

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2764

September Term, 2014

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LONNIE MURRILL

v.

STATE OF MARYLAND

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Meredith,  
Wright,  
Reed,

JJ.

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Opinion by Reed, J.

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Filed: February 8, 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.

On the evening of January 11, 2013, Michael Price (“the victim”) suffered and died as a result of two stab wounds to the chest. As a result, a jury found Lonnie Murrill, the appellant, guilty of second-degree murder and openly carrying a dangerous weapon with the intent to injure. The appellant now appeals his convictions. He presents four questions for our review, which we have reduced to three and rephrased:<sup>1</sup>

1. Was the evidence sufficient to support the jury’s guilty verdict on the charge of second-degree murder?
2. Did the circuit court err in admitting certain reports prepared by the State’s expert witness?

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<sup>1</sup> The appellant phrased his questions presented as follows:

- I. Whether the evidence was insufficient to convict Murrill of second degree murder where both State and defense experts agreed that the defendant truly believed he was being robbed.
- II. Whether the lower court erred when it admitted expert reports that contained confusing, irrelevant and highly prejudicial evidence of Murrill’s post-psychiatric-treatment jail calls.
  - A. The jail calls should have been excluded because they were not relevant to any issue in the case.
  - B. The jail calls should have been excluded because their probative value was outweighed by the danger of unfair prejudice and because they were impermissibly confusing.
- III. The lower court erred when it admitted expert reports that contained hearsay and violated Murrill’s right of confrontation.
  - A. Whether Dr. Blyther’s report should have been excluded because it was hearsay.
  - B. Whether Ronald Williams’ pretrial statement to the police should have been excluded because it was hearsay and the requirements of Md. Rule 5-613(a) were not satisfied.
- IV. Whether the lower court erred when it improperly limited the cross-examination of the primary detective.

3. Did the circuit court err when it limited the appellant’s cross-examination of the primary detective investigating the victim’s death?

For the following reasons, we answer each of these questions in the negative. Therefore, we shall affirm the judgment of the circuit court.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

The following facts of this case are not in dispute.

At 11:47 p.m. on Friday, January 11, 2013, Baltimore City police officers responded to a stabbing on the 5400 block of York Road. Upon arrival, they observed the appellant remove a knife from his sweat shirt and jacket, which he had just taken off and rolled up under his arm. They then observed the appellant deposit the knife into a nearby trash can. Based on these observations, the officers placed the appellant under arrest. At that time, the appellant, who appeared to be intoxicated, stated “I stabbed him because he tried to rob me. He knew that . . . I got my paycheck today.”

Ronald Williams witnessed the stabbing and gave a statement to police at the scene. Williams indicated that he saw the appellant chase the victim down the street and around a car. He described how at first he thought the two were playing because the victim was laughing and they both seemed intoxicated. However, Williams recounted that as they made their way back up the street, the appellant was complaining that the victim had taken something from him. Williams said that he then saw the appellant stab the victim twice before running off saying “I just killed [P]eep.” There was no evidence that the victim was armed with a knife or any other type of weapon at the time he was stabbed.

The appellant was charged with both first- and second-degree murder as well as openly carrying a dangerous weapon with the intent to injure. During his trial, which took place from December 3 through December 8, 2014, Dr. Neil Blumberg testified for the defense as an expert in forensic psychiatry and psychiatry. Dr. Blumberg recounted the appellant's history of mental illness, which began in 1994 when he was diagnosed with "schizo type personality disorder" and was subsequently discharged from the Army after four years of service in the Persian Gulf. Dr. Blumberg testified that the appellant's mental illness became progressively worse from 1994 until the date of the stabbing. During this period of almost twenty years, according to Dr. Blumberg, the appellant was subjected to multiple court-ordered competency evaluations and regularly admitted into the Veterans Administration Hospital, where he was diagnosed with a number of psychotic illnesses, including paranoid schizophrenia. Therefore, as the appellant points out, "Dr. Blumberg opined, to a reasonable degree of medical certainty, that on January 11, 2013, Murrill lacked substantial capacity to appreciate the criminality of his conduct or to conform [sic] that conduct to the requirements of law."

