

Circuit Court for Worcester County  
Case No. C-23-CR-22-000014

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 2030

September Term, 2023

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ALVIN LEE REDMON, JR.,

v.

STATE OF MARYLAND

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Wells, C.J.,  
Zic,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Raker, J.

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Filed: May 1, 2025

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant, Alvin Lee Redmon, Jr., was convicted by a jury in the Circuit Court for Worcester County of child sexual abuse. Appellant presents the following question for our review:

“Did the court abuse its discretion in a jury trial on a charge of child sexual abuse by admitting evidence of appellant’s subsequent conviction for child sexual abuse involving identical allegations: the same child, the same conduct, and overlapping time periods, because the danger of undue prejudice from the evidence substantially outweighed its probative value?”

We shall hold that the Circuit Court for Worcester County abused its discretion and shall reverse.

I.

Appellant was indicted by the Grand Jury for Worcester County of child sexual abuse for events ranging from January 1, 2019, through April 30, 2020. Appellant was convicted by a jury and the court sentenced him to a term of incarceration of twenty-five years, to be served consecutive to his sentence imposed in the Circuit Court for Calvert County, Maryland, for child sexual abuse involving J.H.,<sup>1</sup> the same victim in Worcester County, for acts occurring between April 13, 2020, and November 1, 2021. In Calvert

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<sup>1</sup> Pursuant to Maryland Rule 8-125, we will use the initials “J.H.” to identify the victim and “M.G.” to identify the victim’s mother, and we will omit other identifying information from this opinion.

County, appellant was found guilty on January 9, 2023, after entering an *Alford* plea<sup>2</sup> to two counts of child sexual abuse on September 26, 2022.

In this case, the State alleged appellant sexually abused J.H., his girlfriend's daughter. Appellant maintained that the relationship was consensual with J.H., as she was sixteen years of age at the time of the acts, and she had reached the age of consent. After a hearing, and pursuant to § 10-923 of the Courts and Judicial Proceedings Article of the Maryland Code,<sup>3</sup> the court admitted into evidence the following: (1) testimony of J.H., that the abuse continued when the family moved from Worcester County to Calvert County; (2) testimony from the Calvert County detective who interrogated appellant about the allegations that occurred in Calvert County; and (3) a "Statement" informing the jury regarding appellant's Calvert County conviction, which read as follows:

"The Defendant, Alvin Lee Redmon, Jr., on September 26, 2022, was convicted of two (2) counts of Sex Abuse of a Minor in Case Number C-04-CR-21-218 in the Circuit Court for Calvert County, Maryland for crimes

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<sup>2</sup> An *Alford* plea is "an arrangement in which a defendant maintains his innocence but pleads guilty for reasons of self-interest." *United States v. Taylor*, 659 F.3d 339, 347 (4th Cir. 2011). The distinguishing feature of an *Alford* plea is that the defendant does not confirm the factual basis underlying his plea. *United States v. King*, 673 F.3d 274, 281 (4th Cir. 2012). We noted in *Williams v. State*, 10 Md. App. 570, 574 (1970) that the trial court may accept an *Alford* plea "when the record shows that it was made voluntarily, unconditionally, and with an intelligent understanding of the nature of the offense and the possible consequences of the effect of the plea even though the defendant denies his guilt, provided the State demonstrates a strong factual basis for the plea and the defendant clearly expresses a desire to enter it despite his professed belief in his innocence."

<sup>3</sup> The entirety of this appeal focuses on Md. Code (1975, 2020 Repl. Vol.), § 10-923 of the Courts and Judicial Proceedings Article ("CJP"). This statute was codified in 2018 by the General Assembly when it passed the Maryland Repeat Sexual Predator Prevention Act. All subsequent statutory references herein shall be to Md. Code, Courts and Judicial Proceedings Article ("CJP").

committed against [J.H.], DOB [xx/xx/xx] . The date of those offenses was between April 13, 2020 and November 1, 2021.”

