Circuit Court for Harford County
Case No.: C-12-CR-18-000561

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2058

September Term, 2019

ARTIIS RICARDO WILLIAMS

v.

STATE OF MARYLAND

Kehoe,
Leahy,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: January 24, 2022

Appellant, Artiis Ricardo Williams, was indicted in the Circuit Court for Harford County and charged with various drug related offenses. After his motion to suppress was heard and denied, Mr. Williams was tried by a jury and convicted of possession of cocaine with intent to distribute, possession of heroin with intent to distribute, possession of 28 or more grams of heroin, and several lesser included and related offenses. He was sentenced to a total of 40 years, with all but 25 years suspended, to be followed by five years' supervised probation upon release. On this timely appeal, Mr. Williams raises two issues for our review:

> "1. Did the trial court err in denying the motion to suppress drugs and other items recovered during a search of the car that Mr. Williams was driving?
>
> 2. Did the trial court err in admitting testimony that Mr. Williams was the registered owner of the car?"

We conclude that the circuit court properly denied the motion to suppress because the deputies complied with the standardized written inventory policy for the Harford County Sheriff's Office. We also conclude that any error in admitting Deputy Adams's challenged testimony was harmless beyond a reasonable doubt. Accordingly, we affirm the judgments of the circuit court.

BACKGROUND

On September 7, 2018, the license plate reader ("LPR") in Deputy Will Adams's patrol car alerted on Mr. Williams's black Chrysler 300. A warrant check confirmed that Mr. Williams was wanted on an outstanding warrant. Police then stopped Mr. Williams's vehicle. After confirming that Mr. Williams was wanted on an active warrant, Mr.

Williams was ordered out of the vehicle and placed under arrest. Because the car was not legally parked, the police requested a tow and initiated an inventory search of Mr. William's car, where they discovered CDS in the overhead sunglass compartment that ultimately tested positive for cocaine and a mixture of heroin and fentanyl.

Motion to Suppress

Prior to his trial, Mr. Williams moved to suppress the items found by the police during the inventory of his car, arguing that the evidence was seized absent probable cause in violation of Mr. Williams's constitutional rights. Three witnesses testified at the suppression hearing held on December 10, 2018: (1) Deputy Sheriff Will Adams of the Harford County Sheriff's Office; (2) Deputy Sheriff Amanda Smith of the Harford County Sheriff's Office; and (3) Mr. Williams.

Deputy Adams

Deputy Adams testified first. On September 7, 2018 he was on patrol in the Edgewood area of Harford County, near Harford Square. His vehicle was equipped with an LPR that scans nearby license plates and reports "any discrepancies or any warrants that may be on file or everything from emissions violations to homicide warrants." Sometime after 10:00 a.m., the LPR alerted to a vehicle passing by that was "associated with Artiis Williams." Deputy Adams related that he was familiar with Mr. Williams and his vehicle, a black Chrysler 300, because he had seen Mr. Williams driving that vehicle on numerous prior occasions and knew that Mr. Williams was "involved in the drug trade" in the area.

Deputy Adams contacted police dispatch and confirmed that an outstanding warrant was on file for Mr. Williams. After he radioed for assistance, Deputy Smith stopped Mr.

Williams on nearby Hanson Road. When Deputy Adams arrived at the scene of the stop, he noticed that the vehicle was stopped in "the travel portion of the roadway there to the right near the curb." Mr. Williams was removed from the vehicle and placed under arrest based on the outstanding warrant.

After the deputies handcuffed Mr. Williams, they searched his person and recovered "somewhere close to" $3,000 in cash as well as numerous plastic bags. Deputy Adams testified, without raising an objection, that these bags were "predominantly used in the drug trade for packaging of drugs." Mr. Williams told the deputies that the large amount of cash "was for back to school shopping."

Deputy Adams described the location of Mr. Williams's vehicle:

> Q. Now, after you conducted the search of [Mr. Williams], where was his car at that point?
>
> A. It was on Hanson Road in the travel portion of the roadway. The only way to get around that motor vehicle would be to go down through -- there is a turn lane right there. You would have to go out of the lane of travel to go there.
>
> Q. How many other people were in the car?
>
> A. There was no one else there.
>
> Q. What shoulders are there on Hanson Road?
>
> A. In that area there is none.
>
> Q. Now, did you speak to [Mr. Williams] concerning the car?
>
> A. That's correct, I did. At some point I did inquire who was coming. He could not give me any definitive answer exactly who is coming. I did inquire who is coming. I believe I asked him who they were, how old they were, stuff like that.
>
> Q. And after you spoke to him, what decision did you make?

> A. I made the decision that at this point we were wasting too much time. There was cars going around us and there were other people in the area rubbernecking. At that point I just decided that I was going to impound the vehicle. So, I requested a tow truck.

A copy of the Harford County Sheriff's Office tow policy was admitted into evidence during Deputy Adams's testimony, without objection. Referring to that policy, he explained that when individuals operating a vehicle are placed under arrest, "the vehicle has to be legally parked or in a legal manner in order to leave it there. If it cannot remain legally parked, at that point the deputy has to make disposition of the vehicle which is, in fact, impound it." Deputy Adams agreed that this provision was denoted on page 4-3800 of the policy, which provides:

> A person who is arrested while operating a motor vehicle may secure his/her vehicle and allow it to remain legally parked if:
>
> 1. The vehicle is not being held for evidence, processing, or other investigative purposes.
>
> 2. The operator is aware of his/her actions and agrees to assume full responsibility for the vehicle.
>
> 3. The operator can make arrangements to have the vehicle removed within a reasonable time period.
>
> If the vehicle is owned by someone other than the operator, the deputy shall attempt to contact the owner and advise the owner of the vehicle's location.

According to Deputy Adams, Mr. Williams's vehicle was not legally parked and that was the basis for his decision to order a tow. After that decision was made, Deputy Smith conducted an inventory search. Deputy Adams related, "that's pursuant to our policy to [e]nsure that any valuables or any hazards to the tow truck driver are detected prior to" towing the vehicle.

Shortly after Deputy Smith began the inventory search, she found "a large quantity of narcotics located in the sunglass holder." At that point, the decision was made to seize the vehicle and obtain a search warrant. Asked to elaborate, Deputy Adams explained:

> We couldn't leave [the car] where it was. I mean, there was just too much going on. It was tying up traffic and causing too much of a problem and then a large amount of folks were coming out at that point. So, at that point the vehicle was in essence towed to the Southern Precinct and parked on that lot and left on the back precinct lot under camera supervision and no additional search was made until a search warrant was completed.

Deputy Adams agreed that Defendant's Exhibit #2 was the tow sheet he completed regarding this incident. He further explained that, although some inventory records were completed, "we elevated to a search warrant" in this case. He stated that he was familiar with a form known as an "SO-258" and that that was an inventory record. He did not, however, have any inventory records with him at the hearing. He explained that, although he did not have them with him, "SO-258s were filled out and a large number [sic]of property that was actually turned over to [Mr. Williams's] mom was indicated on those 258 forms, but several 258 forms were filled out."[1]

Video recordings

Deputy Adams confirmed that both his car and Deputy Smith's car were equipped with in-car video cameras. Video recordings from Deputy Adams' camera (Car #281) and

[1] Defendant's Exhibit 1 is a draft incident report that was admitted into evidence at the hearing. That report lists several items seized from Mr. Williams and his vehicle.