Dr. Monica Chawla testified for the State as an expert in forensic psychology to refute Dr. Blumberg's opinion that the appellant was not criminally responsible. During Dr. Chawla's testimony, the State, over the appellant's objections, introduced Exhibits 15A, 15B, 15C, and 15D, the contents of which shall be provided below as necessary to our analysis. Ronald Williams, the witness at the scene, also testified. At the close of evidence, the defense made a motion for judgment of acquittal on the first- and second-

degree murder charges. The court denied this motion. Thereafter, the jury found the appellant not guilty of first-degree murder, guilty of second-degree murder and the weapons offense, and criminally responsible. The appellant then filed a motion for a new trial, which was also denied. This timely appeal followed.

## **DISCUSSION**

### **I. SUFFICIENCY OF THE EVIDENCE**

#### **A. Parties' Contentions**

The appellant argues that the evidence was insufficient to support his conviction on the second-degree murder charge. He asserts that Drs. Blumberg and Chawla were in agreement regarding the fact that he honestly believed he was being robbed by the victim, and that therefore “[t]he guilty verdict with regard to murder in the second degree is based on an utter lack of demonstrated actual intent.” Thus, the appellant contends that “[i]t is a miscarriage of justice” that he was “found guilty of anything more than manslaughter.”

The State argues that none of the appellant’s claims have been preserved for appeal. Regarding the sufficiency of the evidence claim in particular, the State asserts that in his motion for judgment of acquittal, which he twice renewed, the appellant did not “include[] the arguments that the State failed to negate a mistake of fact defense or that in stabbing the victim in the chest two times his conduct did not amount to second-degree murder.” Therefore, the State contends that the appellant’s sufficiency claim is not preserved for review. However, the State further argues that, lack of preservation notwithstanding, sufficient evidence was presented at trial to support the second-degree murder conviction.

## **B. Standard of Review**

In *Kyler v. State*, 218 Md. App. 196 (2014), we outlined the standard of appellate review of whether sufficient evidence supports a criminal conviction as follows:

The test of appellate review of evidentiary sufficiency is whether, “‘after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *State v. Coleman*, 423 Md. 666, 672 [33 A.3d 468] (2011) (quoting *Facon v. State*, 375 Md. 435, 454 [825 A.2d 1096] (2003)). The 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.’” *State v. Albrecht*, 336 Md. 475, 479 [649 A.2d 336] (1994). “‘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.’ ” *Cox v. State*, 421 Md. 630, 657 [28 A.3d 687] (2011) (quoting *Bible v. State*, 411 Md. 138, 156 [982 A.2d 348] (2009)). 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.’” *Montgomery v. State*, 206 Md. App. 357, 385 [47 A.3d 1140 (2012)] (quoting *Morris v. State*, 192 Md. App. 1, 31 [993 A.2d 716] (2010)), *cert. denied*, 429 Md. 83 [54 A.3d 761] (2012).

*Kyler*, 218 Md. App. at 214-15 (quoting *Donati v. State*, 215 Md. App. 686, 716, *cert. denied*, 438 Md. 143 (2014)).

## **C. Analysis**

Although we agree with the State that the appellant failed to preserve the issue of whether the two stab wounds to the victim’s chest were sufficient to sustain a second degree

murder conviction, we do not agree with its assertion that the issue of the appellant’s mistake of fact defense is unpreserved. Nevertheless, we shall hold that the evidence was sufficient to sustain the appellant’s convictions. We explain.

The record indicates that defense counsel thrice moved for judgment of acquittal: first, at the close of the State’s case; second, at the close of his own case; and, finally, at the close of the State’s rebuttal. The State correctly notes that “Maryland Rule 4-324 sets forth the requirements for a motion for judgment of acquittal[.]” Appellee’s Br. at 3. That Rule provides:

A defendant may move for judgment of acquittal on one or more counts, or on one or more degrees of an offense which by law is divided into degrees, at the close of the evidence offered by the State and, in a jury trial, at the close of all the evidence. *The defendant shall state with particularity all reasons why the motion should be granted.* No objection to the motion for judgment of acquittal shall be necessary. A defendant does not waive the right to make the motion by introducing evidence during the presentation of the State's case.