### **§ 10-923 Hearing & Ruling**

Appellant proceeded to trial before a jury in Worcester County Circuit Court. Appellant’s defense was that J.H. was over sixteen years of age, the conduct was consensual, and therefore, under the statute, the conduct did not constitute child sexual abuse. On April 10, 2023, the State filed a motion to admit evidence of sexually assaultive conduct pursuant to CJP § 10-923.

The State requested the following be admitted into evidence at trial: the District Court statement of charges; the indictment; the plea agreement; the waiver of rights form associated with the plea; the sentencing hearing sheet and the probation order attached; and a certified true test copy of appellant’s conviction in Calvert County. Defense counsel objected to the admission of the evidence, arguing that the evidence was too prejudicial. Defense counsel’s main point was that the true test copy of the conviction is unfairly prejudicial because the case involves the same person, the same charge, and “the only charge presented to this jury.”

J.H. and the Calvert County detective who interrogated appellant testified at the motions hearing. J.H. testified that appellant’s sexual behavior towards her continued when her family moved from Worcester County to Calvert County. Detective Michael Mudd testified that he interrogated appellant and that appellant admitted to engaging in sexual activity with J.H. in Calvert County and Worcester County.

The State and appellant argued that the Calvert County case and the instant case were identical in that they involved the same child, same conduct, and to some extent, the same time period. The prosecutor argued that appellant’s conduct “seamlessly transitions from Ocean City to Calvert County where the behavior continues from one jurisdiction to another. . . . It is the same victim. The same relative timeframe.” The prosecutor told the court that the “acts are seemingly overlapping between our case and the Calvert County case.”

Defense counsel focused on the nearly identical nature of the conduct and timeframe of each case and argued that “it is just far too prejudicial to introduce this type of evidence in this case.” Defense counsel took specific issue with the request to introduce the true test copy of the conviction “[b]ecause it involves the same person and the same charge as what is charged here in this case, the only charge presented to this jury.” The Worcester County finding of guilt was too prejudicial because the parties and most of the timeframe were the same as those in the instant case. Defense counsel argued as follows:

“[DEFENSE COUNSEL]: I wouldn’t want them to be influenced by the fact that a Court has found him guilty of sex abuse of a minor for what they see as similar behavior if its admitted by this Court, and therefore –

[COURT]: Doesn’t that provision actually contemplate them being influenced by that evidence?

[DEFENSE COUNSEL]: Influenced by the evidence, but not by the Court’s decision that he’s guilty of that particular offense which is the same offense they have to consider today.”

Defense counsel argued that allowing evidence of the Calvert County conviction would “lead [the Worcester County] jury to believe, well, of course it’s sex abuse of a minor

because a Court already found it to be sex abuse of a minor.” Counsel made special note that it was likely “the weight that [the jury] would give a finding of the Court isn’t appropriate under these circumstances.”

The court ruled the evidence of the conviction was admissible under CJP § 10-923. The court concluded that the probative value of the evidence was not outweighed by unfair prejudice, explaining as follows:

“The final element is that – or the finding that the Court has to make that the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice. The Court finds that the probative value is not substantially outweighed by the danger of unfair prejudice.

I don’t – I completely get your argument which is the irony of similarity in offense when impeachment is the issue being considered completely – or 180 degrees different from the similarity of the offense. But I also appreciate that the purpose of the introduction is to be used by a jury if admissible for their consideration to determine whether or not Mr. Redmon in fact committed the same or similar offenses.

What I’ve heard today is that the allegations in the Calvert County case as told by Ms. H. this morning are identical to what is alleged to have occurred in Worcester County. Her testimony was essentially identical to that of yesterday. So whether – you can print out both of them, and if you eliminated the words Worcester and Calvert, you would not know what she was talking about. There’s no distinction or difference in the alleged behavior. That is significant and convinces the Court that the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice. Is it prejudicial? Of course, as case law has indicated, pretty much every piece of evidence introduced by the State is going to be – or is at least intended to be prejudicial against a criminal defendant.”

