UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 800

September Term, 2015

ANTWINE DWAYNE SNOWDEN

v.

STATE OF MARYLAND

Graeff,
Friedman,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: June 22, 2017

*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.

Appellant, Antwine Dwayne Snowden, was convicted by a jury in the Circuit Court for Frederick County of first degree murder. The court sentenced him to life imprisonment.

On appeal, appellant presents the following questions for our review:

1. Did the circuit court abuse its discretion in refusing to allow the defense to call a prosecutor as a witness?

2. Did the State fail to present sufficient evidence that Mr. Snowden committed murder?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Motions Hearing

At the pre-trial motions hearing, one of the issues concerned the State's motion to quash subpoenas issued to two Assistant State's Attorneys, Kirsten Brown and Dave Callahan. Detective Joseph McCallion, a member of the Frederick County Sheriff's Office, testified that he responded to the apartment of the victim, Gloria Carol Fitzpatrick, on April 22, 2013, and it was the policy of the Sheriff's Office to notify the State's Attorney's Office of every unattended death in the County.

When Ms. Brown and Mr. Callahan arrived at the apartment, Detective McCallion gave them a brief tour of the victim's one-bedroom apartment, which lasted no more than five to ten minutes. Neither Ms. Brown nor Mr. Callahan left Detective McCallion's sight, and Detective McCallion did not see them touch anything in the apartment, including the victim's body. Neither of the prosecutors wore gloves or plastic shoe covers.

Defense proposed proffering to the court, under seal, "what information would be revealed from Ms. Brown." The court agreed, and defense counsel filed a sealed, written

proffer, indicating that Ms. Brown and Mr. Callahan "touched the handrail and walkway where Mr. Snowden had lived," picking up appellant's "DNA, hair and other trace evidence," and depositing it in the apartment of the victim.[1] The proffer stated that the defense was relying on "Locard's Principle, . . . is a recognized theory of science," which holds that "[e]very contact leaves a trace," and that "Ms. Brown and Mr. Callahan did deposit, move and tra[n]sfer DNA in the crime scene and did transfer DNA in the crime scene." The proffer further stated:

- The State DNA witness will testify that the Y-STR haplotype similar [to] Mr. Snowden's will appear randomly, in about 175 men in Frederick County. Since no elimination was done for Mr. Callahan, he may have the same haplotype as Mr. Snowden, and as such it may be Mr. Callahan['s] DNA and not Mr. Snowden's in the apartment.

- The [S]tate's witnesses will explain that other PCR DNA testing was not done so Ms. Brown's DNA cannot be excluded from this case. Over 30 swabs were taken from the crime scene.

- The State will present testimony that the glass doors, security bar, window coverings[,] and the victim's cell phone were touched and/or moved before the evidence technician took swab/DNA samples from them. The two prosecutors saw the changes. The two prosecutors will know which officer violated the Sheriff's Office Protocols on crime scene preservation.

- Officers came in and out of the apartment before and during the collection of DNA evidence. The two prosecutors will testify [to] this action.

- The two prosecutors will testify as to the absence of their office's Standard Operating Procedures and how they violated said procedures by contaminating the crime scene.

[1] The court subsequently unsealed the proffer.

The court subsequently ruled that appellant could not call Ms. Brown as a witness. The court explained:

> I am just not convinced by that proffer that that makes Ms. Brown a necessary witness. I believe that what, that the Defense may still use its strategy without requiring Ms. Brown's testimony to, to add to that strategy and I, like I said I'm just not, not convinced that Mr. Snowden's rights would be violated by not permitting the Defense to call Ms. Brown for the proffered reason. Now like I said, that, I don't find that it's, ah, that necessarily applies to Mr. Callahan [who was not assigned to the case on trial].

The court clarified that Ms. Brown was not a material witness based on the proffer, and it was granting the State's motion to quash appellant's subpoena for her to testify. Defense counsel renewed his objection to that ruling, and the following ensued:

> THE COURT: Certainly noted. And like I said I am not saying, I mean obviously the, the fact that Ms. Brown was present at the scene is evidence that the jury is going to hear and . . .
>
> [PROSECUTOR]: That's correct, Your Honor.
>
> THE COURT: So that's, that's a whole different issue. But to, to actually allow her to be called as a, as a witness, I don't find that based on the proffer she is necessary. I think the information based on strategy as counsel outlined is, is available through other means and having Ms. Brown actually testify to that in front of the jury is not any tremendous difference between the evidence that can come through from other witnesses.

