Circuit Court for Cecil County
Case No. C-07-CR-23-000365

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2138

September Term, 2024

WAYNE DONALD YURCOVIC, II

v.

STATE OF MARYLAND

Wells, C.J.,
Leahy,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: January 20, 2026

*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).

A jury empaneled in the Circuit Court for Cecil County convicted appellant Wayne Yurcovic of over a dozen charges related to an armed robbery, including use of a firearm in commission of a crime of violence and unlawful possession of a firearm after a felony conviction. The court sentenced him to a total of 27 years in prison.

Yurcovic filed a timely appeal and poses three questions which we restate verbatim:

1. Did the pre-trial hearing court err by denying the motion to suppress Mr. Yurcovic's statement to police?

2. Did the trial court err or abuse discretion by ruling portions of recorded telephone calls admissible into evidence?

3. Is the evidence legally insufficient to sustain Mr. Yurcovic's convictions?

We answer the first question in the affirmative. The State concedes, and we agree, that the admission of Yurcovic's post-invocation statements was erroneous and not harmless beyond a reasonable doubt. As a result, the case is remanded to the circuit court for a new trial. Because the issue of the admissibility of the jail calls will likely reoccur on remand, we address that issue herein and hold the trial court acted within its discretion in admitting the challenged jail calls. Finally, we hold the evidence was sufficient to support Yurcovic's convictions.

FACTUAL AND PROCEDURAL BACKGROUND

On October 27, 2022, at approximately 12:46 a.m., a masked individual armed with a handgun entered the Royal Farms store in Cecilton and robbed two employees at gunpoint. The robber wore clothing that covered his entire body except for a small slit

across his eyes, making visual identification impossible. The robber took approximately $183 from the register and fled on foot.

Police recovered surveillance footage showing the robbery but were initially unable to identify the perpetrator. The case remained unsolved for several months until police discovered a black handgun in the woods near the Royal Farms. Forensic analysis revealed DNA on the weapon belonging to Aaron Swope, who had died on October 17, 2022—ten days before the robbery. This discovery eventually led investigators to Yurcovic, a friend of Swope.

A. The Police Interview and *Miranda* Violation

On February 2, 2023, Maryland State Police Master Trooper Kelly Jaskiewicz interviewed Yurcovic at the Maryland State Police Barrack in North East. The interview was recorded. Master Trooper Jaskiewicz began by advising Yurcovic of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966). When presented with the written *Miranda* form, Yurcovic responded, "I ain't going to talk," shook his head, and pushed the form away.

Despite this invocation of his right to remain silent, Master Trooper Jaskiewicz continued speaking to Yurcovic. She told him: "Okay. No problem. So you will be seen on your warrant. I don't know what else to say to you. The funny thing is, people are willing to throw you underneath the bus so you've definitely pissed off some people."

Master Trooper Jaskiewicz then engaged in a nearly three-minute monologue, discussing various matters including people forcing entry into Yurcovic's hotel room and stealing money, a dispute with "John John" about money, something about "dope" that

"Hannah's dad" provided, and a general comment that "for whatever reason, people want to hurt you." When Yurcovic sought more information about these allegations, the Trooper responded that she was "not allowed to ask [him] questions if [he] [didn't] want waive [his] [rights]."

Yurcovic then signed the *Miranda* waiver form, explaining: "I just don't understand what's going on right now. That's the only reason why I'm doing this." The interrogation continued, during which Yurcovic made several statements that he later moved to suppress.

At the suppression hearing, Master Trooper Jaskiewicz testified that she continued talking to Yurcovic after his invocation because she was trying to "build a rapport" with him, noting "[t]ypically if we build a rapport, they're more likely to speak with us." The motions court denied the motion to suppress, finding that Yurcovic "was not subjected to further questioning or further interrogation" after he initially declined to waive his rights.

B. The Jail Calls

While detained pending trial, Yurcovic made numerous recorded telephone calls from the detention center. The State sought to introduce portions of six calls at trial. Three of these calls are at issue in this appeal:

Call 1 (State's Exhibit 37): Yurcovic told his girlfriend that the police told him Aaron Swope "was dead for the one in Cecilton." Yurcovic's girlfriend suggested it was fortunate Swope was the same height as Yurcovic, and Yurcovic responded by noting Swope was dead at the time of the robbery.