The court ruled that only J.H.’s testimony, Detective Mudd’s testimony, and a “Statement” with information about the case number, parties, conviction, and charge from the Calvert County case were admissible at trial.

At trial, six witnesses testified on behalf of the State; appellant was the sole witness for the defense. J.H. testified to her date of birth and that she was nineteen years old at the time of trial. She testified that appellant was her mother's boyfriend and is the father of two of her stepsiblings. When appellant lived with them, he would come into her bedroom when her mother was asleep and have vaginal intercourse and oral sex with her multiple times despite her telling him no, and that she would sometimes bleed afterward. She testified that appellant would use avocado oil on her and touch her breasts and vagina. Appellant's behavior continued when they moved from Ocean City to Calvert County.

The State asked J.H. why she never told anyone, to which she responded as follows:

“[J.H.]: Because I was scared for my life. He would say he would kill me.

[PROSECUTOR]: Did he say anything else other than he would kill you?

[J.H.]: He said no one would believe me because of my disability. And that my mom would think I was crazy.

[PROSECUTOR]: So, [J.H.], what made you finally tell that this had been going on?

[J.H.]: My mom was leaving – like, him and her were leaving, and I was about to take a nap. But he was, like, being rude to me and, like, literally trying to argue with me. And he had, like, turned my wifi off. And I, like, was about to tell her before she left. But then, like, when he was arguing with me, I decided to tell her in front of him in the living room before she left.”

J.H. was seventeen when she told her mother about the incidents. The police were called and J.H. testified she went to the hospital for an examination. She testified that she has a tear that requires surgery and causes urinary incontinence.

The State called as a witness M.G., J.H.'s mother. She described her daughter's disability and that she often noticed her avocado oil lotion was missing.

Forensic Nurse Examiner Yvonne Dawkins testified as an expert in forensic examination. She met with J.H. on November 2, 2021, and related that J.H. told her that a man came into her bed and put his penis in her vagina. Ms. Dawkins testified to her sexual assault examination of J.H. and that she had noted healed tearing and notches on her hymen, an injury caused from sexual activity or trauma to the genitals, or incorrect insertion of a tampon.

Detective Amy Gutowski of the Ocean City Police Department testified that she worked with a detective in the Calvert County Police Department and that they handled most of the investigation in this case. Det. Gutowski testified that she found the family had lived at three different residences in Ocean City.

Detective Michael Mudd of the Calvert County Sheriff's Office Criminal Investigation Bureau testified that during his investigation in Calvert County he went to the family home to interview appellant. He arrived to find the front door "barricaded" with gym equipment. Det. Mudd arrested appellant and following appellant's waiver of his *Miranda* rights, he recorded an interview. Appellant stated that he was a father figure to J.H. He denied J.H.'s allegations initially and said that she could have caused any of the injuries to herself. Eventually, he admitted that he had engaged in a sexual relationship with J.H.

During cross-examination, Mudd testified that appellant never stated that he had sexual intercourse with J.H. when she was fourteen years old. Appellant's counsel asked



Det. Mudd about his interrogation tactics, including his use of themes or scenarios to help get appellant to talk.

“[DEFENSE COUNSEL]: One of the things that you introduced during the course of this interview was the concept that at 16 [J.H.] is old enough to consent to sexual contact; is that correct?”

[DETECTIVE]: Yes, but knowing – yes.

[COURT]: It’s a yes or no.

[DEFENSE COUNSEL]: And it is in fact true, not absurd, that a 16-year-old in many situations in Maryland can consent to a sexual encounter?

[DETECTIVE]: But care and custody would be the issue.

[DEFENSE COUNSEL]: I’m asking if a 16-year-old can consent to sex in Maryland.