Md. Rule 4-324(a) (emphasis added). Therefore, with this standard in mind, we now turn to the “particular[] . . . reasons [stated by defense counsel for] why the motion should be granted.” *Id.*

Defense counsel’s first motion for judgment of acquittal was made during the following colloquy, which occurred at the close of the State’s case-in-chief:

[Defense counsel]: I’ll make a motion, Your Honor. And I’d like to be heard, in particular, as to the first-degree murder charge. I frankly, and I didn’t hear any evidence of any kind of premeditation or deliberation.

I think Mr. Williams testified that he sees individuals intoxicated running around on the street and then we have my client's statement which even in the light most favorable to the State is still a self-defense oriented statement.

I didn't hear any evidence of any kind of planning, premeditation, or any kind of process that would give in the light most favorable to the State a hint of thought behind this crime.

THE COURT: Do you want to respond?

[Prosecutor]: That State's position is that there's enough evidence at this moment in time. No.

THE COURT: All right. At this time, the Court has to assume the evidence in the light most favorable to the State, and the motion for judgment of acquittal is denied.

Defense counsel renewed his motion immediately on the heels of a lunch recess that was taken at the conclusion of the defense's case:

THE COURT: Counsel, why don't you approach while the jury is coming out?

You can have a seat as soon as you get in, ladies and gentlemen.

No. Come on. Come on up.

(Counsel and Defendant approached the bench, and the following ensued:)

THE COURT: I assume that you're going to renew your motion.

[Defense counsel]: I would renew my motion, Your Honor.

THE COURT: Okay. Do you wish to be heard?

[Prosecutor]: No.



THE COURT: All right. Do you wish to be heard?

[Defense Counsel]: No, Your Honor.

THE COURT: All right.

[Defense counsel]: Just for the record, I will incorporate my previous arguments and submit.

THE COURT: All right. Your motion is denied.

[Defense counsel]: Thank you, Your Honor.

[Prosecutor]: Thank you.

(Counsel and Defendant returned to the trial table . . . .)

Defense counsel renewed his motion for judgment of acquittal for a final time at the conclusion of the State's rebuttal case:

[Defense counsel]: I'll renew my motion for judgment of acquittal. I would like to be heard as to first-degree and second-degree murder, Your Honor.

I think that in light of the testimony of the doctor, the doctor indicated on both direct examination and cross-examination that [the appellant] was honestly and reasonably in fear of being robbed at the time of the incident. She said it twice on direct examination and once when I asked her on cross-examination on the night of the incident.

I believe that in the light more favorable to the State that evidence indicates that there could not have been premeditation or deliberation or an intent to kill in this case. And I'll submit.

The court proceeded to deny this motion in a similar manner to that in which it denied the first two.

The appellant advances two arguments on appeal for why he believes the evidence was insufficient to sustain his second-degree murder conviction. First, he argues “[t]he evidence was insufficient . . . because the State failed to rebut [his] defenses of imperfect self-defense and mistake of fact.” Appellant’s Br. at 19. Second, he argues the evidence presented that he stabbed the victim twice in the chest “may be insufficient, as a matter of law, to support the second degree murder conviction.” *Id.* at 21. In making a motion for judgment of acquittal, “[t]he defendant shall state with particularity all reasons why the motion should be granted.” Md. Rule 4-324(a). It is clear that defense counsel never stated in any of his motions for judgment of acquittal that evidence that the appellant stabbed the victim twice in the chest is insufficient to sustain a conviction for second-degree murder. “In a criminal action, when a jury is the trier of fact, appellate review of sufficiency of evidence is available only when the defendant moves for judgment of acquittal at the close of all the evidence and argues precisely the ways in which the evidence is lacking.” *Anthony v. State*, 117 Md. App. 119, 126 (1997). Therefore, we agree with the State that the issue of whether the appellant’s “actions in stabbing the victim twice in the chest . . . r[o]se to the level of second degree murder[ is] not preserved for this Court’s review.” Appellee’s Br. at 3.