Deputy Smith's camera (Car #127), were admitted without objection.[2] Deputy Adams narrated as each video from the stop was played back during the hearing. Notably, the deputy testified as follows:

> Q. Again, looking at the video, where along the side of the road is there anywhere to park that car?
>
> A. There is none.
>
> Q. In fact, the car is in the right travel portion?
>
> A. The travel portion, yes.

The transcript from the in-car video cameras captured the conversation between Mr. Williams and the deputies about his car:

> MR. WILLIAMS: So can I have someone -- can I have somebody retrieve my vehicle?
>
> [DEPUTY SMITH]: (Indiscernible.)
>
> MR. WILLIAMS: Can I have someone get my car?
>
> [DEPUTY ADAMS]: Where they at?
>
> MR. WILLIAMS: They right over here.
>
> [DEPUTY ADAMS]: Anything in the car?
>
> MR. WILLIAMS: No.

[2] The videos are included with the record on appeal. On January 11, 2021, this Court granted Mr. Williams's "Unopposed Motion to Correct the Record" and "Unopposed Motion to Supplement the Record" with the transcript of the dashcam recordings from the traffic stop, September 7, 2018, as well as the transcript of the trial proceedings on July 26, 2019. As explained by Mr. Williams, in that transcript, Deputy Adams is misidentified as Officer Creighton, and Deputy Smith is misidentified as "Unidentified Female Officer." We refer to the officers by their proper names in accordance with Mr. Williams's explanation.

[DEPUTY ADAMS]: Can we look at it?

MR. WILLIAMS: Man, there's nothing in my car.

[DEPUTY ADAMS]: All right.

[DEPUTY SMITH]: I'm going to have him check it out anyway; is that cool?

[DEPUTY ADAMS]: Well, we're just going to tow it.

[DEPUTY SMITH]: Tow it?

[DEPUTY ADAMS]: Yep, we'll just tow it.

After this, Mr. Williams spoke to an unidentified individual who was in a car that slowed to drive around the police cars blocking the road. He asked that individual if they would "call my mom and let her know to come get my vehicle" and to "get my mom to get my vehicle?" Shortly after, Deputy Smith relayed to Deputy Adams that she had already started filling out the tow sheet.

Then, after noting that there were "too many people riding through" the area, Deputy Adams told Deputy Smith: "Right now, I got a tow. If somebody gets here before the tow gets here then - - " The deputies then engaged in a conversation with an unidentified female who parked in front of the vehicles involved in the stop, and then walked up beside Mr. Williams's car. She did not specify that she was there to take Mr. William's car but was "just passing and . . . stopped." They informed her that she "can leave 'cause we're towing the car." At that point, Deputy Adams again told Deputy Smith he would cancel the tow if someone arrived to take the car, stating "If somebody rolls up on this car, I'll cancel it but you never – if they're not here, we got a tow company."

Next, the video shows Deputy Smith searching Mr. Williams's car. She calls Deputy Adams over after she discovers what she identified as heroin and cocaine in the vehicle. Deputy Smith later testified that they recovered 89 grams of coke and 72 grams of heroin, which was a "lot" of drugs. They also observed that the drugs were "pure" and "not cut."

Officer Adams then announced: "You all need to get away. The car is being seized now." After the car was seized, the video shows that an unidentified male appeared on the scene. Mr. Williams had a discussion with this individual and requested that he inform others of his arrest.

Mr. Williams and Deputy Adams then discussed the events—Mr. Williams explained that he had "somebody to come get my car," and Deputy Adams replied, "[n]ah, we had already found the drugs when your boy got here, I think." Mr. Williams further insisted "my driver was right there," and Deputy Adams replied, "Your driver was not right there" and "He did not come over to the car."

During his cross examination, Deputy Adams was asked about the reasons for the stop and arrest, and whether Mr. Williams had a driver who could come pick up his vehicle:

> Q. Now, at some point in time you gave him a choice to call for somebody to come get the car?
>
> A. At some point I did say if somebody comes we'll work on that, but at that point I had already started the tow because there were people going by and it was just getting out of hand at that point. He was starting to get a little aggravated. At that point I made the decision we're not going to wait any longer. At some point a female rolled up and pulled in and she actually got into the lane of traffic which was actually adding to the congestion as well. Then later, well later, well after the narcotics were found he was able

> to find somebody walking by who he said, hey, call my people or, hey, take my keys to my car. But at that point the narcotics were already found.

Asked again whether Mr. Williams's vehicle was illegally parked in the travel lane, defense counsel inquired about this unidentified female who drove up to the scene and spoke with Mr. Williams, and Deputy Adams responded:

> Q. If the lady who had gotten out was able to drive, could she have taken the car away?
>
> A. Mr. Williams didn't say she was there to take the car. At that point he was yelling at her to call his mother. At that point I had already ordered the tow. The tow was already -- I had already started the inventory process at that point.

On redirect examination, Deputy Adams was asked the following about his decision to inventory and tow the Mr. Williams's vehicle:

> Q. Deputy Adams, the picture on the screen right now towards the end of the video, as that car sits in that video, could it remain there after you arrested [Mr. Williams]?
>
> A. Absolutely not.
>
> Q. And why not?
>
> A. Because traffic would have actually have to leave the lane of travel and complete a traffic violation. They are not allowed to travel in the turn lane. They would cause a hazard.

Deputy Smith

Deputy Smith testified that after she heard Deputy Adams's dispatch, she stopped Mr. Williams on the corner of Harford Square Drive and Longwood Drive. She approached Mr. Williams's vehicle, ascertained that he was the only occupant, and asked him for his license and registration. After Deputy Adams, the senior deputy, arrived on the scene, the deputies directed Mr. Williams to get out of the vehicle and placed him under

arrest for the outstanding warrant. Deputy Smith searched Mr. Williams and found "a large sum of money as well as individual sandwich baggies . . . on his person."

After Deputy Adams made the decision to tow Mr. Williams's vehicle, Deputy Smith, along with a field trainee, Deputy Jeffries, began the inventory search. Deputy Smith testified to what happened next:

> Q. Again, when you approached the car to start the inventory of the car, what, if anything, did you notice inside of the vehicle?
>
> A. I noticed that there was loose currency on the floorboard in the back seat. I believe it was like a loose five and a loose one. I also immediately noticed that there was two boxes of sandwich baggies on the front passenger's seat in plain view.
>
> Q. Now, in the course of inventorying the vehicle, where all did you look or where all did you search?
>
> A. When we inventoried the vehicle, I searched everywhere possible that any valuables could be.
>
> Q. And in the course of conducting your inventory, did you recover any items or any CDS?
>
> A. I did. I recovered CDS from the overhead sunglass compartment.
>
> Q. And what did you recover in there?
>
> A. It was a total of 72 grams of suspected heroin and 79 grams of suspected cocaine.
>
> THE COURT: Suspected what? 79 grams of what?
>
> THE WITNESS: 79 grams of suspected cocaine.
>
> Q. And after you discovered the heroin and cocaine in the car, what did you do at that point?
>
> A. At that point I immediately notified [Deputy] Adams.
>
> Q. And why did you notify [Deputy] Adams?

A. To make him aware that CDS had been located in the vehicle.

On cross-examination, Deputy Smith admitted that on the video she can be heard saying, as she began the search of the vehicle, "He's got shit in here somewhere."

As for the manner of her search of the vehicle, Deputy Smith explained:

> A. Again, I can't recall exactly what we did on the scene because as you can tell there is so much inventory in the vehicle. At one point, because of where we were parked on Hanson Road, we stopped -- I search a vehicle a certain way. I believe once the CDS was recovered and then given the rest of the belongings in the vehicle we stopped the search at that point to have it towed and then just have a search warrant written.
>
> Q. You never went inside the trunk or anything like that personally?
>
> A. We weren't going to bring all of that out into the road. That is why it was towed back to the precinct.

