

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2124

September Term, 2015

GARY ALLEN PRYOR, JR.

v.

STATE OF MARYLAND

Krauser, C. J.,
Graeff,
Leahy,

JJ.

PER CURIAM

Filed: September 6, 2016

*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.

Gary Allen Pryor, Jr., appellant, filed this appeal following his convictions for second-degree assault and reckless endangerment, in the Circuit Court for Prince George’s County. On appeal, Pryor argues that the trial court erred in admitting a photograph of the victim that was taken after the victim’s “exploratory surgery” because it was not relevant and, alternatively, that the trial court abused its discretion in admitting the photograph because any relevance that it had was substantially outweighed by its prejudicial effect.

“[I]n determining the admissibility of any photograph, the trial judge must make a two-part assessment: first, the judge must decide whether the photograph is relevant, and second, the judge must balance its probative value against its prejudicial effect.” *Thompson v. State*, 181 Md.App. 74, 95 (2008) (quotation marks and citation omitted). “We review *de novo* a trial court’s conclusion of law that the evidence at issue is or is not of consequence to the determination of the action.” *Gupta v. State*, 227 Md. App. 718, 743 (2016) (internal quotation marks and citation omitted).

The balancing of the probative value against the potential for improper prejudice to the defendant, however, is reviewed for abuse of discretion. *See Page v. State*, 222 Md. App. 648, 666 (2015). “[A] ruling reviewed under an abuse of discretion standard will not be reversed simply because the appellate court would not have made the same ruling.” *Norwood v. State*, 222 Md. App. 620, 643 (2015) (internal quotation marks and citation omitted)). Rather, the decision under consideration has to be “well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Id.* (internal quotation marks and citation omitted).

We have reviewed the record and are persuaded that the post-surgery photograph of the victim was relevant as it illustrated the nature and extent of the injuries he received as a result of being assaulted by Pryor. *See Lovelace v. State*, 214 Md. App. 512, 548-49 (2013) (noting that “photographs may be relevant and possess probative value even though they often illustrate something that has already been presented in testimony” (quotation marks and citation omitted)). Moreover, at the time the photograph was introduced, a similar post-surgery photograph of the victim was admitted without objection and the victim provided detailed testimony about the effects of the surgery. Accordingly, the trial court did not err or abuse its discretion in admitting the photograph into evidence.

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