Trial

On April 22, 2013, when the victim, Ms. Fitzpatrick, did not report for work, her co-worker, Pamela Glickman, attempted to contact her and then her daughter, Sherry Melody Harper. Ms. Harper told Ms. Glickman that she would send her husband, Bryan Harper, to Ms. Fitzpatrick's residence to check on her.

Mr. Harper testified that his mother-in-law, Ms. Fitzpatrick, lived alone and would not answer the door without "religiously" asking who was there. Ms. Fitzpatrick always used a chain link lock on her door. Other witnesses familiar with Ms. Fitzpatrick's routine similarly testified that Ms. Fitzpatrick always kept the chain on the door and would not let anyone into her apartment unless she knew who it was.

When Mr. Harper attempted to enter the apartment using his key, he found that the door was not locked and the chain was not on the door. There was no damage to the door and no sign of forced entry. Mr. Harper entered the apartment and saw Ms. Fitzpatrick lying on the living room floor. Believing that she was dead, Mr. Harper touched Ms. Fitzpatrick's stomach and found her skin to be cold to the touch. Mr. Harper testified that he never touched Ms. Fitzpatrick's neck.

Mr. Harper called 911. Following their instructions, he began chest compressions on Ms. Fitzpatrick, to no avail. While he was on the phone with 911, he went to look for Ms. Fitzpatrick's exact address in the bedroom. There, he saw that Ms. Fitzpatrick's bed was unmade and her purse was "dumped out" on the bed. This was unusual because the purse, usually containing a wallet holding money, credit cards and other items, typically was kept in the kitchen. Neither Ms. Fitzpatrick's wallet, nor her credit cards, were recovered in this case. Jewelry also was missing.

Ms. Fitzpatrick was last seen one day earlier, when she attended a birthday party at a nearby park for her great grandson. Susan Fitzpatrick, the victim's sister, called her sister's home phone later that evening, at approximately 7:10 p.m. "It sounded like

someone answered, but then it was disconnected." Susan left a message on Ms. Fitzpatrick's cellphone; it was unusual that Ms. Fitzpatrick did not return her call.

After being contacted the day her sister was found, Susan Fitzpatrick arrived at the apartment complex and spoke to appellant. Appellant asked what was going on, and Susan replied that something had happened to her sister, Carol. Appellant cried, "no, not Miss Carol." Appellant told Susan that Ms. Fitzpatrick occasionally would cook and bring him food in his downstairs apartment.

Jade Harper, Ms. Fitzpatrick's granddaughter, knew appellant was Ms. Fitzpatrick's neighbor. She had seen appellant inside Ms. Fitzpatrick's apartment on a prior occasion, and Ms. Fitzpatrick had given appellant a ride in her car on another occasion.

Detective McCallion testified that he was dispatched to Ms. Fitzpatrick's apartment in response to a call that a woman was in cardiac arrest. He arrived at approximately 12:10 p.m. and noticed that there were no signs of forced entry or damage to the front door. Mr. Harper, Deputy Greg Morton, and the sheriff's office intern were already there. Detective McCallion placed his hands inside his pockets so he would not touch any evidence and entered the apartment. The victim's skin tone, from her shoulders up, was "a dark purple compared to the rest of her body." There was a bruise below her right eye, blood coming out of her nose, and an abrasion on her chin suggesting that she had been dragged.

Detective McCallion took control of the scene. Although there was no sign-in sheet or log documenting the individuals who went into the apartment during the investigation, Detective McCallion knew everyone who entered and exited the apartment until the

victim's body was transported to the Officer of the Chief Medical Examiner.[2] During the course of the on-scene investigation, Detective McCallion wore gloves, changing them two or three times, then disposing of them in a biohazard bag. At some point during the investigation, he touched the top of Ms. Fitzpatrick's head with a gloved hand to look for signs of injuries, but he did not touch her neck.

Detective McCallion testified regarding the other people at the scene, including other police officers, the evidence technician, the forensic investigator, Richard Fallon, two individuals from the funeral home, and Assistant State's Attorneys Brown and Callahan. He reiterated his motions hearing testimony that the two attorneys, who were called to the scene according to protocol, did not wear gloves, but they were never out of his sight, they did not touch anything inside the apartment, including Ms. Fitzpatrick's body, and Ms. Brown and Mr. Callahan remained inside the apartment for "[t]en minutes tops."