Deputy Smith did not have paper and pen when she started the inventory and explained that she typically compiles valuables first and then separates them after. She did not find any valuables but "found the CDS prior to anything else and as soon as the CDS was found I stopped." She also said that she found "money everywhere" inside the vehicle.

Asked to explain her inventory process, Deputy Smith testified that she first went "under the driver's side seat and then I went into the center console and then from there I believe I went to the compartments by the center console and then up to the sunglass area." Confirming that the drugs were found inside the sunglass compartment, Deputy Smith testified that there were no sunglasses inside that compartment. She also did not find the vehicle's registration.

When asked about the unidentified female who arrived on the scene, Deputy Smith testified that "[s]he did not come to retrieve the car. She was a bystander that had just

walked up on scene." According to Deputy Smith, this female was disruptive and disorderly and was simply "just someone who walked up on our traffic stop." On cross-examination, and while watching part of the in-car camera video recording, Deputy Smith agreed that, at one point during the course of the stop, Mr. Williams "asked, yes, if someone can come pick up his car. He didn't say that he had someone coming or he knew that someone could come or anything like that."

On redirect examination, Deputy Smith agreed that Deputy Adams was responsible for the paperwork and for making the initial decision to tow the vehicle. She also agreed that her procedure for inventory searches was to search the compartments, look for valuables, and then, compile them and prepare a list. However, in this case, the drugs were found within a "minute or two" after she began the search.

Mr. Williams

Mr. Williams testified that after he was pulled over, he got onto his phone in his car and called a woman named "Dijane." He told her that he needed someone to come to the scene of the stop because he had been pulled over. The unidentified female who arrived at the scene later was someone Mr. Williams was not "really familiar" with but was a "friend of the family." He told this woman that he was arrested and that he wanted her "to grab my car." He claimed that he asked her this while he was standing outside his vehicle with the police nearby. Mr. Williams also stated that another unidentified man came upon the scene, and he also asked him to take his car. Mr. Williams denied giving the police consent to "go into" his car.

On cross-examination, Mr. Williams did not identify the woman who arrived at the scene but explained that he was "familiar with who she is. I met her before." He told her that he wanted "somebody to get the vehicle" and that the officers were nearby when he told her this. sked whether he told the officers that the unidentified female was there to take his vehicle, Mr. Williams did not respond directly, and instead, testified "I didn't even know I had a warrant at first." He explained "[s]he had pulled up and I asked her could she get my vehicle and she said okay. They was all right there. Everything happened right in front of them." When asked whether Mr. Williams understood that the officers had already decided to tow the vehicle when the unidentified female arrived, Mr. Williams responded: "I never heard them say nothing about towing the vehicle." Williams concluded by testifying as follows:

> The young lady when she pulled up, she asked me what is going on and I told her I need someone to grab my car. She walked up to the, officers, which you see on the video, and she asked them, yo, can I get the car. That's when the officer walked up on her and they pushed her and told her she had to get back. She inquired about the vehicle and they told her that -- they wasn't trying to say nothing toward her. They told her to get back.

The court then heard argument, and both parties agreed that this Court's decision in *State v. Paynter*, 234 Md. App. 252 (2017), was instructive. The State asserted:

> . . . What *Paynter* goes on to say is the police must first of all be lawfully entitled to impound the car or exert control over the vehicle when the inventory must be conducted pursuant to a standard police procedure, which was the requirement by *Paynter* and *Paynter* relies on the Supreme Court ruling in [*South Dakota v. Opperman*, 428 U.S. 364 (1976)].
>
> In this case certainly under their departmental rules they are entitled to impound or exert control over the vehicle. Number one, the vehicle is stopped in the travel portion of the roadway, there is no shoulder, there is nowhere that the car can be left or remain legally parked. At that point that

> car cannot be left there and the officers made the decision at that point to impound the vehicle.

The State also cited *Paynter* for the proposition that "the police are not required to exhaust alternatives to towing." Further, the State contended that the fact that the police knew Mr. Williams and knew that he was involved in drug activity did not invalidate the search in this case.

Defense counsel focused on this latter point in challenging the search, asserting that the inventory search was merely a subterfuge to search Mr. Williams's vehicle. To that end, defense counsel argued that the police did not comply with their own standardized written procedures. Counsel argued that the officers did not fill out the proper paperwork, were not looking for valuables to inventory, and that, instead, after being denied consent to search by Mr. Williams, that the police were conducting a search incident to arrest.

Defense counsel also maintained that there was no inventory search whatsoever in this case. The court inquired further on that point:

> THE COURT: Isn't the testimony in this case that there was a tow order requested, number one; and subsequent to the tow order, number two, they started an inventory search; and within a minute they had found the illegal drugs and essentially shortly thereafter the search was terminated at the scene because of the traffic situation that was occurring because of the stopped vehicles and that it was taken back to the Southern Precinct to be searched? Isn't that the testimony in this case?
>
> [DEFENSE COUNSEL]: First of all, I would disagree with the Court that they entered the car to do an inventory. I think that is what they are saying, but there is no evidence.
>
> THE COURT: But that's the testimony.
>
> [DEFENSE COUNSEL]: Correct.

THE COURT: I didn't say that was a fact. I said that was the testimony.

[DEFENSE COUNSEL]: Yes, sir. It was taken back to the Southern Precinct lot, but I don't think we have any testimony about what happened after that.

THE COURT: No, we don't.

[DEFENSE COUNSEL]: Okay.

THE COURT: Except that a search warrant was requested.

[DEFENSE COUNSEL]: Correct.

THE COURT: And issued.

Defense counsel agreed that the subjective motivations of the police were not relevant to the question of whether there was a valid inventory search, agreeing with the court's observation that "[i]f there was a valid inventory search, it doesn't matter what the motive is, does it?" Counsel also recognized that Mr. Williams's vehicle "wasn't legally parked." However, defense counsel maintained that the inventory search was a "subterfuge" to look for evidence, and that the police did not follow their standardized policies.

After hearing a brief rebuttal from the State, the court denied the motion to suppress:

There is no doubt in my mind that when Mr. Williams was stopped it was the clear intention of the Sheriff's Department to obtain a search of that car for illegal drugs.

That being said, when you look at the video and you look at the CAD report, the question then becomes whether or not, notwithstanding that motive, was there a valid inventory search conducted. The car is clearly in the travel lane of the roadway. It clearly is not legally parked. It obviously has to be towed because of the traffic hazard it was creating. You could see that just by looking at the video. I was concerned about officer's safety and when some of those cars went by them because they had their backs to the

> road and that's how police officers are injured in the close contact with the travel portion of the roadway.
>
> So, I find that there was a valid basis for requesting a tow and that was done at 10:26 and some change. After the valid request for the tow, if it is being made in accordance with the Sheriff's Department policy, which I find that it was, illegal drugs were found within minutes after the initiation of the inventory search.

As to whether someone arrived to take the Mr. Williams's car, the court found that no one requested to take Mr. Williams's vehicle until the contraband was found. The court concluded:

> I find that there has been no substantial or significant violation of the Sheriff's written policy, which it is a requirement that one of the prerequisites is that there has to be a written inventory policy and I find that it had been substantially complied with and it is not a basis for sustaining a suppression motion or granting a suppression motion in this particular case. The vehicle was taken in under lawful custody, it substantially followed the written inventory policy, and even this though there was a motive to search the car, the search wasn't initiated solely on that basis that there was a valid purpose for taking the vehicle into custody given the traffic conditions and the conditions surrounding the stop concerning bystanders, et cetera.
>
> So, the motion to suppress is hereby denied based on the aforesaid statement.