However, as we indicated above, we do not agree with the State that the appellant’s mistake of fact argument is unpreserved. In support of his second renewed motion for judgment of acquittal, which he made at the conclusion of the State’s rebuttal case, defense counsel stated “the [State’s] doctor indicated on both direct examination and cross-

examination that [the appellant] was honestly and reasonably in fear of being robbed at the time of the incident.” In our view, this statement was particular enough to preserve the issue of whether the evidence was sufficient for the jury to discredit the appellant’s mistake of fact defense. Nevertheless, we shall hold that even in light of the appellant’s mistake of fact defense, the evidence was sufficient to sustain his second-degree murder conviction.

The State has done well in summarizing the evidence it presented against the appellant:

Here, Ronald Williams observed [the appellant] stab the victim two times with a knife with a brass-knuckled handle. Officer Grant Hemmerley observed [the appellant], who matched the description of the suspect given by witnesses, at a gas station about three blocks from the location of the incident. As Officer Hemmerley approached, [the appellant] back-pedaled and placed a knife in a trash can in a manner kind of behind himself so as if he was trying to disguise his actions. This knife was determined later to be the murder weapon. [The appellant] admitted to Officer Hemmerley that he stabbed the victim.

Officer Andrew Gotwols arrived on the scene nearly the same time as Officer Hemmerley and observed the victim bleeding from his left chest area. The victim was unresponsive and barely breathing. The victim was taken to Johns Hopkins Hospital where he died.

Appellee’s Br. at 7-8 (quotations of and citations to transcript omitted). Clearly, this evidence was sufficient for a “rational trier of fact . . . [to] have found the essential elements of [second-degree murder]<sup>2</sup> beyond a reasonable doubt.” *Coleman*, 423 Md. at 672 (2011) (internal quotation omitted).

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<sup>2</sup> Md. Code Ann., Crim. Law § 2-204 defines second-degree murder as “[a] murder that is not in the first degree under § 2-201 of this subtitle.” In other words, second-degree

This case is analogous to *Hennessy v. State*, 37 Md. App. 559 (1977), on this issue. The appellant in that case “concede[d] by silence that there was sufficient evidence to sustain a manslaughter verdict, but argue[d] that because the State did not affirmatively negate this self-defense testimony, he was entitled to what amounts to a judicially declared holding of self-defense as a matter of law.” *Id.* at 561. We went on to explain that

[the appellant’s argument] is of course, absurd. *Gilbert v. State*, 36 Md. App. 196, 373 A.2d 311. The factfinder may simply choose not to believe the facts as described in that, or any other, regard, *Jacobs v. State*, 6 Md. App. 238, 242, 251 A.2d 33, and the very fact that a large knife was used, causing the death of an unarmed man, raises in itself the issue of excessive force even if appellant’s account had been believed. “The law is clear that although a person may defend himself, even to the extent of taking life to repel the attack of an aggressor, it is equally well settled that he cannot use more force than is necessary.” *Ware v. State*, 3 Md. App. 62, 65, 237 A.2d 526, 528.

*Hennessy*, 37 Md. App. at 561-62. We have also explained that “[a] fact-finder is free to believe part of a witness’s testimony, disbelieve other parts of a witness’s testimony, or to completely discount a witness’s testimony.” *Holmes v. State*, 209 Md. App. 427, 438 (2013) (quoting *Pryor v. State*, 195 Md. App. 311, 329 (2010)). Therefore, the jury was free to disbelieve the entirety of Dr. Blumberg and/or Dr. Chawla’s testimony regarding the appellant’s state of mind on the night of the incident. Accordingly, and for the reasons

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murder is “the killing of another person with either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” Maryland Criminal Pattern Jury Instructions 4:17.2 (2d ed. 2012).

set forth in this section, we hold that the evidence was sufficient to sustain the appellant’s second-degree murder conviction.

## **II. ADMISSIBILITY OF REPORTS PREPARED BY STATE’S EXPERT WITNESS**

### **A. Parties’ Contentions**

The appellant argues that portions of Exhibit 15, the 60-page report introduced by the State during Dr. Chawla’s testimony, were improperly admitted into evidence by the trial court. Specifically, the appellant asserts that “[t]he evidence of jail calls [he] made . . . after he regained his competence should have been excluded [pursuant to Md. Rule 5-402<sup>3</sup>] because they were not relevant to any issue in the case.”<sup>4</sup> (footnote added). The appellant contends that because competency to stand trial is, pursuant to Md. Code Ann., Crim. Proc. (“CP”) § 3-104,<sup>5</sup> a determination to be made by the court, the only issue for

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<sup>3</sup> Md. Rule 5-402 provides:

Except as otherwise provided by constitutions, statutes, or these rules, or by decisional law not inconsistent with these rules, all relevant evidence is admissible. Evidence that is not relevant is not admissible.