Detective McCallion spoke to appellant on the sidewalk outside the victim's apartment. Appellant lived in the downstairs one-bedroom apartment with other people, including: his girlfriend, Shawnee Luby; her brothers, Jarvis Luby and Cody Thomas; Cody's girlfriend, Jessica Henderson; Cody's father, Harvey Thomas; Thomas' girlfriend, Ethel Ambers; and sometimes, Ambers' son, Bradley. Appellant knew the victim as "Miss Carol." He would help her take groceries upstairs to her apartment, and sometimes he would take out the trash. Appellant knew Ms. Fitzpatrick's routine, and she sometimes would drive him to work in the morning.

[2] Detective McCallion left the apartment at approximately 5:00 p.m.

Appellant told Detective McCallion that he last spoke to Ms. Fitzpatrick at 10:00 a.m. on Sunday, the morning before her body was found. While he was relaying this information, appellant became "visibly upset," stating that she was his "friend, she would do anything for anyone, who would do anything to her[?]" Detective McCallion testified that he had told appellant only that it was a death investigation at that point, not that there had been a homicide.

The victim's autopsy was conducted by Dr. Julia Shields and Dr. Theodore King. Dr. King observed symmetrical scrapes and bruises on both sides of Ms. Fitzpatrick's neck, and "evidence of force applied to both sides of this woman's neck." According to Dr. King, with constant symmetrical force pressure applied to a person's neck, that person would lose consciousness within thirty to forty seconds, and it would take three to five minutes before a person would be dead. Dr. King opined, within a reasonable degree of medical certainty, that multiple injuries were the cause of Ms. Fitzpatrick's death, including an "asphyxial component." Dr. King testified that the manner of Ms. Fitzpatrick's death was homicide.

DNA evidence was collected from 14 people, including appellant. Swabs were taken from multiple sources, including the front and back of Ms. Fitzpatrick's neck. A blood sample was taken from Ms. Fitzpatrick at autopsy and placed on a "blood card," to preserve it in the event further forensic tests were necessary.

Sarah Shields, accepted as an expert in forensic DNA analysis, examined the collected evidence. She explained certain terminology, including that "STR" stands for "short tandem repeat," which is a "small, core unit of DNA that is repeated a particular

number of times." The number of times the unit is repeated comprise an STR profile. "Y-STR" refers to STRs "specific only to the Y chromosome," and Y-STR typing is performed to "isolate any male DNA that could be present in a sample."

Ms. Shields further explained that, in a case such as this where there was an abundance of female DNA, the Y-STR analysis only looks to the Y chromosome, which enabled her "to exclude all the female DNA that was masking it earlier." Ms. Shields agreed that STR testing is "far more discriminating," with statistical numbers in the quadrillions regarding the chance of "coincidentally" matching more than one person.

Ms. Shields performed Y-STR analysis on the sample taken from the left side of Ms. Fitzpatrick's neck and concluded that the profile was consistent with a mixture of at least two individuals, including a major contributor. Appellant could not be excluded as a possible contributor. In other words, with respect to the swab taken from the left side of Ms. Fitzpatrick's neck, appellant's DNA profile "matched the numbers in the Y-STR major component."

Moreover, the Y-STR profile from the swab taken from the right posterior of Ms. Fitzpatrick's neck was consistent with a mixture of three or more individuals. Appellant could not be excluded as a source. Ms. Shields compared appellant's DNA profile to three separate databases of Caucasians, African-Americans, and Hispanics, a total of 7,647 individuals, and she did not find a similar profile in that population.

On cross-examination, Ms. Shields agreed she had no control over the collection of evidence from the crime scene, including inadvertent transfers of DNA from one surface to another. She confirmed that "contamination" occurs by "an event that introduces

exogenous DNA to a sample where it shouldn't belong." Ms. Shields also informed the jury that she was familiar with primary and secondary transfer, as well as Locard's Principle, testifying:

> Locard's Principle basically states that with every interaction and contact there is a transfer of material and it applies to DNA analysis because theoretically when I touch this surface a part of me is left behind, a part of my DNA. But whether that amount of DNA is measurable in our tests depends on a myriad of factors.

