad at the individual because he has money. A sack of money, you know, he's making quick money. "'Cause I be livin' large from pumpin' out them traps." So obviously, we're living large, because we got lots of money, we're dealing drugs, we're doing criminal things, a trap is a street term for like a safe house or a location where drugs are sold or held. "Moving hard molly or dat pack." So, moving would be the sale of, "hard" is a street term in the DC Area for crack cocaine. "Molly" is a street term, street slang for ecstasy, methylene dioxin, methylene amphetamine. Molly is, you know, ecstasy pills, if you all are familiar with that, would be "E" would be the street term. But Molly is a powder or crystalized form of MDMA, which is the chemical component of ecstasy. Essentially, Molly is supposed to be, and when I say supposed, because that's what people on the street say, but, you know, it is what it is but they say that it's the MDMA without cut. Cut is, when you have a produce of drugs, like cocaine or heroin, you mix it in with other things that look like it because you want to maximize the amount of produce you have and make more profit. So, you're not just selling just cocaine. You may sell cocaine that's cut with, you know, baby laxative powder, things of that nature so you – essentially, if I buy an ounce of cocaine, I can cut it with things that look like cocaine, and I maybe now have an ounce and a half or two ounces that I can sell. So it's maximizing your profit. Molly is supposed to be without the cut, but in a powder form. "Or dat pack." Pack is a street term for loud pack, which is high grade marijuana, essentially. It's referred to as "loud" or "loud pack" or just "pack." So that would be

> referring to marijuana. If you look further down in the lyrics, "Whatever happened to the street codes? They play the role 'till that cell close." So it's talking about people who, like, they're involved in the game until they get locked up, and then they want to become snitches and they want to rat out to get out of their own charge. A lot of times, people will cooperate with the police to try to bring leniency or to reduce the charges they face. So, it says, "I rather die slow than ratting on any" – and I'm not going to use the next word. Essentially, people who are dedicated to drug dealing, to the criminal life, you know, they're not – they don't want to rat on other people. They have pride in what they're doing, and they're like, "I'm not going to be like that guy." So, "Because it's in my soul to ride benzos, get big money, and rock designer clothes." That's why we're dealing drugs, right? We want quick money, we want a Mercedes Benz. We want big money, we want to rock designer clothes, we want to buy things. And we want them now and we want them quick, and we need money, so we're going to be involved in criminal activity instead of taking time to work and save money and do things like that. So that's what I got from reading this.

The State then asked Detective Cokinos if there were any other factors that were "of significance." Detective Cokinos discussed the strong odor of fresh marijuana observed by the police and the fact that no smoking devices were recovered from the scene. Finally, the State asked if, based on all the evidence he reviewed, he was able to "form opinion as to what was going on at the scene." Detective Cokinos responded that, based on the "totality of the circumstances," he was of the opinion that Appellant's possession of the marijuana "was with the intent to distribute it and not for mere personal consumption."

DISCUSSION

Appellant argues that the trial court erred in permitting Detective Cokinos to testify to the meaning of the rap lyrics found on Appellant's person at the time of his arrest.[3] Appellant maintains that the testimony "was inadmissible because it was entirely lacking in probative value, and therefore irrelevant." Appellant further avers that, even if relevant, the testimony's "probative force was substantially outweighed by the potential for unfair prejudice carried by this material." We disagree.

"It is frequently stated that the issue of whether a particular item of evidence should be admitted or excluded 'is committed to the considerable and sound discretion of the trial court,' and that the 'abuse of discretion' standard of review is applicable to 'the trial court's determination of relevancy.'" *Ruffin Hotel Corp. of Md. v. Gasper*, 418 Md. 594, 619 (2011) (internal citations omitted). "Maryland Rule 5-402, however, makes clear that the trial court does not have discretion to admit irrelevant evidence." *Id.* at 620. Consequently, a trial court's evidentiary ruling encompasses both a legal and a discretionary determination, which in turn implicates two separate standards of review: (1) a *de novo* standard, which we apply to the trial court's legal conclusion that the evidence was relevant; and (2) an abuse of discretion standard, which we apply to the trial court's determination that the probative value of the evidence is outweighed by any substantial prejudice. *State v. Simms*, 420 Md. 705, 725 (2011).

[3] Inexplicably, the State has failed to set forth any argument to rebut Appellant's position; instead, the State has devoted its entire brief to the proposition that any error was harmless beyond a reasonable doubt.

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.* (internal citations and quotations omitted). Generally speaking, evidence that is relevant is admissible; evidence that is not relevant is not admissible. *See* Md. Rule 5-402.