<sup>4</sup> Dr. Chawla reviewed transcripts of the appellant’s jail calls—thirty in total—in forming her expert opinion regarding the appellant’s competency to stand trial. Exhibit 15 was comprised, in part, of these transcripts.

<sup>5</sup> CP § 3-104 provides:

If, before or during a trial, the defendant *in a criminal case* or a violation of probation proceeding appears to the court to be incompetent to stand trial or the defendant alleges incompetence to stand trial, *the court shall determine*, on evidence presented on the record, *whether the defendant is incompetent to stand trial*.

the jury to consider was whether he was criminally responsible for his actions on the evening of January 11, 2013. Whether or not he was competent when he made the jail calls, the appellant argues, is therefore not relevant to any issue for the finder of fact. Furthermore, the appellant asserts that the calls “should have also been excluded pursuant to Md. Rule 5-403”<sup>6</sup> because they were unduly prejudicial and “cloud[ed] the case in a shroud of unnecessary rebuttal evidence regarding [his] state of mind at an irrelevant time in history.”

The appellant further contends that the trial court erred in admitting, also within Exhibit 15, the forensic report of Dr. Qualisha Blyther and a summary of Ronald Williams’ pretrial statement to police. The appellant argues that “[b]oth were clearly hearsay”<sup>7</sup> and that they violated his rights under the Confrontation Clause of the Sixth Amendment of the United States Constitution. The appellant asserts that in addition to being hearsay and a Confrontation Clause violation, Williams’ statement to the police “should have been

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*Id.* at § 3-104(a) (emphasis added).

<sup>6</sup> Md. Rule 5-403 provides:

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

<sup>7</sup> Md. Rule 5-801(c) defines hearsay as “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Hearsay is generally inadmissible. *See* Md. Rule 5-802 (“Except as otherwise provided by these rules or permitted by applicable constitutional provisions or statutes, hearsay is not admissible.”)

excluded because the foundational requirements of Md. Rule 5-613(b)<sup>8</sup> were not met.”  
(footnote added).

The State responds, first, that because the appellant did not make a proper objection to any of the contents of Exhibit 15 of which he now complains, this entire issue is not preserved for our review. However, the State adds that, assuming *arguendo* that proper objections were made, the juries calls, Dr. Blyther’s report, and the evidence of Williams’ statement to the police were all properly admitted by the trial court. In short, the state argues that none of these pieces of evidence were inadmissible under the Maryland Rules or the Sixth Amendment.

### **B. Standard of Review**

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<sup>8</sup> Md. Rule 5-613(b) provides:

- (a) Examining Witness Concerning Prior Statement.** A party examining a witness about a prior written or oral statement made by the witness need not show it to the witness or disclose its contents at that time, provided that before the end of the examination (1) the statement, if written, is disclosed to the witness and the parties, or if the statement is oral, the contents of the statement and the circumstances under which it was made, including the persons to whom it was made, are disclosed to the witness and (2) the witness is given an opportunity to explain or deny it.
- (b) Extrinsic Evidence of Prior Inconsistent Statement of Witness.** Unless the interests of justice otherwise require, extrinsic evidence of a prior inconsistent statement by a witness is not admissible under this Rule (1) until the requirements of section (a) have been met and the witness has failed to admit having made the statement and (2) unless the statement concerns a non-collateral matter.