Shawnee Luby, appellant's girlfriend, testified that appellant lived in her apartment, located on the first floor of the same building as Ms. Fitzpatrick's. Appellant did not have a car, and although he appeared to have money, he was not paying rent or helping with bills. Ms. Fitzpatrick would give appellant cigarettes, food, and one time, money to borrow. She also had a known routine of when she left for work, when she returned, and when she took care of her grandchildren. Ms. Luby also knew that Ms. Fitzpatrick generally let only her own family into her apartment.

On Sunday, April 21, 2013, appellant was with Ms. Luby in their apartment in the morning, and then he left to go cash a check. Ms. Luby left after that, returning at approximately 11:30 p.m. Appellant was not home and did not return until 12:05 a.m.

Ms. Luby agreed to participate in a recorded phone call with appellant from the police station. During that call, appellant maintained that he was home between 5:00 and 7:00 p.m. the Sunday before Ms. Fitzpatrick's body was found. In a second recorded phone call, appellant denied going into Ms. Fitzpatrick's house on the day she was murdered. He suggested that Ms. Luby's brother would say that appellant was with him during the day. When told that Ms. Luby's father was upset that the police kept coming to his house,

appellant replied: "They don't have no, if, if they had evidence on me doing something to that woman I would be fucking arrested. Believe that."

Jarvis Luby, Ms. Luby's brother, testified that he lived in the same apartment with appellant. Mr. Luby had been to Ms. Fitzpatrick's door to ask for a cigarette, but he had never been inside her apartment. On the Sunday at issue, Mr. Luby was home, intending to watch a basketball game with appellant, but appellant left in the morning and was not home between 5:00 and 7:30 p.m. At some point later that evening, Mr. Luby heard "random thumping" and "bumping" coming from upstairs; it sounded "like somebody could be working out or something." Later that night, after the basketball game ended, appellant returned home, intoxicated.[3]

A few days after Ms. Fitzpatrick's body was discovered, the police went back to the apartment complex to re-interview people. Appellant agreed to accompany Detective McCallion back to the police station for a further interview. Appellant confirmed that he had been inside Ms. Fitzpatrick's apartment on several prior occasions. The last visit was a couple months before the murder when appellant helped Ms. Fitzpatrick put together some furniture. Appellant agreed that Ms. Fitzpatrick would open her door only for someone she knew. Appellant denied asking Ms. Fitzpatrick for money, and he stated that she gave him cigarettes, but only occasionally.

Appellant advised that he saw Ms. Fitzpatrick Sunday morning on her balcony, at approximately 10:00 a.m. He then left his apartment to go to the grocery store and then a

[3] There was evidence that the game ended at approximately 10:30 p.m.

friend's house to watch the Miami Heat basketball game, returning home at approximately 5:30 to 6:00 p.m. Appellant went back to his friend's house at 7:30 p.m., where he remained until approximately 11:00 p.m. After returning home, appellant went to sleep. He did not hear any noise from the upstairs apartment that evening. He woke Monday morning at approximately 5:00 a.m.

Sergeant James Deater, a member of the Maryland State Police, was accepted as "an expert in interpreting cell phone tower data to determine approximate locations of cell phones." He examined appellant's cell phone data from the time period between 5:33 and 7:52 p.m. on April 21, 2013. During that interval, the appellant's cell phone accessed the T-Mobile tower located closest to the Kingscrest apartments eleven times. From 7:55 p.m. until 10:46 p.m., the appellant's cell phone accessed the T-Mobile tower located within a block and a half of 116 All Saints Street. All Saints Street was located approximately a five to ten minute drive away from appellant's apartment. There were no more calls associated with appellant's cell phone until 6:36 a.m. on April 22, when appellant's phone accessed to the tower closest to his apartment.

James Snowden testified that appellant worked for his moving company.[4] Mr. Snowden agreed to participate in a recorded phone call with appellant on April 26, 2013. During the call, appellant confirmed that he had been in Ms. Fitzpatrick's apartment on a prior occasion, but he denied any involvement in the murder. Appellant stated: "I know they ain't got no DNA in that house so I'm not even worried about that shit."

[4] Appellant and James Snowden are not related.

