

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2381

September Term, 2015

KENNETH EUGENE SNOWDEN

v.

STATE OF MARYLAND

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 7, 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.

Following a jury trial in the Circuit Court for Prince George’s County, Kenneth Snowden, appellant, was convicted on four counts of theft. In this appeal, appellant claims the trial court failed to exercise the necessary discretion by “blindly excluding” a witness, Earline Snowden, after finding that defense counsel’s disclosure of Ms. Snowden as a witness was untimely.

Appellant’s argument is without merit. Maryland Rule 4-263(e)(1) states that a defendant must provide the State with the name and address of each non-impeachment witness no later than 30 days before trial. *Id.* “If at any time during the proceedings the court finds that a party has failed to comply with this Rule...the court may...prohibit the party from introducing in evidence the matter not disclosed[.]” Md. Rule 4-263(n). “In exercising its discretion regarding sanctions for discovery violations, a trial court should consider: (1) the reasons why the disclosure was not made; (2) the existence and amount of any prejudice to the opposing party; (3) the feasibility of curing any prejudice with a continuance; and (4) any other relevant circumstances.” *Thomas v. State*, 397 Md. 557, 570-71 (2007) (citing *Taliaferro v. State*, 295 Md. 376, 390 (1983)).

Here, the court heard arguments from both sides regarding the reasons for the untimely disclosure, the nature of Ms. Snowden’s testimony, and the prejudice to the State in allowing the testimony. Then, after finding that Maryland Rule 4-263 had been violated, the court prohibited Ms. Snowden from testifying. Thus, the record discloses that the trial court properly exercised its discretion prior to making its ruling. *See Taliaferro*, 295 Md. at 390 (“The exercise of discretion contemplates that the trial court will ordinarily analyze

the facts and not act, particularly to exclude, simply on the basis of a violation disclosed by the file.”).

Nevertheless, even if the trial court erred in excluding the witness, the error was harmless. An erroneous evidentiary ruling is harmless when we are “satisfied that there is no reasonable possibility that the evidence complained of – whether erroneously admitted or excluded – may have contributed to the rendition of the guilty verdict.” *Dorsey v. State*, 276 Md. 638, 659 (1976). Here, the evidence established that several businesses were burglarized and multiple items were stolen. Several of these items were later recovered from a local reseller, Vadim Peters, who testified that appellant sold him the stolen goods. Peters also testified that he and appellant had an ongoing business relationship in which Peters would buy used goods from appellant. Thus, Ms. Snowden’s testimony, which defense counsel proffered would address “name, address, age, occupation, relationship to [appellant], children, names of children, what business is he in, [and whether she had] any part of that business,” was either cumulative in light of the other evidence or inconsequential to the rendition of the guilty verdicts in this case.

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