Call 2 (State's Exhibit 38): Yurcovic explained to the other party, "I signed a waiver; I just wanted to know what they had on me."

Call 3 (State's Exhibit 40): When the other party suggested Yurcovic would have had to shoot the gun to get his DNA on it, Yurcovic responded that the gun had "never been shot."

Before trial, the court held a hearing on the admissibility of the jail calls. Defense counsel raised objections based on relevance and unfair prejudice under Maryland Rule 5-403 but did not challenge the calls on hearsay grounds or under Maryland Rule 5-404(b) (other crimes evidence). Regarding Call 2 (about signing the waiver), defense counsel explicitly stated he did not object to its admission, acknowledging it was relevant to the voluntariness of Yurcovic's interview.

C. The Trial Evidence

The State's case at trial was entirely circumstantial. No eyewitness could identify Yurcovic as the robber, and his DNA was not found on the recovered handgun—only Swope's DNA was present. The State presented the following evidence connecting Yurcovic to the crime:

Physical Similarities: Defense counsel conceded Yurcovic fit the general "physique" of the person shown in the surveillance video. Yurcovic had extensive tattoos covering his arms, hands, and face, which could explain why the robber took such care to conceal his entire body.

Distinctive Shoes: The robber wore distinctive shoes visible in the surveillance footage. Police showed Yurcovic a photograph from a phone "linked to" Yurcovic's Facebook account depicting someone wearing similar shoes next to Yurcovic's cat. Although Yurcovic initially denied owning the shoes, he later complained in a jail call that the detective "is showing me pictures of shit off people's phones with my shoes on."

Connection to the Weapon: Yurcovic admitted he was "good friends" with Swope, whose DNA was on the recovered handgun. Yurcovic acknowledged a photograph of the recovered gun was "definitely" the same gun Swope had tried to sell to him. In the jail call, Yurcovic's statement that the gun had "never been shot" suggested familiarity with the weapon beyond a single interaction.

Financial Motive: Yurcovic told Master Trooper Jaskiewicz he did not have $200 to buy the gun from Swope. In a jail call, he asked his ex-wife: "Why'd you have to call me and tell me that you needed 500 dollars? Why did you have to do that? God, why did you have to do that to me?" This suggested financial desperation.

Elimination of Alternative Suspect: The only other person connected to the weapon—Aaron Swope—had died ten days before the robbery, eliminating him as a potential perpetrator.

The jury convicted Yurcovic on all counts. After sentencing, this timely appeal followed.

DISCUSSION

I. Yurcovic's Post-Invocation Statements Violated *Miranda*.

A. Parties' Contentions

Yurcovic first contends the motions court erred in denying his motion to suppress statements he made to police after he unambiguously invoked his right to remain silent. The State concedes error, and we agree the admission of these statements violated Yurcovic's Fifth Amendment rights as interpreted in *Miranda* and its progeny.

B. Standard of Review

When reviewing the denial of a motion to suppress, we consider only the record of the suppression hearing and view the facts in the light most favorable to the prevailing party—here, the State. *State v. Wallace*, 372 Md. 137, 144 (2002). We defer to the suppression court's factual findings and credibility determinations unless clearly erroneous. *Brown v. State*, 397 Md. 89, 98 (2007). Whether a statement was obtained in violation of *Miranda* is a question of law that we review de novo. *Madrid v. State*, 474 Md. 273, 309 (2021).

C. Legal Framework

Under *Miranda*, "an individual in police custody must be warned, prior to any interrogation, that he has the right to remain silent[.]" *Crosby v. State*, 366 Md. 518, 528 (2001). This prophylactic rule addresses the "inherently compelling" pressures of custodial interrogation, which "work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely." *Miranda*, 384 U.S. at 467.