Trial

The case proceeded to a three-day jury trial, beginning on July 24, 2019. The facts adduced at trial were substantially consistent with the facts elicited during the motions hearing. In brief, on September 7, 2018, at around 10:00 a.m., the LPR in Deputy Adams' vehicle alerted on Mr. Williams's black Chrysler 300 being driven by, and solely occupied by, Mr. Williams. A warrant check confirmed that Mr. Williams was wanted on an outstanding warrant issued by the District Court of Maryland for Harford County. Mr.

Williams's vehicle was then stopped by Deputy Smith. After receiving confirmation that Mr. Williams was wanted on an active warrant, Mr. Williams was ordered out of the vehicle and placed under arrest. United States currency and clear plastic baggies were recovered from Mr. Williams's person during a search incident to arrest.

Deputy Adams then made the decision to tow Mr. Williams's vehicle away from the scene of the stop to a tow yard. Deputy Adams testified that he made the decision to tow Mr. Williams's vehicle because, at that point, no authorized driver was identified or had arrived to drive Mr. Williams's vehicle from the scene, and because Mr. Williams's vehicle was parked in the roadway. Deputy Adams explained that the procedure prior to towing included an inventory of any valuables located inside the vehicle. As part of that inventory, Deputy Smith found suspected narcotics in the sunglasses compartment of the vehicle. Deputy Adams then decided to tow the vehicle to the police precinct instead of the tow yard and to obtain a search warrant to search the remainder of the vehicle.

Stephanie Laufert, a Forensic Scientist with the Maryland State Police Forensic Science Unit, also testified as an expert in forensic chemistry. According to Ms. Laufert, the substances found in Mr. Williams's car that were sent for analysis to the Maryland State Police Crime Lab tested positive for cocaine and a mixture of heroin and fentanyl.

Lieutenant Robert Royster with the Harford County Sheriff's Office testified as an "expert in the identification, packaging, and distribution of CDS." He opined that there were several different bags of cocaine in this case, and that one collection of 15 baggies would sell on the street in Harford County for approximately $3,750 to $4,500, and another bag of cocaine would sell for an additional $500 to $700. According to Lt. Royster, the

heroin/fentanyl mixture would sell for approximately $8,384. He testified that the quantities were consistent with distribution.

Mr. Williams called his cousin, Sha-mari Tucker, who testified that he placed the cocaine and heroin in the "visor" and/or "sunroof" of Mr. Williams's vehicle, two weeks prior to Mr. Williams's arrest, unbeknownst to Mr. Williams. On cross-examination, Mr. Tucker conceded that he had prior convictions for making false statements to a police officer and for selling fake drugs.

A jury convicted Mr. Williams of: possession of cocaine; possession of cocaine with intent to distribute; possession of heroin; possession of heroin with intent to distribute; possession of CDS paraphernalia; possession of CDS paraphernalia with intent to distribute; and possession of a "large amount" of heroin. The court sentenced Mr. Williams to a total of 40 years, with all but 25 years suspended, to be followed by five years' supervised probation upon release. Mr. Williams timely appealed.

We include additional facts in our discussion of the issues.

DISCUSSION

I.

Motion to Suppress

A. Parties' Contentions

Mr. Williams first contends that the court erred in denying his motion to suppress because the search of his vehicle was unlawful under the inventory search exception to the Fourth Amendment's rule against warrantless searches. First, Mr. Williams asserts that the "so-called inventory search was nothing more than a ruse or pretext to search for drugs."

Second, recognizing that the Harford County Sheriff's Office has a written inventory policy that authorizes the police to tow a vehicle for "legitimate purposes," Mr. Williams argues that "the policy does not state when, if ever, a deputy *must* authorize the towing and storage of a vehicle, and it does not provide standardized criteria for a deputy to apply in determining whether to authorize towing and storage." (Emphasis in original). Mr. Williams explains that the policy "does not *require* a deputy to impound a vehicle that is not legally parked if the operator of the vehicle is arrested." (Emphasis in original). Because of the absence of these criteria, according to Mr. Williams, "the impoundment and subsequent search was not sufficiently regulated to satisfy the Fourth Amendment." Finally, Mr. Williams contends that the search itself was not conducted in accordance with the written inventory policy at issue.

The State responds that the court's findings of fact supported its determination that the inventory search exception to the warrant requirement applied. The State asserts that whether the policy compelled the officers to call for a tow is "beside the point," and that "[w]hat matters is [whether] the tow was authorized on the basis of 'standard criteria' unrelated to criminal suspicion." According to the State, "[w]hat matters is that the officers were in compliance with the terms of the inventory policy at the time that Deputy Smith opened the sunglasses compartment and found the large quantity of heroin." Finally, the State avers that whether the officers had an investigatory purpose in this case, prior to the search, is "also unavailing" as they complied with the dictates of the written inventory policy.

Mr. Williams's reply brief substantially mirrors his initial brief and reiterates that the written inventory policy "does not address the rights of the operator, or a deputy's authority or discretion to tow, if the vehicle is not legally parked." Mr. Williams also maintains that this was a targeted search for drugs and that the inventory search was "a purposeful search for drugs from the very beginning and not a bona fide inventory search."

B. Analysis

Our review of a circuit court's denial of a motion to suppress evidence is "limited to the record developed at the suppression hearing." *Pacheco v. State*, 465 Md. 311, 319 (2019) (quoting *Moats v. State*, 455 Md. 682, 694 (2017)). We examine the record "in the light most favorable to the party who prevails on the issue that the defendant raises in the motion to suppress." *Norman v. State*, 452 Md. 373, 386 (citation omitted), *cert. denied*, 138 S. Ct. 174 (2017). The trial court's factual findings are accepted unless they are clearly erroneous, however, when there is a constitutional challenge to a search or seizure under the Fourth Amendment, this Court performs an "independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case." *Grant v. State*, 449 Md. 1, 15 (2016) (quoting *State v. Wallace*, 372 Md. 137, 144 (2002)).

The Fourth Amendment prohibits unreasonable searches and seizures by the State.[3]

[3] The Fourth Amendment to the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or

(Continued)

"Subject to a few well-delineated exceptions, 'warrantless searches are *per se* unreasonable under the Fourth Amendment.'" *State v. Andrews*, 227 Md. App. 350, 374 (2016) (internal quotations omitted). "'Although the underlying command of the Fourth Amendment is always that searches and seizures be reasonable, *what is reasonable depends on the context within which a search takes place.*'" *Id.* at 73-74 (quoting *Sate v. Alexander*, 124 Md. App. 258, 265 (1998) (emphasis added in *Alexander*)).

Under Supreme Court precedent, police officers may conduct inventory searches of the contents of automobiles and personal effects lawfully in police custody without first obtaining a warrant. *See, e.g.*, *Colorado v. Bertine*, 479 U.S. 367, 376 (1987) (holding that police may search canister inside pouch contained in backpack inside locked vehicle either at roadside or at impoundment lot); *Illinois v. Lafayette*, 462 U.S. 640, 648 (1983) (concluding that police may search arrestee's bag and containers "as part of the routine procedure incident to incarcerating an arrested person . . . in accordance with established inventory procedures"); *South Dakota v. Opperman*, 428 U.S. 364, 368-69 (1976) (recognizing the "caretaker functions" underlying the automobile inventory search). We note that the ability to take vehicles into police custody that are "impeding traffic or threatening public safety and convenience" stems from the community caretaking function. *Wilson v. State*, 409 Md. 415, 430 n.5 (2009) (quoting *Opperman*, 428 U.S. at 368); *see*

---

affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. amend. IV.

also Thompson v. State, 192 Md. App. 653, 671 (2010) (observing that an officer's decision to tow a vehicle was "consistent with a long line of Maryland cases that give police departments authority to take automobiles in custody, 'in furtherance of their community caretaking functions'" (citation omitted)).