[DETECTIVE]: Not with her father figure, but yes.”

The court admitted the “Statement” of the Calvert County conviction into evidence and the State rested.

Appellant testified in his defense, saying he “met J.H. through her mother when [appellant] was a child myself. I lived with my mother and stepfather, Mr. Lamont H[.], who is also the father of J[.]H[.]” Appellant’s relationship with J.H.’s mother began when appellant was nineteen until he was twenty-seven years old. He testified that his relationship with M.G. began “falling apart” when she was pregnant, and they were all living together on 75th Street in Ocean City. He testified that J.H. began having trouble with her mother at this time and that he and J.H. gave each other comfort.

Appellant testified that he had sexual intercourse with J.H. for the first time on January 6, 2020, when J.H. was sixteen years old. J.H. had been in an argument with her mother because she used her grandmother’s phone to access social media despite not being permitted to do so. Appellant testified that J.H. found him in the bathroom at 3:00 AM, grabbed his penis, and they had sex. He testified that he suggested they stop the sexual part of their relationship when they moved to Calvert County, but J.H. did not want to stop. Appellant explained that he denied their relationship when he was first questioned by police because he was “ashamed” and felt he was “wrong for my actions, for even engaging in a simple consensual relationship with the young woman at the age of 16 years old.” Appellant stated that J.H. never told him to stop and that she never told him no when they were engaged in sexual conduct.

The jury returned a guilty verdict and appellant was sentenced as indicated above.

## II.

Before this Court, appellant argues that the trial court abused its discretion admitting evidence of appellant’s conviction for child sex abuse with nearly identical allegations, because the probative value of the evidence was outweighed by the substantial risk of unfair prejudice. Appellant asserts that evidence from another court that found appellant guilty of the crime, for which he was on trial for the same conduct, crossed the line from probative to prejudicial and was essentially a directed verdict in the instant case. His defense was that the admitted conduct did not amount to secular abuse, and that another

court had found the conduct to be sexual abuse was unduly prejudicial. He objects to the “Statement” admitted into evidence, not the facts underlying the Calvert County conviction. Finally, appellant asserts that admission of the “Statement” was not harmless error.

The State argues that the court did not abuse its discretion in admitting the evidence under CJP § 10-923, which allows propensity evidence of a defendant’s sexually assaultive behavior when the alleged victim is a minor. The State asserts the probative value of the evidence was high given that it was essentially indistinguishable from the charged crime, showed the alleged abuse occurred frequently, and the alleged events were temporally proximate to one another. The risk of unfair prejudice was decreased, the State asserts, by introducing the previous charges to the jury. Knowing that appellant was previously convicted reduced the danger that the jury would convict out of fear that appellant escaped punishment for the same sexually assaultive behavior. The trial court took care to limit evidence related to the sexually assaultive behavior in Calvert County by prohibiting the State from mentioning the eleven other sexually related charges there. The State asserts that prohibiting admission of 6 exhibits related to the conviction and only allowing the “Statement” greatly reduced the risk of prejudice. Alternatively, even if the court erred in admitting the evidence, the State asserts such error was harmless. The State asserts that because appellant repeatedly confessed to sexual acts with J.H. while they were living in Ocean City, the jury did not need to assess his credibility.

III.

We review a trial court’s decision to admit evidence after conducting a balancing test to determine whether the probative value of the evidence is substantially outweighed by the risk of unfair prejudice to the defendant under an abuse of discretion standard. *Dejarnette v. State*, 478 Md. 148, 175 (2022) (confirming the fourth criterion for CJP § 10-923(e) uses the same balancing test as Md. Rule 5-403 and the resulting determination is reviewed for abuse of discretion). We do not reverse a lower court simply because we would not have made the same ruling. *State v. Matthews*, 479 Md. 278, 305 (2022).