Even if legally relevant, evidence may still be excluded "if the probative value of such evidence is determined to be substantially outweighed by the danger of unfair prejudice." *Andrews v. State*, 372 Md. 1, 19 (2002). "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*, *supra*, 218 Md. App. at 705. On the one hand, evidence of a "highly incendiary nature" may be admissible if it provides significant aid to the jury's understanding of a fact in issue; on the other hand, similar evidence should not be admitted if the evidence's probative value is weak, particularly when the evidence "might produce a jury inference that the defendant had a propensity to commit crimes or was a person of general criminal character." *Id.* (internal citations and quotations omitted). As noted, "[t]his 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 the present case, the lyrics were admitted during the expert testimony of Detective Cokinos, who testified that he formed his expert opinion based on a pretrial review of Appellant's case file, which included the lyrics found in Appellant's pocket. Under Maryland Rule 5-703(a), "[t]he facts or data…upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing." *Id.* In addition, any facts or data reasonably relied on by an expert pursuant to Rule 5-703(a) "may, in the discretion of the court, be disclosed to the jury even if those facts and data are not admissible in evidence." Md. Rule 5-703(b). Prior to doing so, however, the trial court must first determine that the facts or data are "unprivileged, trustworthy, reasonably relied upon by the expert, and necessary to 'illuminate' the expert's testimony." *Cooper v. State,* 434 Md. 209, 230 (2013).

Under the circumstances of this case, the lyrics were admissible under Maryland Rule 5-703. There is no indication that the rap lyrics were a privileged communication, and the trial court's admission of Detective Cokinos' testimony necessarily implies that the court found the document trustworthy. *See Cooper,* 434 Md. at 230 ("[W]e infer from the trial judge's admission of the [document] that he found it to be trustworthy."). Moreover, Detective Cokinos testified that the contents of the lyrics were "of significance" when he rendered his expert opinion. Lastly, the State made clear that it was introducing Detective Cokinos' interpretation of the rap lyrics, along with the other factors mentioned above, to elucidate his opinion that Appellant possessed the marijuana with the intent to distribute.

Appellant maintains that, even if the lyrics were probative, the trial court should have excluded Detective Cokinos' testimony because of its "prejudicial impact." Appellant contends that the connection between the lyrics and the evidence adduced at trial was too attenuated, arguing that "the lyrics were no different than the vast majority of music lyrics, which tell a story as opposed to historical facts[.]" Appellant also contends that the lyrics contained references to other crimes not germane to the crimes charged, and, as a result, their admission "permitted the jury to speculate that Appellant must be involved in more crimes than what the State charged in this case."

In presenting these arguments, Appellant relies almost exclusively on *Hannah v. State,* 420 Md. 339 (2011). In that case, Justin Hannah was charged with attempted murder after someone in a car Hannah was driving fired three shots at Hannah's former girlfriend and her new boyfriend. *Id.* at 340-42. At trial, Hannah testified that he never possessed, held, or fired a handgun. *Id.* at 342. On cross-examination, the State attempted to question Hannah about rap lyrics he wrote in which he made general references to possessing and using guns.[4] *Id.* at 345-46. Counsel for Hannah objected, but the trial court allowed the questioning. *Id.* Hannah was ultimately convicted. *Id.* at 340.

On appeal, Hannah argued that the trial court erred in allowing the State to question him about the rap lyrics. *Id.* The Court of Appeals agreed and held that Hannah was unfairly prejudiced by the State's cross-examination. *Id.* at 355. In doing so, the Court

[4] The lyrics included lines such as: "I ain't got guns, got a duz unda da seat;" "Ya see da tinted cum down n out come da glock;" and "So you betta step ta me before I blow you off ya feet." *Hannah,* 420 Md. at 345-46.

noted that "[m]ost appellate courts that have reviewed rulings admitting words written by the criminal defendant have distinguished admissible statements of historical fact from inadmissible works of fiction." *Id.* at 348. After determining that Hannah's case fell into the latter category, the Court engaged in a lengthy discussion of two opinions, *State v. Cheeseboro,* 346 S.C. 526 (2001) and *State v. Hanson,* 46 Wash. App. 656 (1987), which the Court deemed were analogous. *Id.* at 348-51.

The first opinion, *State v. Cheeseboro,* 346 S.C. 526 (2001), involved a defendant, Felix Cheeseboro, who was convicted of several offenses, including armed robbery and murder. *Id.* at 533. While incarcerated awaiting trial, Cheeseboro penned a rap song in which he made generic, unrelated references to "leaving no prints" and "bodies left in a pool of blood." *Id.* at 550. The lyrics were introduced at Cheeseboro's trial "as an admission by [Cheeseboro] that he had committed the acts described in the lyrics." *Hannah,* 420 Md. at 350. The Supreme Court of South Carolina held this to be error, finding that the "minimal probative value of [the rap song] is far outweighed by its unfair prejudicial impact as evidence of [Cheeseboro's] bad character, *i.e.* his propensity for violence in general." *Cheeseboro,* 346 S.C. at 533. The Court reasoned that the lyrics, which contained only general references glorifying violence, were "too vague in context to support the admission of this evidence." *Id.*