Just as established as the principle that police may inventory the contents of a vehicle lawfully taken into custody is the concomitant rule that the inventory search must not be a ruse to rummage for contraband. *Whren v. United States*, 517 U.S. 806, 811 (1996). It must be conducted when "the vehicle is in lawful police custody at the time of the search and the search is carried out pursuant to 'standardized criteria or [an] established routine' established by the law enforcement agency." *Briscoe v. State*, 422 Md. 384, 397 (2011) (quoting *Florida v. Wells*, 495 U.S. 1, 4 (1990)); *see also White v. State*, 248 Md. App. 67, 111 (2020) ("The purpose of the inventory search of an impounded automobile, of course, is not to recover evidence of a crime, but only to list any items of value in the car and to serve a copy of said inventory list on the owner or rightful possessor of the vehicle"). As such, the "use of the inventory search must be limited to those circumstances that are tied to the precise justification for it, which do not include criminal investigation." *Briscoe*, 422 Md. at 397.

Accordingly, "the State must ensure that the record of the suppression hearing reflects both that the vehicle was in lawful police custody at the time of the search *and* that the search was conducted in accordance with a sufficiently standardized departmental policy or routine." *Id.* (emphasis in original). This Court has observed:

> Without the existence of a standard policy, an officer's actions in conducting the [inventory] search are not sufficiently regulated to assure that the search is in furtherance of legitimate police caretaking functions, unrelated to the existence *vel non* of probable cause, and not in furtherance of the officer's own investigatory motives.

Sellman v. State, 152 Md. App.1, 21 (2003).

As the parties recognize, *State v Paynter*, 234 Md. App. 252 (2017), is instructive. There, Daniel Paynter was stopped for speeding while he drove his 2014 Chevrolet Impala on the streets of Laurel, Maryland. *Id.* at 257. During the course of the stop, Officer Donald Rohsner learned that Paynter's license was suspended and that there was a "caution code" indicating that he was "possibly armed." *Id*. at 258. In addition, the vehicle's registration was suspended by the Motor Vehicle Administration, and there was an existing "pick-up order" which required confiscation of the vehicle's tags. *Id*.

At the suppression hearing, the State called Officer Nicholas Cahill, who responded to the stop as a secondary officer. *Id.* We recounted his testimony on the inventory procedures, noting that Officer Cahill described the written and established procedures of the Laurel Police Department with respect to inventories, and the admission of the printed seven-page policy of the Department as State's Exhibit 1. *Id*. at 258-59. Officer Cahill also noted his field training on inventory searches and discussed their purpose and his procedure, including the use of a motor vehicle tow report, admitted at the hearing as State's Exhibit 2. *Id*. at 259. Video from Officer Rohsner's body camera, recording the inventory search, was also introduced as State's Exhibit 3. *Id*. at 259 n.1.

After recounting the federal and state legacy of the law of inventory searches, we observed that the first "cardinal requirement" for a valid inventory search was that the

vehicle must be in the lawful custody of the police. *Id.* at 275. We further noted "lawful custody" is *not* undermined even if the police do not exhaust all available alternatives to towing the subject vehicle, including notifying the car's lawful owner and giving them the opportunity to decide how best to move a lawfully stopped vehicle. *Id*. at 276-77.

We then explained that the second requirement of a valid inventory search is that the "search must be carried out pursuant to a standardized police policy." *Id.* at 277. Earlier in our opinion, we stated that "[t]here not only must be such a policy. There must also be evidence of such a policy presented to the suppression hearing judge." *Id*. at 272 (discussing *Sellman*, 152 Md. App. at 21). Such was evident at the suppression hearing in *Paynter*:

> In this case, that requirement was abundantly satisfied. The Laurel Police Department has a seven-page General Order, issued on May 6, 2014, dealing with "Motor Vehicle Impounding." Sect. 4/308.20 D. Impound and Release Procedure b. provides:
>
> > The contents of all impounded vehicles shall be inventoried and listed on a Motor Vehicle Tow Report.
>
> That entire General Order was introduced at the suppression hearing as State's Exhibit 1. The Tow Report that, inter alia, listed the items recorded pursuant to the inventory, was also introduced at the suppression hearing as State's Exhibit 2. In addition to the documentary evidence, Officer Cahill testified about his department's inventory policy, about his familiarity with it, and about his "field training" with respect to the proper implementation of the inventory procedure.
>
> At the suppression hearing, defense counsel did not argue that the police did not have an inventory policy. Defense counsel does not now contend that the General Order was inadequate in any way. We hold that this policy requirement was abundantly satisfied.

Id. at 277.

We rejected Paynter's arguments that the inventory was flawed for incompleteness or that any subjective motivation of the police due to their suspicion that Paynter was armed tainted the inventory procedure into an unlawful investigatory search. *Id.* at 278-87. We explained:

> The bottom line is that the two inducements for a search may live comfortably side by side. They are not antagonistic, and the additional presence of an investigative purpose will not erase the establishment of a solid inventory search justification. The undergirding truth is that the contemporaneous possession of two desiderata does not mean that one of them is a subterfuge. That, of course, would be the only reason for invalidating an otherwise valid inventory search. Such a reason does not exist in the present case. Once again, moreover, the appellee cites neither caselaw nor academic authority in support of his inherent cynicism.

Id. at 287.

In this case, Mr. Williams does not dispute that the Harford County Sheriff's Office has a written standardized inventory policy. Instead, he argues that the policy "does not require a deputy to impound a vehicle that is not legally parked if the operator of the vehicle is arrested." However, Mr. Williams concedes that the policy allows for the towing and storage of vehicles for "legitimate purposes," including, for example, abandoned vehicles, stolen vehicles, vehicles involved in motor vehicle crashes, vehicles involved in criminal activity and for motor vehicle violations where the operator is arrested. The policy further provides specific procedures for how the deputy is to contact the tow company and arrange for towing and storage. And, if the operator of the vehicle is arrested, that person may secure his or her vehicle "and allow it to remain legally parked" under several circumstances, including if the vehicle is not being held for evidence, the operator assumes

full responsibility for the vehicle, and the operator can make arrangements to have the vehicle removed within a reasonable time.