When Mr. Snowden advised appellant in another call that the police found DNA, which "they're pointing . . . right at you," and that he was facing a life sentence, appellant asked Mr. Snowden to come pick him up. When Mr. Snowden asked where he wanted to go, and appellant replied: "I don't know. Fucking bus station, something." Appellant stated that he "just gotta get a room or something for, until I can get (unclear)." When Mr. Snowden suggested that appellant "escape" and that someone was "talking" and "ratting" him out, appellant agreed. After appellant indicated he did not have any money, Mr. Snowden asked him whether there was anything left in Ms. Fitzpatrick's apartment, and appellant replied: "No. Not a dime's in it." And when Mr. Snowden said "she got no jewelry?," appellant replied: "No."

DISCUSSION

I.

Appellant contends that the circuit court abused its discretion in refusing to allow him to call Assistant State's Attorney Brown as a witness. He asserts that this curtailed his right to present a defense, stating that, pursuant to the proffer: "Ms. Brown would have testified that she had not worn gloves or booties when she visited the crime scene, she had touched the handrail that [appellant] had used countless times, and she had walked through Ms. Fitzpatrick's apartment." He asserts that "[t]his evidence was critical to establishing the very real possibility that Ms. Brown had transferred [appellant's] DNA into the crime scene, specifically, onto Ms. Fitzpatrick's body."

The State contends that "the trial court was within its discretion in declining to compel a prosecutor to testify as a defense witness, when her testimony was both redundant

and immaterial." It further asserts that, even if there was error, it was harmless beyond a reasonable doubt.

There is no question that a defendant "has the right to present his own witnesses to establish a defense." *Washington v. Texas*, 388 U.S. 14, 19 (1967). *Accord Chambers v. Mississippi*, 410 U.S. 284, 302 (1973) ("Few rights are more fundamental than that of an accused to present witnesses in his own defense."). That right, however, is not absolute. *See Taylor v. Illinois*, 484 U.S. 400, 410 (1988) ("The accused does not have an unfettered right to offer testimony that is incompetent, privileged, or otherwise inadmissible under standard rules of evidence.").

Here the issue is whether the circuit court properly precluded appellant from calling one of the prosecutors as a witness. This Court has made clear that, for such evidence to be admissible, "[t]he prosecutor's 'testimony must be relevant and material to the theory of the defense; it must not be privileged, repetitious, or cumulative.'" *Raines v. State*, 142 Md. App. 206, 214 (2002) (quoting *Johnson*, 23 Md. App. at 142).

The issue of a prosecutor as a witness is complicated by the general rule prohibiting an attorney from testifying as a witness in a case he or she is litigating. *See* Maryland Rule of Professional Conduct 3.7 (Subject to exception, "[a]n attorney shall not act as advocate at a trial in which the attorney is likely to be a necessary witness."). And courts have recognized the potential danger in allowing defense counsel an uncontrolled right to call the trial prosecutor to the stand. *See State v. Reeves*, 344 N.W.2d 433, 441-42 (Neb.) ("It is ludicrous to suggest that a defendant can disqualify a prosecutor every time he becomes personally familiar with the facts of a case," noting that the prosecutor "would routinely

go to the crime scene and make certain that the proper procedures were followed with the collection of evidence"), *cert. denied*, 469 U.S. 1028 (1984).

The "decision whether to allow the defense to call the prosecutor to testify is within 'the broad discretionary right of the trial judge to control the trial of the case.'" *Raines*, 142 Md. App. at 213 (quoting *Johnson v. State*, 23 Md. App. 131, 142 (1974)). A court's decision in this regard constitutes an abuse of discretion only "when it is 'well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *Nash v. State*, 439 Md. 53, 67 (quoting *Gray v. State*, 388 Md. 366, 383 (2005)), *cert. denied*, 135 S. Ct. 284 (2014).

Here, appellant argues that the circuit court abused its discretion in preventing him from calling Ms. Brown as a witness, asserting that she would testify that she had not worn gloves or protective foot coverings when she walked through the apartment, and she touched the handrail leading up to the apartment. The jury heard from other witnesses, however, that Ms. Brown and another prosecutor, Mr. Callahan, visited the crime scene after the police arrived, and that Ms. Brown did not wear gloves or protective booties. Given this evidence, as well as the presence of other individuals in the apartment, testimony by Ms. Brown was not necessary to support appellant's argument that someone had transferred appellant's DNA into the crime scene. *See United States v. Roberson*, 897 F.2d 1092, 1098 (11th Cir. 1990) (when another witness could testify as to a conversation between the defendant and the prosecutor, the defendant did not show a compelling need to call the prosecutor as a defense witness); *State v. Colton*, 663 A.2d 339, 348 (Conn. 1995) (defendant wishing to call prosecutor as witness must show that testimony is

necessary, rather than merely relevant, and that all other sources of comparable evidence have been exhausted), *cert. denied*, 516 U.S. 1140 (1996).[5] Under these circumstances, the circuit court did not abuse its discretion in precluding appellant from calling Ms. Brown, a prosecutor in appellant's trial, as a witness.