Likewise, in *State v. Hanson,* 46 Wash. App. 656 (1987), the defendant, Gerald Hanson, was convicted of first-degree assault after the trial court allowed the prosecution to cross-examine Hanson about works of fiction he had written that contained unrelated incidents of violence. *Id.* at 650. The Court of Appeals of Washington held this to be error,

despite the fact that Hanson may have placed his character for nonviolence in issue during direct examination. *Id.* at 662. The Court explained:

> Without some further foundation, [Hanson's] writings were simply not probative. A writer of crime fiction, for example, can hardly be said to have displayed criminal propensities through works he or she has authored.…The crime charged was a random, brutal act of violence for which there was no apparent motive. By suggesting that [Hanson's] character conformed to the violent acts in his writings, the State supplied the jury with an improper explanation for why [Hanson] would have committed the crime charged.

Id.

Utilizing the above rationales, the Court of Appeals held that Hannah was unfairly prejudiced by the introduction of his fictional rap lyrics. *Hannah,* 420 Md. at 355. The Court concluded that the rap lyrics "had no tendency to prove any issue other than the issue of whether [Hannah] was a violent thug[.]" *Id.* at 357. The Court also found that "[t]he situation was exacerbated by the State's emphasis upon [Hannah's] lyrics, during a cross-examination in which he was unnecessarily prodded into conceding that he had written each of the violent lyrics." *Id.* In short, "[l]ike *Hanson* and *Cheeseboro,* [Hannah's] writings were probative of no issue other than the issue of whether he has a propensity for violence." *Id.* at 355.

At first blush, Appellant's reliance on *Hannah* seems appropriate. Nevertheless, a closer examination reveals several important distinctions. First, although both *Hannah* and the instant case involve the State's introduction of fictional rap lyrics, the State's purpose in introducing the writings differs significantly. In *Hannah,* the lyrics were introduced to show that Hannah had, in fact, engaged in prior behavior involving the use and possession

of guns, which the Court of Appeals found unduly prejudicial because it was probative of nothing other than that Hannah had "a propensity to commit the crimes for which he was on trial." *Hannah,* 420 Md. at 357; *See also Cheeseboro,* 346 S.C. at 550 (probative value of rap lyrics as an admission against penal interest was "minimal"); *Hanson,* 46 Wash. App. at 662 (fictional writings of violence were "simply not probative" to rebut defendant's character for nonviolence). On the contrary, the rap lyrics in Appellant's case were introduced in conjunction with Detective Cokinos' expert testimony that Appellant possessed the marijuana with an intent to distribute. *See* Md. Code, Criminal Law, § 5-602. Therefore, not only were the rap lyrics probative under Md. Rule 5-703(b) as previously discussed, but they were also probative of Appellant's intent. *See* Md. Rule 5-404(b) ("Evidence of other crimes, wrongs, or acts…may be admissible…as proof of…intent[.]"); *See Waller v. State,* 13 Md. App. 615, 618 (1971) (The element of intent "is seldom proved directly, but is more often found by drawing inferences from facts proved which reasonably indicate under all the circumstances the existence of the required intent.").

Critically, unlike in *Hannah,* the State in the instant case did not "exacerbate" any potential prejudice by placing unnecessary emphasis on the lyrics as admissions by Appellant, nor did the State confront Appellant with the lyrics in an effort to discredit him or rebuke his character. In fact, neither the State nor Detective Cokinos expressly stated with any veracity that the lyrics were written by Appellant. Instead, the State referenced the lyrics simply as a "document," while Detective Cokinos spoke about the lyrics' meaning in a generic sense, without placing any significant emphasis on Appellant's

connection to the lyrics or their underlying message. *Compare Hannah,* 420 Md. at 357 (fictional writings were prejudicial, in part, because Hannah was "unnecessarily prodded into conceding that he had written each of the violent lyrics."); *Hanson,* 46 Wash. App. at 662 (fictional writings were prejudicial because the State suggested that Hanson's character "conformed to the violent acts in his writings[.]").

Moreover, not only is Appellant's case distinguishable from *Hannah*, but we find it to be quite similar to another case, *U.S. v. Foster,* 939 F.2d 445 (1991), which the Court of Appeals discussed in *Hannah* and found inapposite in Hannah's case. *Hannah,* 420 Md. at 351-55. In *Foster*, the defendant, Derek Foster, was convicted of possession with intent to distribute cocaine and phencyclidine (PCP) after he was found in possession of two suitcases containing these drugs. *Id.* at 448. At Foster's trial, the trial court admitted into evidence a notebook of Foster's containing a fictional verse wherein Foster made general, unrelated references to drugs and drug trafficking. *Id.* at 447, 449. Similar to the writings in Appellant's case, the verse was admitted to show that Foster possessed the drugs knowingly and with the intent to distribute. *Id.* at 455.