We conclude that the Harford County Sheriff's Office has a standardized policy allowing for when the police may tow a vehicle for legitimate purposes under the Fourth Amendment. The repeated use of the verbal auxiliary "may," persuades us that the policy is discretionary. *See, e.g.*, *Rockwood Cas. Ins. Co. v. Uninsured Emps.' Fund*, 385 Md. 99, 119-20 (2005) ("The commonly understood meaning of the word 'may' is 'has discretion to; is permitted to.' It does not mean 'must.'" (citations omitted)). We disagree with Mr. Williams's premise that the fact that this policy allows for the exercise of discretion entirely negates it. *See State v. Paynter*, 234 Md. App. at 265 ("Nothing in Opperman or Lafayette prohibits the exercise of police discretion so long as that discretion is exercised according to standard criteria and on the basis of something other than suspicion of evidence of criminal activity." (emphasis in original) (quoting *Bertine*, 479 U.S. at 375)). In this case, there is no dispute that Mr. Williams's vehicle was blocking traffic and not legally parked. We hold that the deputy complied with the written policy when he decided to order a tow truck to come and remove Mr. Williams's vehicle.[4]

Next, Mr. Williams argues that the deputies did not comply with the standardized

[4] We also conclude that Mr. Williams's argument based on the holding in *Florida v. Wells*, 495 U.S. 1, 4-5 (1990), that a search of a closed container found during an inventory search was unlawful absent a policy on the issue, was not presented to the motions court and is not preserved. *See Ray v. State*, 435 Md. 1, 19 (2013) (waiving right to assert theory on appeal after failing to advance it before the suppression court). We also note the Harford County Sheriff's Office *does* provide that "locked/sealed containers" should not be broken open to be inventoried. There was no evidence that the overhead sunglass compartment in this case was locked or sealed.

policy. That policy requires that an inventory shall be completed "whenever a deputy authorizes the storage of a motor vehicle" and that any valuables taken into custody be kept for safekeeping and listed on the pertinent forms. The policy provides, in relevant part:

> c. The inventory shall encompass all areas and containers:
>
> 1) Interior of vehicle.
>
> 2) Glove box and console(s).
>
> 3) Trunk.
>
> 4) Unlocked containers, (i e. briefcases, luggage etc.).
>
> d. Deputies shall not break open locked/sealed containers in order to inventory them.
>
> e. Locked containers shall be listed on the Vehicle Storage Form as "one locked/sealed container" with a description of the container.

Here, Deputy Adams made the decision to tow Mr. Williams's vehicle after Mr. Williams was arrested on the outstanding warrant, based on the fact that the vehicle was not legally parked and because no one was present to take his vehicle. After that, and pursuant to the policy, Deputy Smith began to inventory the contents of the vehicle. She explained that she did not take notes at the beginning because she normally would "compile valuables" and then separate them thereafter. She began by looking at the floorboard in the back seat, and searched "everywhere possible that any valuables could be." Deputy Smith then "went through pretty much the door of the driver's side, the glove box, the center console, basically everything in the immediate driver area, the overhead sunglass compartment." She also testified that she searched "under the driver's side seat and then I went into the center console and then from there I believe I went to the compartments by

the center console and then up to the sunglass area." Although no sunglasses were contained in that compartment, approximately "72 grams of suspected heroin and 79 grams of suspected cocaine" were recovered from the sunglass compartment. At that point, the inventory ceased, and Deputy Adams determined that a search warrant would be needed to search the remainder of the car. The tow sheet completed by Deputy Adams was introduced into evidence, and, although he did not have them with him, he explained that "SO-258s were filled out and a large number of property that was actually turned over to [Mr. Williams's] mom was indicated on those 258 forms, but several 258 forms were filled out." Based on this, we are persuaded that the deputies complied with the standardized written inventory policy for the Harford County Sheriff's Office and that the search was properly conducted under the Fourth Amendment.

Finally, after applying the applicable decisional law to the circumstances presented in this case, we conclude that the subjective motivation of the deputies—even if it was to investigate Mr. Williams, a person known to them for criminal activity—is not dispositive. Notably, "[a]s long as the established conditions for executing an inventory search are satisfied, the addition of an investigative expectation does not invalidate that parallel justification." *Paynter*, 234 Md. App. at 285; *see also Whren*, 517 U.S. at 813 ("Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis"). The motions court properly denied the motion to suppress.

II.

Hearsay

A. Background

Deputy Adams testified that his patrol car was equipped with a license plate reader ("LPR"), which "arbitrarily reads every tag that goes into its beam." The LPR "picks up a tag, sends it to a computer, and the computer sends information regarding that tag." Asked if this information includes the identity of the registered owner, Deputy Adams replied:

> What it does is it puts a myriad of information on there. It'll say if the car is bad, if the registered owner may have a warrant or any type of deportation order, protective order. It will relay that. I set it for every setting. So every tag it passes, it may read suspended, but in this case it read for a wanted person.

At this point, defense counsel objected "to what the LPR told the officer on this case" and the State replied that "[i]t's not offered for the truth of the matter asserted but for why the officer – for his conduct on the date in question." The court overruled the objection without comment. At that point, defense counsel requested a bench conference and the following ensued:

> [DEFENSE COUNSEL]: Judge, while it may be true that it may come in under effect on the reader or effect on the listener from the computer, I ask that the Court not allow the officer to testify that he received information that Mr. Williams was the registered owner of the vehicle. I don't think that had anything to do with the arrest and that would be hearsay from the Motor Vehicle Administration that I'm not sure can be overcome by effect on listener.
>
> [PROSECUTOR]: Your Honor, it's a common record that's generated, as the officer's already testified to. It's a common record that's generated through the LPR. It reads the registration plate. That's why I asked him about the registered owner, that it checks on that registered owner's status and that's what he's testified to at this point - that the status

> of the registered owner in this case, the defendant, and it came back he had an open warrant.
>
> THE COURT: I'm going to overrule your objection on these grounds: Given that as part of the officer's responsibilities in terms of this particular investigation to find out information about the driver of the vehicle, this is the portal through which that is done. That's no different than getting information about a warrant that is outstanding in terms of who that individual is that is subject to arrest under a particular warrant. So I'm going to overrule your objection.
>
> [DEFENSE COUNSEL]: Thank you, Your Honor.

Mr. Williams's counsel did not request a limiting instruction regarding the information offered by the LPR.

Thereafter, Deputy Adams continued his testimony, indicating that the LPR identified the Chrysler 300 in issue and that it provided information as to the registered owner. Deputy Adams then testified that, "I immediately [ran] that tag myself, [to] verify what information it provided[.]" Mr. Williams's counsel then objected to "what the additional computer record check did and the result of that because that would extend beyond the [c]ourt's ruling on the previous objection." The court then overruled counsel's objection because Deputy Adams was "taking his own steps to confirm information in order to take the next steps in the investigation." The deputy then testified:

> Q. So you confirmed the information that was provided by the LPR; correct?
>
> A. Correct.
>
> Q. And then who was the registered owner of the vehicle?
>
> A. Mr. Williams, sitting at defense table to my right.
>
> Q. And you know Mr. Williams?

A. I do.

Q. And as far as the defendant's status on that day, what did you learn as far as his status through both the LPR and your own independent check?

A. Both checks revealed that there was an active warrant through the District Court of Harford County.

At closing argument, the prosecutor submitted that "this is a constructive possession case" and explained to the jury:

> When you look at the factors in this case, one of which is, whose care is that? It's the defendant's car. The defendant is the only one in the car. He's the only one in the car when it's stopped.
>
> * * *
>
> So when he's stopped he has, again, the constructive possession. He had dominion and control over the car. He's driving it. He has sole control over it. It's his car. **On the LPR, the license plate reader, it comes up, gets a hit on the car and it reads off the registered owner is the defendant, Artiis Williams.** When they stop the car, who's in it? Artiis Williams. Who has the open arrest warrant? It's Artiis Williams. Everything that was found within this car and that is recovered by the deputy, except for the cash and except for the glassine [sic] or the sandwich baggies in his pocket, they're all within his reach, grasp, and lunge.

(Emphasis added). Mr. Williams's counsel did not object to the prosecutor's comments at closing argument regarding the LPR.