The Court of Appeals has explained that

[g]enerally, the standard of review with respect to a trial court's ruling on the admissibility of evidence is that such matters are left to the sound discretion of the trial court and unless there is a showing that the trial court abused its discretion, “its ruling[ ] will not be disturbed on appeal.” *Bern-Shaw Ltd. Partnership v. Mayor and City Council of Baltimore*, 377 Md. 277, 291, 833 A.2d 502, 510 (2003), quoting *Farley v. Allstate Ins. Co.*, 355 Md. 34, 42, 733 A.2d 1014, 1018 (1999) (brackets in original). The application of that standard, however, “depends on whether the trial judge's ruling under review was based on a discretionary weighing of relevance in relation to other factors or *on a pure conclusion of law*.” *Bern-Shaw*, 377 Md. at 291, 833 A.2d at 510 (emphasis added). If “the trial judge's ruling involves a pure legal question, we generally review the trial court's ruling *de novo*.” *Id.*; *Nesbit v. GEICO*, 382 Md. 65, 72, 854 A.2d 879, 883 (2004) (concluding that when a trial court's decision in a bench trial “involves an interpretation and application of Maryland statutory and case law, our Court must determine whether the lower court's conclusions are ‘legally correct’ under a *de novo* standard of review”), quoting *Walter v. Gunter*, 367 Md. 386, 392, 788 A.2d 609, 612 (2002). See also *Bernadyn v. State*, 390 Md. 1, 8, 887 A.2d 602, 606 (2005) (concluding, in a criminal case, that a trial court's decision to admit or exclude hearsay is not discretionary and that “whether evidence is hearsay is an issue of law reviewed *de novo*”).

Under the Maryland Rules, hearsay must be excluded as evidence at trial unless it falls within an exception to the hearsay rule. Rule 5–802.<sup>9</sup> Thus, a trial court's decision to admit or exclude hearsay ordinarily is an issue of law and, as discussed above, we review decisions of law *de novo*.

*Hall v. Univ. of Maryland Med. Sys. Corp.*, 398 Md. 67, 82-83 (2007) (footnote in original).

### C. Analysis

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<sup>9</sup> Rule 5–802 provides: “Except as otherwise provided by these rules or permitted by applicable constitutional provisions or statutes, hearsay is not admissible.”



We shall hold that none of the issues raised by the appellant concerning the admissibility of evidence contained in Dr. Chawla’s reports were properly preserved for appeal. Thus, for the following reasons, we decline to address the merits of the appellant’s arguments with respect to these reports.

We first address the jail calls. The record indicates that the appellant lodged an objection to the admissibility of the jail calls during a pre-trial motions hearing on December 2, 2014. The following is a portion of what was stated on the record during that hearing:

THE COURT: Okay. All right. So that takes us now to the jail card-calls; correct?

[Defense counsel]: Thank you, Your Honor.

\* \* \*

Your Honor, I guess my problem is really two fold.

The first issues [sic] is that many of the calls are duplicative. You know, the State’s indicated that Dr. Chawla has met with my client, which we’re not disputing. There’s many reports, and she’s met with him on many occasions.

\* \* \*

The problem, really, is that, frankly, they’re not necessarily all relevant. And I think many of them would waste the jury’s time because the State’s saying these are relevant to NCR.

But NCR is my client’s mental state at the time of the crime, not after he’s been medicated on 2000 milligrams of Valproic acid, which is the maximum dose allowed by the FDA for an anti-psychotic medication. I mean, of course he’s able to carry on a conversation and communicate.

\* \* \*

If—if [the prosecutor] wants to narrow them down, you know, I certainly—but I don’t think 30 calls is [sic] something,, you know—if he wants to use them for impeachment, if he wants to have individual sections, you know, queued up to play for—to impeach Dr. Bl[u]mberg with, I certainly think that’s appropriate.

But just saying I’m going to admit all 30 of these calls because Dr. Chawla listened to them sort of bypasses the Rules of Evidence in terms of relevancy and in terms of, you know, admissibility.

\* \* \*

THE COURT: Okay. Hold on.

We’re taking these all out of context. And the State has indicated that it did not intend to, necessarily in it’s [sic] . . . case in chief, to introduce these into evidence. They may be for cross-examination purposes.

\* \* \*

So we may be a little premature on this at this point.

\* \* \*

At this point . . . the Court thinks that . . . it might be a bit premature to make a ruling on these if and until the State offers.

. . .