"An accused may invoke his or her rights at any time during questioning, or simply refuse to answer any question asked, and this silence cannot be used against him or her." *Crosby*, 366 Md. at 529. "If the individual invokes his right to remain silent, the questioning must cease." *Williams v. State*, 445 Md. 452, 470 (2015). "Any and all requests by the person being questioned to exercise his or her *Miranda* right to silence must be 'scrupulously honored' by police and have the effect of 'cut[ting] off questioning.'" *Williams v. State*, 219 Md. App. 295, 316 (2014) (quoting *Michigan v. Mosley*, 423 U.S. 96, 103 (1975)).

For an invocation to be effective, it must be "clear and unambiguous." *Williams*, 445 Md. at 475. The test is objective: "whether a reasonable police officer in the circumstances would understand the statement to be an invocation of the right to silence." *Id.*

Importantly, the protections afforded by *Miranda* extend to "the functional equivalent" of interrogation, meaning "any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect." *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980). "Although the test of whether the police should know their words or actions are reasonably likely to elicit an incriminating response is an objective one, the intent of the police is not irrelevant[.]" *Phillips v. State*, 425 Md. 210, 218 (2012) (quoting *Blake v. State*, 381 Md. 218, 233 (2004)).

When an officer's statements or questions are posed "with a purpose of getting a suspect to talk," they constitute the functional equivalent of interrogation. *Blake*, 381 Md. at 233. Thus, comments intended to "induce the suspect to respond to questions or to make a statement" after the suspect has "elected his right to remain silent generally" will require suppression of "any ensuing inculpatory statement" in the State's case in chief. *Phillips*, 425 Md. at 224.

D. Analysis

Applying these principles, we agree with the State's concession that Master Trooper Jaskiewicz did not scrupulously honor Yurcovic's invocation of his right to remain silent. The facts are undisputed.

First, Yurcovic's invocation was clear and unambiguous. When presented with the *Miranda* waiver form, he said "I ain't going to talk," shook his head, and pushed the form away. The motions court properly found this to be an unambiguous invocation, and the State does not contest that finding. Indeed, Master Trooper Jaskiewicz herself seemed to understand Yurcovic's intent, responding: "Okay. No problem. So you will be seen on your warrant."

Second, despite this clear invocation, Master Trooper Jaskiewicz immediately continued talking to Yurcovic without pause. She launched into a nearly three-minute monologue containing vague but troubling allegations including that people had broken into his hotel room and stolen money, he was involved in a dispute with "John John" about

money, something about "dope" that "Hannah's dad" provided, and, most ominously, "for whatever reason, people want to hurt you."

Third, Master Trooper Jaskiewicz's admitted purpose in continuing this conversation was to "try and build a rapport" with Yurcovic because "[t]ypically if we build a rapport, they're more likely to speak with us." This testimony establishes that her post-invocation statements were deliberately designed to get Yurcovic to change his mind and begin talking, which is precisely what *Miranda* forbids.

Fourth, the substance of Master Trooper Jaskiewicz's statements was clearly calculated to provoke a response. The vague suggestions that multiple people wanted to harm Yurcovic, combined with the refusal to provide details unless he waived his rights, created exactly the kind of pressure *Miranda* was designed to prevent. When Yurcovic predictably sought more information about these threats, the Trooper told him she was "not allowed to ask [him] questions if [he] [didn't] want to waive [his] [rights]," essentially conditioning information relevant to his safety on his willingness to waive his constitutional rights.

Finally, this strategy succeeded. Within minutes of his clear invocation, Yurcovic signed the waiver form, explaining: "I just don't understand what's going on right now. That's the only reason why I'm doing this." This explanation demonstrates that Master Trooper Jaskiewicz's post-invocation statements had their intended effect—they induced Yurcovic to reconsider his decision to remain silent.

The motions court erred in finding Yurcovic "was not subjected to further questioning or further interrogation" after his invocation. While Master Trooper Jaskiewicz did not ask direct questions during her initial post-invocation monologue, her statements constituted the functional equivalent of interrogation under *Innis* and *Blake*. They were deliberately designed to elicit a response, and they succeeded in getting Yurcovic to waive his rights and make inculpatory statements.

Blake and *Phillips* are helpful to resolving the issues in this case. In *Blake*, the Supreme Court of Maryland held that police violated a suspect's *Miranda* rights by continuing to engage him in conversation after he invoked his right to remain silent, even though the police did not ask direct questions. 381 Md. at 233–34. The test is not whether the police asked questions, but whether their "statements or questions are posed 'with a purpose of getting a suspect to talk.'" *Id.* at 233.