II.

Appellant next contends that the evidence was insufficient to support his conviction. He argues that "the State failed to eliminate the very real possibility that someone other than Mr. Snowden transferred his DNA to Ms. Fitzpatrick's neck."

"'The standard of review for appellate review of evidentiary sufficiency is whether any rational trier of fact could have found the essential elements of the crimes beyond a reasonable doubt.'" *State v. Gutierrez*, 446 Md. 221, 231-32 (2016) (quoting *Moye v. State*, 369 Md. 2, 12 (2002)). *Accord McClurkin v. State*, 222 Md. App. 461, 486, *cert. denied*, 443 Md. 736, *cert. denied*, 136 S.Ct. 564 (2015). "We defer to any possible reasonable inferences the jury could have drawn from the admitted evidence and need not decide whether the jury could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence." *State v. Mayers*, 417 Md. 449, 466 (2010). Moreover,

[5] We note that the court did not preclude appellant from calling Assistant State's Attorney Callahan, who was not assigned to the case on trial. Nevertheless, appellant did not call Mr. Callahan as a witness. Despite the lack of testimony from either witness, defense counsel noted in closing argument that both prosecutors walked through the crime scene, arguing as to Mr. Callahan that "[i]t could be his DNA. We don't know." Defense counsel also argued that Ms. Brown "brought dust into that apartment. What was on her shoes, what was on her hands, what was on her clothes, that's what brought dust here."

> [t]he Court's concern is not whether the verdict is in accord with what appears to be the weight of the evidence, but rather is only with whether the verdicts were supported with sufficient evidence – that is, evidence that either showed directly, or circumstantially, or supported a rational inference of facts which could fairly convince a trier of fact of the defendant's guilt of the offense charged beyond a reasonable doubt. We must give deference to all reasonable inferences [that] the fact-finder draws, regardless of whether [the appellate court] would have chosen a different reasonable inference. Further we do not distinguish between circumstantial and direct evidence because [a] conviction may be sustained on the basis of a single strand of direct evidence or successive links of circumstantial evidence.

DeGrange v. State, 221 Md. App. 415, 420-21 (2015) (quoting *Donati v. State*, 215 Md. App. 686, 718 (2014)).

Here, as the State notes, the evidence produced was "that a Y-STR profile which mirrored [appellant's], but one not found in 99.6% of the population, was found on both sides of [Ms.] Fitzpatrick's neck where her murderer would have touched her in the course of strangling her." Moreover, the evidence showed that Ms. Fitzpatrick opened her apartment door only to someone she knew, and when her body was found, the door was unlocked and unchained, with no signs of damage or forced entry. This suggested that the murderer was someone she knew; appellant was someone she knew, who occasionally visited and borrowed money.

There was also evidence that the contents of Ms. Fitzpatrick's purse had been strewn on the bed and her wallet and several items from her jewelry box were missing. Appellant commented on these details, *i.e.*, that Ms. Fitzpatrick did not have money or jewelry, in a phone conversation with his boss, James Snowden. During those same conversations, appellant also appeared to make plans to leave the area when confronted with accusations

of his involvement in the murder.[6] The evidence was sufficient to support appellant's conviction of murder.

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

[6] To be sure, as appellant notes, there was evidence that downstairs neighbors heard a loud noise coming from the victim's apartment at 10:30 p.m. Sunday night and appellant's "cell phone was not connecting to the cell phone tower closest to the murder scene" at that time, and there was evidence suggesting that certain protocols may not have been followed at the crime scene, including, the absence of a sign-in sheet and that certain individuals walked through the crime scene without gloves or protective booties. Any inconsistencies in the evidence, however, were for the fact finders, not this Court, to resolve. As the Court of Appeals has explained: "Because the fact-finder possesses the unique opportunity to view the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence." *Tracy v. State*, 423 Md. 1, 12 (2011) (quoting *Smith v. State*, 415 Md. 174, 185 (2010)).