B. Parties' Contentions

Mr. Williams seeks reversal based on the admission of hearsay during the trial. He argues that the court erred by overruling his objection when Deputy Adams testified that Mr. Williams was the registered owner of the Chrysler 300. According to Mr. Williams, this testimony was offered to prove that Mr. Williams was the owner of the car which "makes it more probable that he had knowledge of, and possessed, the drugs recovered in the sunglass compartment."

The State responds that the testimony was nonhearsay because it was akin to "circumstantial crime scene evidence," and that, in any event, any error was harmless beyond a reasonable doubt. Mr. Williams replies that the evidence was not nonhearsay because it was admitted for its truth, *i.e.*, to prove that Mr. Williams was the owner of the car.

C. Analysis

'"Hearsay' is 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." Md. Rule 5-801 (c). A "statement" is "(1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion," Md. Rule 5-801(a), and a "declarant" is "a person who makes a statement." Md. Rule 5-801(b). Hearsay is not admissible "[e]xcept as otherwise provided by these rules or permitted by applicable constitutional provisions or statutes." Md. Rule 5-802. Whether evidence is hearsay is an issue of law reviewed that we review without deference to the trial court. *Gordon v. State*, 431 Md. 527, 536 (2013). *See also Wise v. State*, 471 Md. 431, 442-43 (2020).

In resolving whether the court in this case erred in admitting the statement from the LPR, we first identify the "proposition that the evidence was offered to prove," i.e. whether or not the statement was offered into evidence to prove that Mr. Williams was the owner of the vehicle. *Webster v. State*, 221 Md. App. 100, 116 (2015). We recognize that evidence may "serve more than one purpose." *Bernadyn v. State*, 390 Md. 1, 15 (2005). Indeed, "the admissibility of [evidence] depends on the purposes for which [it is] offered." *Id.* at 16. The Court of Appeals has further clarified:

> If the proponent of a statement claims to offer the evidence for a purpose other than its truth, but also offers the statement to prove the truth of a matter asserted therein, the court should either exclude the evidence or make clear that the evidence is admitted for a limited purpose. Defense counsel is then on notice that the evidence is admissible, albeit for a limited purpose, and may then request a limiting instruction.

Id. at 15. The Maryland Rules state that "[w]hen evidence is admitted that is admissible as to one party or for one purpose but not admissible as to another party or for another purpose, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly." Md. Rule 5-105.

Here, there was no limiting instruction from the court, and the parties dispute the purpose for which the LPR statement was offered into evidence. The State asserts that the evidence constituted circumstantial crime scene evidence,[5] whereas Mr. Williams argues that the evidence was offered to prove that Mr. Williams was the registered owner of the car. We observe that the evidence, while initially offered for a permissible purpose, was also utilized during closing argument to "prove the truth" of the matter that Mr. Williams owned the car and, the admission of the LPR statement, for this purpose, constituted inadmissible hearsay. However, because defense counsel failed to object when the same evidence came in multiple other times and through other witnesses, even if the LPR

[5] The State tangentially suggests that the testimony on the vehicle registration was admissible because it was probative of why police made the arrest on the open warrant. *See Parker v. State*, 408 Md. 428, 438 (2009) (stating that evidence is nonhearsay "when it is offered for the purpose of showing that a person relied on and acted upon the statement and is not introduced for the purpose of showing that the facts asserted in the statement are true").

statement constituted inadmissible hearsay, we conclude any error would be harmless beyond a reasonable doubt. *Peisner v. State*, 236 Md. 137, 144 (1964). We explain.

Relying on *Fields v. State*, 168 Md. App. 22, 37, *aff'd*, 395 Md. 758 (2006), the State argues that the information from the MVA was circumstantial crime scene evidence. In *Fields*, Saturio Grogrieo Fields, also known as "Sat Dogg," was convicted of first-degree murder and two counts of first-degree assault stemming from the shooting of three young men at a bowling alley. *Id.* at 27. A detective, responding to a bowling alley shooting, observed the names of the bowlers on the television monitors above each lane and wrote them down, including the names on the screen above lane 22: "Sat Dogg/Bleu/Vino." *Id.* at 29.

Both before and during trial, Fields moved to preclude the State from eliciting testimony from the detective that the name "Sat Dogg" appeared on the television screen in the bowling alley. *Id.* at 29-30. He argued "that the name 'Sat Dogg' on the screen was an implied assertion, by an unknown declarant, made out of court, that the appellant was present in the bowling alley that night; and the State was offering the implied assertion in evidence to show its truth." *Id.* at 29.

This Court affirmed the trial court's decision to admit the detective's testimony. Applying the Court of Appeals' then recent decision in *Bernadyn*, a majority of this Court held that the content of the television monitor above lane 22, as relayed to the jury by the detective, constituted "an item of circumstantial evidence" of a material proposition—specifically, that Fields was present at the bowling alley—and not a direct or implied assertion of that proposition by an out-of-court declarant:

> The prosecutor did not attempt to use the evidence of the words "Sat Dogg" on the screen at the bowling alley to show that a known declarant believed the Mr. Williams was present there, had reason to accurately hold that belief, and therefore was impliedly asserting that factual proposition by entering his nickname on the screen. Unlike . . . *Bernadyn*, . . . the probative value of the evidence that the Mr. Williams's name was on the television screen did not depend upon the belief of the person who typed the name on the screen, or upon the accuracy of that person's belief. The prosecutor did not argue that the person who entered the name "Sat Dogg" on the screen only would have done so if he or she believed that the Mr. Williams was present in the bowling alley. Indeed, there was no evidence about that person's belief, because the person was not identified. The prosecutor argued only that the crime scene included a bowling lane with the name "Sat Dogg" written above it.

Id. at 37.

Further, while we recognized that there was some probative value to the evidence at issue, we concluded that " [t]he appellant's name on the television screen in the bowling alley was not an implied assertion of the factual proposition that the appellant was present at the bowling alley, although it was circumstantial evidence that could be probative of that fact." *Field,* 168 Md. App. at 38.[6] "Because the evidence was not an 'assertion,' under Rule 5-801(a), it was not a 'statement' under that subsection and hence was not hearsay under Rule 5-801(c). It was admissible non-hearsay evidence." *Fields*, 168 Md. App. at 38.

In *Fields*, we noted that, had the prosecutor attempted to use the monitor evidence as proof that the declarant (specifically, the individual, who had placed the name on the monitor in question), believed Fields was present at the bowling alley, and was correct in

[6] The Court of Appeals affirmed this decision on harmlessness grounds, expressly declining to consider the merits of this Court's hearsay analysis. *Fields,* 395 Md. at 759.

that belief, that would have rendered the name listed on the monitor as inadmissible hearsay. *Fields*, 168 Md. App. at 37.

Five years later, we considered whether a check was admissible as circumstantial non-assertive crime scene evidence in *Fair v. State*, 198 Md. App. 1 (2011). There, a detective arrested Fair for possession of marijuana. *Id.* at 3. While conducting a search of a nearby vehicle that contained marijuana in plain view, the detective found in the center console a firearm and a combined paycheck and stub in Fair's name. *Id.* On appeal, we considered, among other things, the admissibility of the paycheck. After an extensive review of the law, we upheld the trial court's decision to admit the paycheck, explaining:

> Recognizing some murkiness in the precedential landscape, but, treating the writing on the check as a verbal part of the act of issuing the check, we are persuaded that the check was merely circumstantial non-assertive crime scene evidence. Though the recent date of the paycheck was emphasized, the date on which [Fair] was paid was not a contested issue in the case. The contents of the check, including the date, were not relevant to the crime with which [Fair] was charged. *Its relevance was that its presence supported an inference that [Fair], who happened to be the payee of the check, had recently accessed the console and was therefore aware of its contents.*
>
> * * *
>
> In considering whether the declarant of the contents of the paycheck impliedly asserted any relevant fact not explicit on its face, we conclude that the only assertions implied by the paycheck are that the City owed, or believed it owed, a named employee wages for a period worked, and that the Payroll Division had, or believed it had, the funds in its account to cover the check for those wages. The paycheck was not offered to prove the truth of any of these implied assertions, and, in our view, was properly admitted.