Similarly, in *Phillips*, our Supreme Court held that "comments intended to 'induce the suspect to respond to questions or make a statement' after the suspect has 'elected to remain silent generally' will normally require suppression of 'any ensuing inculpatory statement' in the State's case in chief." 425 Md. at 224.

The motions court's error was in focusing on whether Master Trooper Jaskiewicz's post-invocation statements were "likely to elicit an incriminating response" in the immediate moment. But as our Supreme Court explained in *Blake*, the relevant question is whether the statements were intended to get the suspect to talk—not necessarily to elicit

an immediate incriminating answer, but to induce the suspect to waive his rights and engage in conversation. 381 Md. at 233–34.

Master Trooper Jaskiewicz candidly admitted her intent: she was trying to "build a rapport" to make Yurcovic "more likely to speak with us." This admission places her conduct squarely within the prohibition of *Blake* and *Phillips*. The action *Miranda* condemns is "police refusal to take a defendant's 'no' for an answer." *Latimer v. State*, 49 Md. App. 586, 591 (1981). That is precisely what occurred here.

We commend the State for its candor in conceding this error. The State is correct that Master Trooper Jaskiewicz should have ceased all conversation with Yurcovic after he invoked his right to remain silent, beyond what was necessary to process him on his outstanding warrant. Any inculpatory statements Yurcovic made following this violation must be suppressed in the State's case-in-chief.

E. Harmless Error

Having found constitutional error, we must determine whether it was harmless beyond a reasonable doubt. The State does not argue harmless error, and we agree the error was not harmless.

Yurcovic's suppressed statements were central to the State's case. During the interview, Yurcovic made several admissions connecting him to the crime: he acknowledged his close friendship with Aaron Swope; he confirmed that a photograph of the recovered gun was "definitely" the gun Swope tried to sell him; he discussed his

financial difficulties; and he provided other statements that were used to undermine potential defense theories.

Given the State's case was entirely circumstantial and no direct evidence placed Yurcovic at the scene or identified him as the robber, we cannot say beyond a reasonable doubt that the admission of his post-invocation statements did not contribute to the verdict. Accordingly, Yurcovic is entitled to a new trial at which these statements are excluded.

II. The Jail Calls Were Properly Admitted.

A. Parties' Contentions

Because this issue will likely reoccur on retrial, we address it to provide guidance to the trial court. Yurcovic challenges the admission of three recorded jail calls under various evidentiary rules. The State argues the calls were properly admitted. We conclude the trial court acted within its discretion in admitting the challenged calls, subject to the preservation and waiver issues discussed below.

B. Standard of Review and Preservation

We review a trial court's decision to admit evidence for abuse of discretion. A trial court's determination regarding the legal relevance of evidence is reviewed *de novo*. *Montague v. State*, 471 Md. 657, 673 (2020). The court's judgment about whether probative value is outweighed by unfair prejudice is reviewed for abuse of discretion. *Funes v. State*, 469 Md. 438, 478 (2020).

"Ordinarily, an appellate court will not decide [an] issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]" Maryland Rule 8-131(a).

"It is well-settled that when specific grounds are given at trial for an objection, the party objecting will be held to those grounds and ordinarily waives any grounds not specified that are later raised on appeal." *Klauenberg v. State*, 355 Md. 528, 541 (1999).

"An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived." Maryland Rule 4-323(a). "A trial judge is not a mind reader. If a party wants the court to take a specific action . . . it needs to make its position known." *Huggins v. State*, 479 Md. 433, 448–49 (2022).

C. Hearsay Foundation (Unpreserved)

Yurcovic first contends the State failed to lay a sufficient foundation to establish that the jail calls were admissible under the hearsay exceptions for party-opponent statements (Maryland Rule 5-803(a)) or business records (Maryland Rule 5-803(b)(6)). This argument is unpreserved.