Thus, by explicitly stating that any pre-trial motion to exclude the jail calls was premature and ordering defense counsel to make a contemporaneous objection at trial, the court did not “make[] a ruling . . . [with respect to the] evidence that [was] clearly intended to be the final word on the matter.” *Reed v. State*, 353 Md. 628, 635 (1999). Therefore, in order to

preserve the issue of the admissibility of the jail calls for appeal, defense counsel would have had to have made a proper objection at trial.

Maryland Rule 4-323 sets forth the standard for the making of proper objections. That Rule states, in relevant part, that “[a]n objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived.” *Id.* at § 4-323(a). However, the record in this case indicates that defense counsel did not object when State’s Exhibits 15B and 15C<sup>10</sup> were offered by the State and subsequently admitted into evidence. Therefore, because Exhibits 15B and 15C were the only two that contained summaries of the jail calls, the issue of the admissibility of evidence of the calls within Dr. Chawla’s reports is not preserved.

We now turn to the summary of Ronald Williams’ statement to the police, which was contained in State’s Exhibit 15D.<sup>11</sup> On the third day of trial, during the State’s direct examination of Dr. Chawla but before any motion was made to admit Dr. Chawla’s reports into evidence, defense counsel made the following attempted objection:

[Defense counsel]: . . . I did not expect the State to enter a 30-page report that is completely replete of hearsay and otherwise inadmissible material.

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<sup>10</sup> State’s Exhibits 15B and 15C were reports prepared by Dr. Chawla based on her examinations of the appellant on April 9, 2013, and December 16, 2013, respectively.

<sup>11</sup> State’s Exhibit 15D was the report Dr. Chawla prepared of her July 28, 2014, examination of the appellant.

THE COURT: Okay. You have to tell me what report you're discussing.

[Defense counsel]: I'm not sure which exhibit it is for the State, Your Honor.

[Prosecutor]: It's the last one, Your Honor. I will be 15D.

\* \* \*

[Defense counsel]: 15D contains a summary of the transcribed statements of Mr. Ronald Williams—

THE COURT: Okay.

[Defense counsel]: --who has testified here in court.

THE COURT: All right.

[Defense counsel]: His testimony on some aspects of this case was different in court than what is on this transcript.

THE COURT: Okay. Well, then we'll have to get to that when we get to that.

\* \* \*

Make the proper objection at the proper time.

[Defense counsel]: Yes, Your Honor.

However, at the “proper time” (*i.e.*, when the State moved to admit Exhibit 15D into evidence), defense counsel objected on specific grounds that were different from the hearsay, Rule 5-613, and Confrontation Clause grounds being raised on appeal:

[Defense counsel]: There's a summary of the transcript statement of Mr. Ronald Williams who is an individual who testified here before the ladies and gentlemen of the jury. He did have things that he said that was [sic] here in testimony that were different than the summary that Dr. Chawla said.

THE COURT: Okay.

[Defense counsel]: Obviously, I think his in-court testimony needs to be what the jury has, not a summary of a statement.

THE COURT: There's a jury instruction with regards to previous and prior testimony that are inconsistent. And if need be, you can call him back here. You can cross-examine him. You can cross-examine the witness with regards to that information.

[Defense counsel]: That's my objection.

THE COURT: All right. Overruled.

“It is well-settled that when specific grounds are given at trial for an objection, the party objecting will be held to those grounds and ordinarily waives any grounds not specified that are later raised on appeal.” *Klaunberg v. State*, 355 Md. 528, 541 (1999). Therefore, because defense counsel objected on a specific ground having nothing to do with his current argument that the summary of Mr. Williams' statement should not be admitted because it constituted hearsay or violated Rule 5-613 or the Confrontation Clause, this issue, like the issue of the jail calls, is unpreserved.

Finally, we turn to the issue of whether “the lower court erred in allowing Dr. Chawla's testimony disclosing the substance of the psychological testing conducted [by] Dr. Blyther and the report he authored.” Appellant's Br. at 29. First and foremost, we note that the State is correct in that “[the appellant] does not identify the specific testimony about which he . . . complains[,] . . . [but rather] relies only upon generalizations not supported by any transcript references.” Appellee's Br. at 28-29. Nevertheless, it appears

from the record that Dr. Chawla did not discuss Dr. Blyther’s reports until she was asked about it on cross-examination. Furthermore, when the prosecutor asked Dr. Chawla on re-direct to expound upon what she had said regarding Dr. Blyther’s report, defense counsel did not object. Therefore, this issue, like the two before, is unpreserved.