Generally, evidence that is not relevant is not admissible. Rule 5-402. Rule 5-404(b) excludes “evidence of other crimes, wrongs, or other acts . . . to prove the character of a person in order to show action in the conformity therewith” even if that evidence may be relevant. Excluding propensity evidence protects a defendant from permitting a fact finder into thinking the defendant is a bad person to be punished regardless of his or her guilt of the charged crime. *Thompson v. State*, 412 Md. 497, 593 (2010). In addition, Rule 5-403 excludes relevant evidence if the probative value is substantially outweighed by the danger of unfair prejudice. *Id.* While “[a]ll evidence by its nature is prejudicial,” *Williams v. State*, 457 Md. 551, 572 (2018), Rule 5-403 excludes relevant evidence if that evidence has “some adverse effect . . . beyond tending to prove the fact or issue that justified its admission.” *Montague v. State*, 471 Md. 657, 674 (2020).

Maryland common law and the Maryland Rules recognize a sexual propensity exception to the general rule that excludes evidence of other crimes. The common law

limited the exception to “the prosecution for sexual crimes in which the prior illicit sexual acts [were] similar to the offense for which the accused [was] being tried and [involved] the same victim.” *Woodlin*, 484 Md. 253, 266 (2023) (quoting *Vogel v. State*, 315 Md. 458, 466 (1989)). In 2018, the General Assembly codified and expanded the limited exception to allow admission of other sexually assaultive behavior that was not limited to the same victim, to the same acts, or to the requirement of a conviction. See *Woodlin*, 484 Md. at 267; CJP § 10-923. CJP § 10-923 includes additional procedural and notice requirements as well as criteria for the trial judge to consider in determining whether to admit the requested evidence. The statute provides as follows:

§ 10-923. Evidence of other sexually assaultive behavior

“Sexually assaultive behavior” defined

- (a) In this section, “sexually assaultive behavior” means an act that would constitute:
- (1) A sexual crime under Title 3, Subtitle 3 of the Criminal Law Article;
  - (2) Sexual abuse of a minor under § 3-602 of the Criminal Law Article;
  - (3) Sexual abuse of a vulnerable adult under § 3-604 of the Criminal Law Article;
  - (4) A violation of 18 U.S.C. Chapter 109A; or
  - (5) A violation of a law of another state, the United States, or a foreign country that is equivalent to an offense under item (1), (2), (3), or (4) of this subsection.

In general

- (b) In a criminal trial for a sexual offense listed in subsection (a)(1), (2), or (3) of this section, evidence of other sexually assaultive behavior by the defendant occurring before or after the offense for which the defendant is on trial may be admissible, in accordance with this section.

Motion required

- (c)(1) The State shall file a motion of intent to introduce evidence of sexually assaultive behavior at least 90 days before trial or at a later time if authorized by the court for good cause.
- (2) A motion filed under paragraph (1) of this subsection shall include a description of the evidence.
- (3) The State shall provide a copy of a motion filed under paragraph (1) of this subsection to the defendant and include any other information required to be disclosed under Maryland Rule 4-262 or 4-263.

Hearing on admissibility

- (d) The court shall hold a hearing outside the presence of a jury to determine the admissibility of evidence of sexually assaultive behavior.

Admitting the evidence

- (e) The court may admit evidence of sexually assaultive behavior if the court finds and states on the record that:
  - (1) The evidence is being offered to:
    - (i) Prove lack of consent; or
    - (ii) Rebut an express or implied allegation that a minor victim fabricated the sexual offense;
  - (2) The defendant had an opportunity to confront and cross-examine the witness or witnesses testifying to the sexually assaultive behavior;
  - (3) The sexually assaultive behavior was proven by clear and convincing evidence; and
  - (4) The probative value of the evidence is not substantially outweighed by the danger of unfair prejudice.