At the pre-trial hearing on the admissibility of the jail calls, defense counsel raised objections based on relevance and unfair prejudice under Maryland Rule 5-403. He never challenged the calls on hearsay grounds or argued that the State had failed to lay a sufficient foundation under Rules 5-803(a) or 5-803(b)(6). When the State moved to admit the calls during trial, defense counsel said only "objection" or similar brief statements, and the parties and court agreed these objections incorporated the earlier arguments about relevance and prejudice. At no point did defense counsel argue that the calls were

inadmissible hearsay or that the State had failed to establish the foundational requirements for a hearsay exception.

This failure to object on hearsay grounds was likely strategic, as jail calls by defendants are generally excepted from the hearsay rule as party-opponent statements under Rule 5-803(a). Moreover, defense counsel's acceptance of one call without objection (Call 2, discussed below) demonstrates his recognition that the calls were not excludable as hearsay.

Because Yurcovic never raised a hearsay objection in the trial court, he failed to preserve this argument for appellate review. Maryland Rule 8-131(a); *Klauenberg*, 355 Md. at 541. We decline to exercise our discretion to address this unpreserved issue.

Nevertheless, we note that if the issue had been preserved, the State elicited sufficient testimony to support admission of the calls under both exceptions. Master Trooper Jaskiewicz testified that: (1) the jail has a "system" for recording inmate calls; (2) officers can obtain the recordings via subpoena; (3) inmates must use a PIN and enter their name to make calls; (4) she listened to calls made by Yurcovic while preparing for trial; and (5) she could identify his voice in each recording. This testimony provided an adequate foundation under Rules 5-803(a) (party-opponent statements) and 5-803(b)(6) (business records of regularly conducted activity).

D. Call 1: "Dead for the One in Cecilton" (Unpreserved)

Yurcovic challenges State's Exhibit 37, in which he stated police told him Aaron Swope "was dead for the one in Cecilton." He argues this statement "implied his

involvement in more than one robbery" and thus constituted inadmissible other crimes evidence under Maryland Rule 5-404(b).

This argument is also unpreserved. At the pre-trial hearing, defense counsel alluded to the concept that the statement "referenc[ed] that there's more than one robbery," but he never asked the court to exclude the call on this basis. Instead, he asked the court to order the State to play a longer portion of the call so the jury would hear Yurcovic's denial ("I didn't do this shit"), and the court granted this request. When the court asked if there was anything further counsel wished to say about the call, counsel responded, "No, thank you."

Because defense counsel affirmatively accepted this call—subject only to his successful request for inclusion of Yurcovic's denial—he cannot now argue on appeal that the court erred in admitting it. "It makes no sense to say that the trial judge erred in admitting a piece of evidence if the judge wasn't asked to exclude it in the first place." *Huggins*, 479 Md. at 448–49. Moreover, "[d]efendants . . . will ordinarily not be permitted to 'sandbag' trial judges by expressly, or even tacitly, agreeing to a proposed procedure and then seeking reversal when the judge employs that procedure." *Burch v. State*, 346 Md. 253, 289 (1997).

Even if preserved, the argument would fail on the merits. Yurcovic's statement, in context, is not "other crimes" evidence. The statement came in response to a suggestion that perhaps the defense could argue Swope, not Yurcovic, committed the robbery. Yurcovic's response—that Swope was dead at the time of the robbery—simply explains why such a defense theory would be untenable. The statement does not suggest, explicitly

or implicitly, that Yurcovic committed "the one in Cecilton" or any other robbery. Indeed, immediately after this exchange, Yurcovic denied committing the robbery, and his denial was played for the jury as defense counsel requested.

The only reasonable inference from the statement is that Swope, who died before the Cecilton robbery, could not have been the perpetrator. Drawing any inference that Yurcovic committed multiple robberies would require speculation unsupported by the record—particularly the portions of the interview that the jury did not hear.

This case is analogous to *Burral v. State*, 118 Md. App. 288 (1997), where this Court upheld the admission of a police officer's inadvertent reference to the defendant having been in prison. We held this "oblique, ambiguous reference to previous criminal activity" was "not offered to prove that Burral was guilty" of the charged offense and was not "the kind of direct and unequivocal evidence that the Rule contemplates excluding." *Id.* at 297.