### **III. LIMITATION OF MURRILL’S CROSS-EXAMINATION OF DETECTIVE**

#### **A. Parties’ Contentions**

The appellant argues that the trial court erred in sustaining the State’s objection to defense counsel’s question on cross-examination of the primary detective about whether his job performance is judged based upon his homicide clearance rate. According to the appellant, “[h]ad counsel been given an opportunity to fully develop his cross-examination, it may have been demonstrated that the Baltimore Police Department regularly and frequently judges its own detectives based upon their ‘homicide clearance rate.’” The appellant asserts that by not allowing this line of questioning to proceed, the trial court “cost [him] his right to a fair trial and to fully confront and cross-examine the witnesses against him.”

The State argues, once again, that this issue has not been properly preserved for appeal. However, assuming *arguendo* that it has been preserved, the State asserts that the trial court did not err in sustaining its objection to the defense counsel’s question on cross-examination. The State contends that “[t]here is nothing to support [the appellant’s] argument that by limiting the cross-examination of [the primary detective],” the trial court prevented him from being able to “develop an area of bias in . . . [the] investigation.” And

to the extent that the trial court did commit an error in this regard, the State argues that any such error was “harmless beyond a reasonable doubt.”

### **B. Standard of Review**

In *Martin v. State*, 364 Md. 692 (2001), the Court of Appeals had occasion to delineate the standard of review of claims that a trial court erred in limiting cross-examination. The Court explained that

[t]he trial court has broad discretion in determining the scope of cross-examination, and we will not disturb the exercise of that discretion in the absence of clear abuse. *See State v. Hawkins*, 326 Md. 270, 277, 604 A.2d 489, 493 (1992). Nonetheless, the discretion is not unlimited, and “a cross-examiner must be given wide latitude in attempting to establish a witness’ bias or motivation to testify falsely.” *Merzbacher*, 346 Md. [391,] 413, 697 A.2d [432,] 443 [(1997)]. The appropriate test to determine abuse of discretion in limiting cross-examination is whether, under the particular circumstances of the case, the limitation inhibited the ability of the defendant to receive a fair trial. *See Ebb v. State*, 341 Md. 578, 587–88, 671 A.2d 974, 978 (1996). In assessing whether the trial court abused its discretion in limiting the cross-examination of the attorney who wished to show bias or motives to fabricate, we look to see whether the jury had sufficient information to make a discriminating assessment of the particular witness’s possible motives for testifying falsely in favor of the State. *See Marshall v. State*, 346 Md. [186,] 194, 695 A.2d [184,] 188 [(1997)].

*Martin*, 364 Md. at 698–99.

### **C. Analysis**

As indicated above, the appellant argues the trial court impermissibly limited defense counsel’s cross-examination of the primary detective. This occurred during the following colloquy on the second day of trial:

[Defense counsel]: Now homicide detectives are judged based on the--

[Prosecutor]: Objection.

[Defense counsel]: --number of cases that--

[Prosecutor]: Objection.

[Defense counsel]: --they close, isn't that true?

THE COURT: Sustained. Sustained.

[Prosecutor]: And we move to strike and not put that--

THE COURT: And the court—the ladies and gentlemen of the jury will disregard that last question before it gets finished. Because you're going to rephrase that or try to ask something that will be acceptable?

[Defense counsel]: Yes, Your Honor.

THE COURT: Thank you.

Rather than trying to rephrase his question about how homicide detectives are graded, defense counsel simply moved on to another line of questioning. “A claim that the exclusion of evidence constitutes reversible error is generally not preserved for appellate review absent a formal proffer of the contents and materiality of the excluded testimony.” *Tetso v. State*, 205 Md. App. 334, 400 (2012) (quoting *Muhammad v. State*, 177 Md. App. 188, 281 (2007), *cert. denied*, 403 Md. 614 (2008) (citing Md. Rule 5-103(a)(2); *Merzbacher*, 346 Md. at 416)). Therefore, this issue, like most of the others raised in this appeal, was not properly preserved.



**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**