At issue in this case is whether the judge abused his discretion in weighing the probative value of the evidence against the danger of unfair prejudice. Appellant does not appear to be arguing that the underlying facts of the two Calvert County offenses were inadmissible, but that the trial court abused its discretion in admitting appellant's *conviction* for the same offense for which he was on trial on the same facts with the same victim. In

his brief, he argues that the “admission of the ‘Statement’ clearly tipped the balance in favor of the risk of undue prejudice to appellant.”

The State relies heavily on *Woodlin v. State* as support for the admissibility of the evidence. *Woodlin* is an exhaustive, instructive opinion from our Supreme Court, aiding trial courts in the evaluation of the admissibility of other sexual acts in criminal cases. But *Woodlin* is very different from the instant case. There, the victim was different from the charged victim, and the time frame was different. *Woodlin*, 484 Md. at 262. Here, the alleged victim in the two cases is the same, the time frames overlap, and the defense is the same, *i.e.*, consensual conduct. The evidence in *Woodlin* related to a ten-year-old guilty plea conviction, involving a different, adult victim of sexual abuse that included similar sex acts but was over a different time frame. *Id.* In the instant case, appellant’s Calvert County conviction was based upon an *Alford* plea. This is significant because although an *Alford* plea is the equivalent of a guilty plea for conviction purposes, appellant did not admit the underlying facts and the Calvert County case involved the same victim, overlapping time frame, and significantly, the same defense, *i.e.*, consensual conduct, asserting his innocence despite taking the plea, testifying that his relationship with J.H. was consensual. The State’s argument that the evidence was helpful to appellant because it would dispel any jury concerns that appellant escaped punishment for the earlier conduct is not persuasive here. If it was the defense offering the “Statement” into evidence, the argument might have some merit.

We hold that the circuit court abused its discretion in admitting the “Statement” of appellant’s Calvert County conviction. When, as here, the victim is the same, the crime charged is the same, and the time periods overlap in the manner as it did in the case at bar with the prior conviction, the danger of unfair prejudice to appellant in the present case substantially outweighs the probative value of admitting the conviction.

The error in this case was not harmless. Error is harmless if, after our independent review, we are unable to declare the error harmless beyond a reasonable doubt. *Dorsey v. State*, 276 Md. 638, 659 (1976). In light of appellant’s defense that the conduct was consensual, admission of the “Statement” showing appellant’s conviction with the same victim, over the same time frame, was, as appellant argues, essentially a directed verdict in favor of the State.

In rebuttal closing argument, the State relied on appellant’s conviction in Calvert County, reading the “Statement” to the jury. In closing, he argued as follows:

“I need to remind you, members of the jury, that in your packet of information going back with you is State’s Exhibit 8, which I would like you to pay close attention to. The defendant, Alvin Lee Redmond, Jr., on September 26<sup>th</sup> of 2022, was convicted of two counts of sex abuse of a minor in Case No. C-04-CR-21-218, in the Circuit Court of Calvert County, Maryland for crimes committed against [J. H.], date of birth [xx/ss/xxxx]. The date of those offenses was between April 13<sup>th</sup>, 2020, and November 1<sup>st</sup>, 2021.

Remember, we had to call [J.H.] back to the stand today to talk about what happened in Calvert County. And that was to put the facts before you.

If you notice, the dates of those offenses are after they lived in Ocean City. And remember, the defendant told you that his raping of [J. H.] and his exploitation of [J.H.] began here in Ocean City, and it continued down into Calvert County where is was then convicted of two charges of sex abuse of a minor against her.”



This evidence was not cumulative and constituted the only evidence of appellant's conviction for sex abuse of a minor. Having found that the "Statement" was both unfairly prejudicial and not cumulative, we hold that admission of the "Statement" was not harmless error.

**JUDGMENT OF THE CIRCUIT  
COURT FOR WORCESTER COUNTY  
REVERSED. CASE REMANDED TO  
THAT COURT FOR A NEW TRIAL.  
COSTS TO BE PAID BY WORCESTER  
COUNTY.**