On appeal, Foster first argued that the verse was irrelevant because it "made no references to the suitcases he carried, or to the trip he was making." *Id.* The Court of Appeals for the Seventh Circuit disagreed, holding that the verse was relevant to establish the elements of intent and knowledge. *Id.* at 455-56. The Court explained that the verse was relevant because it "indicated, at a minimum, that Foster was familiar with drug code words and, to a certain extent, narcotics trafficking, a familiarity that made it more probable that he knew that he was carrying illegal drugs." *Id.* at 455.

The Court also dismissed Foster's argument that the verse, which was to be incorporated into a rap song, was not relevant to his guilt because it had "artistic value… just like Dashiel Hammet's description of violent acts in *The Maltese Falcon*." *Id.* at 456. The Court reasoned that "admitting the rap verse was not the equivalent of admitting *The Godfather* as evidence that Mario Puzo was a mafia don… Instead, it was equivalent to admitting *The Godfather* to illustrate Puzo's knowledge of the inner workings of an organized crime family[.]" *Id.* In short, "it is Foster's knowledge of [urban life], as evidenced by the verse he has admittedly authored, that was relevant to the crimes for which he was charged." *Id.*

The Court likewise rejected Foster's argument that the verse was prejudicial, reasoning that "[a]ll evidence offered by the prosecutor is prejudicial to the defendant; there would be no point in offering it if it were not." *Id.* at 456. The Court further explained that anytime evidence of other crimes is admitted for "other purposes," such as Foster's verse being offered to show knowledge and intent, "there is always a possibility of unfair prejudice, *i.e.*, that a jury could use the verse to draw forbidden inferences." *Id.* at 457. The Court countered that "[t]here is also, as we have just explained, a legitimate inference that may be drawn from the verse." *Id.* In such instances, the weighing of the relative impact of these competing inferences falls to the trial court, who is "uniquely suited to that task[.]" *Id.*

Unlike the Court of Appeals in *Hannah,* we find the rationale in *Foster* directly analogous to the instant case. *See Hannah*, 420 Md. at 355 ("Unlike *Foster,* [Hannah's] writings were not offered as evidence of his knowledge or intent."). The lyrics in

Appellant's case were used by Detective Cokinos to show that Appellant was familiar with drugs and drug trafficking, which, like the verse in *Foster,* made it more likely than not that Appellant possessed the marijuana with the intent to distribute. And, as we previously discussed, the lyrics in Appellant's case were not offered to show action in conformity therewith, but instead to show Appellant's intent in possessing the drugs.

Moreover, the trial court exhibited due caution by ensuring that any discussion of the lyrics be confined to those references germane to the relevant issue, namely Appellant's intent to distribute narcotics. Therefore, although it was possible that the jury may have drawn impermissible inferences from the lyrics, the prejudicial impact of these inferences was muted by the trial court's admission of the lyrics in a limited manner. *See Foster,* 939 F.2d at 457 ("The task of assessing the relative impact of these inferences, and any accompanying potential for unfair prejudice, is one that, 'to a large extent, requires a contemporaneous assessment of the presentation, credibility, and impact of the challenged evidence.'") (internal citations omitted). In short, the trial court recognized the potential prejudice inherent in the lyrics, weighed such prejudice against the lyrics' probative value, and exercised due discretion in allowing Detective Cokinos to discuss the lyrics at trial.

Finally, even if we were to assume that the trial court erred in admitting the lyrics, any error was harmless beyond a reasonable doubt. *See Hannah,* 420 Md. at 355 ("[T]he erroneous introduction of a defendant's writings is subject to a 'harmless error' analysis."). As the State correctly notes, Appellant was acquitted of possession with intent to distribute, the only verdict in which the lyrics could have conceivably played a factor. The offenses for which Appellant was convicted -- simple possession and resisting arrest -- were well-

established by the other evidence adduced at trial. In short, we find it highly unlikely that the lyrics had any meaningful impact on the jury's decision to convict Appellant on these charges, given that: Officer Maurer noticed the smell of fresh marijuana emanating from Appellant; Officer Maurer observed an unexplained "bulge" in Appellant's groin area, which the officer believed to be a bag of marijuana; Appellant ran when Officer Maurer tried to place handcuffs on him; a bag of fresh marijuana was found at the scene and along the same path Appellant took flight; and no marijuana was recovered from Appellant's person.

In sum, we hold that the trial court properly admitted the lyrics in conjunction with Detective Cokinos' testimony and in accordance with Md. Rule 5-703(b). Moreover, the trial court did not abuse its discretion in finding that the probative value of this evidence outweighed any unfair prejudice that Appellant may have suffered by its admission. Finally, even if the trial court erred, such error was harmless beyond a reasonable doubt.

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