Id. at 37-38 (emphasis added).

Returning to the case on appeal, we conclude that the LPR statement evidence was initially offered for a permissible purpose. Specifically, in response to the objection from Mr. Williams's counsel, the State asserted that the LPR statement was "not offered for the

truth of the matter asserted but for . . . [the officer's] conduct on the date in question." As in *Fields*, the probative value of the information did not depend upon the belief of the person who imputed the information at the DMV or upon the accuracy of the information. Rather, the LPR reading could be admissible within the broad "category of non-assertive circumstantial crime scene evidence" because this evidence was probative of Mr. Williams's connection to the scene of the crime. Indeed, Mr. Williams's counsel even conceded at trial that there may be admissible purposes for this information. Mr. Williams did not seek a limiting instruction to prohibit the jury from considering the LPR statement for the truth of the matter asserted. *See State v. Young*, 462 Md. 159, 180 (2018) (noting that "when evidence is offered for a limited purpose, such as a legally operative verbal act or circumstantial non-assertive evidence, a limiting instruction is likely appropriate").

During closing argument, however, the State utilized Deputy Adams' testimony as proof that Mr. Williams was the registered owner of the car. Specifically, the State argued that "[w]hen you look at the factors in this case, one of which is, whose car is that? It's the defendant's car." And, "[i]t's his car. On the LPR . . ., it comes up, gets a hit on the car and it reads off the registered owner is this defendant, Artiis Williams." Consequently, although the LPR statement was initially admitted for a permissible purpose, it may have been rendered inadmissible when, during closing argument, the State argued that it proved that the car belonged to Mr. Williams. *Fields*, 168 Md. App. at 37. Regardless, we hold that that the court's admission of the LPR Statement was harmless beyond a reasonable

doubt.[7] *See Dorsey v. State*, 276 Md. 638, 659 (1976) (error will be harmless when a reviewing court, upon independent review, is able to declare a belief beyond a reasonable doubt that there is no reasonable possibility that the error contributed to the verdict). As the Court of Appeals explained:

> As we do in all cases, where a party has alleged error, we look to see if there was error and inquire into whether the error prejudiced the defendant. If our answer is no, the inquiry ends. If we determine that the error prejudiced the defendant, we analyze how the error prejudiced the defendant. If, as in this case here, we cannot say beyond a reasonable doubt that the error in no way influenced the verdict, we reverse and remand the case for a new trial.

Williams v. State, 462 Md. 335, 352-53 (2019).

As the Court of Appeals has explained, "the general rule [is] that where testimony objected to comes in later without objection from another witness, there can be no successful claim on appeal that the original error, if any, was prejudicial." *Peisner*, 236 Md. at 144; *Yates v. State*, 202 Md. App. 700, 708-09 (2011) ("This Court and the Court of Appeals have found the erroneous admission of evidence to be harmless if evidence to the same effect was introduced, without objection, at another time during the trial.").

[7] Because we conclude that any alleged error was harmless, we need not decide whether the LPR statement constituted a statement by a declarant and is subject to the hearsay rule. Md. Rule 5-801(b). *See Fields*, 395 Md. at 759.

It is axiomatic that the hearsay rule only applies to out-of-court statements made by a person. *See Baker v. State*, 223 Md. App. 750, 762 (2015) ("When records are entirely self-generated by the internal operations of the computer, they do not implicate the hearsay rule because they do not constitute a statement of a 'person.'"). We note that there was no evidence presented concerning how the records were created, including the extent of human input, and we cannot affirm the admission of the LPR Statement on the grounds that it was solely computer-generated.

In this case, defense counsel failed to object when the same evidence later came in through Deputy Smith's testimony and through Mr. Williams's own witness. Deputy Smith testified, without objection, that a photograph of the vehicle in question was of "Artiis Williams' vehicle." In addition, Mr. Williams's witness, Shamari Tucker, confirmed during direct examination from Mr. Williams's counsel, that Mr. Williams owned a Chrysler 300 and that he had borrowed it on occasion. Relatedly, both Deputy Adams and Deputy Smith testified that, when they approached the Chrysler, Mr. Williams, the only occupant, was seated in the driver's seat. Both deputies were familiar with Mr. Williams, and both testified they had never seen anyone else driving that particular vehicle. Deputy Adams testified that he was familiar with Mr. Williams and his vehicle, a black Chrysler 300, because he had seen Mr. Williams driving that vehicle on numerous prior occasions and knew that Mr. Williams was "involved in the drug trade" in the area.

Moreover, the central premise of the State's case was that Mr. Williams was in constructive possession of the items found inside the Chrysler 300. The entirety of the closing argument shows that the State's theory that Mr. Williams had constructive possession of the drugs was not limited to information that he was the registered owner:

> But this is a constructive possession case and what the [c]ourt says for you to do, it gives you a list of factors for you to consider and we're going to go through those factors. When you look at the factors in this case, one of which is, whose car is that? It's the defendant's car. The defendant is the only one who's in the car. He's the only one in the car when it's stopped. There's no one else in the car and I submit to you -- I know the hour's late and I'll try to be quick, but if you look at this photograph which is of the front passenger seat, there's no way anyone is sitting on that front passenger seat with all the stuff that is on that particular seat. The same with this photograph of the rear seat of the car. No one is going to sit or was sitting in the rear seat

> of that car. It's packed full. It's packed full. No one was [inaudible - coughing] and the deputies testified that there was no one else in the car.
>
> So when he's stopped he has, again, the constructive possession. He had dominion and control over the car. He's driving it. He has sole control of it. It's his car. On the LPR, the license plate reader, it comes up, gets a hit on the car and it reads off the registered owner is this defendant, Artiis Williams. When they stop the car, who's in it? Artiis Williams. Who has the open arrest warrant? It's Artiis Williams. Everything that was found within this car and that is recovered by the deputy, except for the cash and except for the glassine or the sandwich baggies in his pocket, they're all within his reach, grasp, and lunge.

As the Court of Appeals has explained, "owners/drivers of vehicles are perceived to have heightened control over the contents of their vehicles." *State v. Smith*, 374 Md. 527, 551 (2003) (citing *State v. Wallace*, 372 Md. 137 (2002)). Further:

> [T]he status of a person in a vehicle who is the driver, whether that person actually owns, is merely driving or is the lessee of the vehicle, permits an inference, by a fact-finder, of knowledge, by that person, of contraband found in that vehicle. In other words, the knowledge of the contents of the vehicle can be imputed to the driver of the vehicle.

Id. at 550 (concluding that knowledge of a handgun in the trunk of the vehicle could be imputed to the driver). *Accord Neal v. State*, 191 Md. App. 297, 316 (stating that "[a] person has constructive possession over contraband when he or she has dominion or control over the contraband itself or over the premises or vehicle in which it was concealed"), *cert. denied*, 415 Md. 42 (2010). In sum, any error in admitting Deputy Adams's challenged testimony was harmless beyond a reasonable doubt.

JUDGMENTS OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.