Here, as in *Burral*, the statement was not offered to prove Yurcovic's guilt or to suggest he had committed other crimes. It was offered to show Yurcovic's state of mind, specifically, his awareness that Swope was dead at the time of the robbery and thus could not serve as an alternative suspect. The probative value of this statement was not substantially outweighed by any danger of unfair prejudice, particularly given that Yurcovic's denial was also played for the jury.

E. Call 2: *Miranda* Waiver (Expressly Accepted by Defense)

Yurcovic challenges State's Exhibit 38, in which he explained: "I signed a waiver; I just wanted to know what they had on me." At the pre-trial hearing, defense counsel twice

acknowledged this statement was admissible because it was relevant to the voluntariness of Yurcovic's interview. The court clarified: "[s]o you don't object to that portion?" and counsel responded, "[c]orrect, that's not part of my objection."

This express acceptance of the evidence waives any appellate challenge to its admission. Maryland Rule 4-323(a); Maryland Rule 8-131(a). "It makes even less sense to say that the trial court erred when the defense affirmatively agreed that the evidence was admissible." *Huggins*, 479 Md. at 448–49.

Moreover, counsel's acceptance was proper. The statement was directly relevant to the jury's assessment of whether Yurcovic's waiver of his *Miranda* rights was voluntary. Although we now hold the waiver was the product of a *Miranda* violation and thus invalid, the statement itself was admissible at the time of trial under the then-prevailing understanding of the facts. On retrial, the State may not use Yurcovic's post-invocation statements.

F. Call 3: "Never Been Shot" (Properly Admitted)

Finally, Yurcovic challenges State's Exhibit 40, in which he stated the recovered gun had "never been shot." He argues this statement was "not probative" and "unfairly prejudicial." We disagree.

The statement was highly relevant. It showed Yurcovic had sufficient familiarity with the gun to know whether it had been fired. This knowledge extended beyond a single interaction when Swope tried to sell him the weapon. This inference was probative of Yurcovic's connection to the gun and, by extension, to the robbery.

The probative value of this statement was not substantially outweighed by any danger of unfair prejudice. Yurcovic does not explain what prejudice the statement caused beyond its tendency to prove his guilt; however, "evidence is not unfairly prejudicial only because it hurts the defense." *Montague v. State*, 471 Md. 657, 674 (2020). "Probative value is substantially outweighed by unfair prejudice when the evidence 'tends to have some adverse effect . . . beyond tending to prove the fact or issue that justified its admission.'" *Id.* (quoting *State v. Heath*, 464 Md. 445, 464 (2019)).

Here, the statement's only effect was to prove Yurcovic's familiarity with the weapon. It did not suggest any inflammatory or emotional facts that might cause the jury to decide the case on an improper basis. The trial court acted well within its discretion in admitting this evidence.

Although the trial court did not explicitly state its reasoning, "trial courts are presumed to know the law and to apply it properly." *State v. Chaney*, 375 Md. 168, 179 (2003). Moreover, the record reflects that the court carefully exercised its discretion in evaluating all the jail calls. It heard extensive argument, considered each call individually, and excluded or required redaction of several calls. This careful consideration demonstrates the court's thoughtful exercise of discretion in admitting Call 3.

III. The Evidence at Trial was Sufficient to Support Yurcovic's Conviction.

A. Parties' Contentions

Finally, Yurcovic contends the evidence was insufficient to support his convictions. He argues that because the State cannot retry him if we find the evidence insufficient, this

Court should rule in his favor on this issue and bar retrial. We address the sufficiency claim but reach the opposite conclusion from Yurcovic.

When a criminal defendant appeals the sufficiency of the evidence supporting his or her conviction on any count, Maryland appellate courts normally address the sufficiency issues even when that court decides to reverse the judgment of the trial court on another ground, such as here. As the Supreme Court of Maryland noted in *Winder v. State*, if we did not do so, or if we hold that the evidence was insufficient, then Yurcovic's retrial would be barred by the Fifth Amendment's Double Jeopardy clause. 362 Md. 275, 324 (2001) ("[W]hen a criminal defendant takes an appeal and succeeds in having his conviction reversed on a ground other than the sufficiency of the evidence, the Fifth Amendment's Double Jeopardy Clause does not preclude a retrial of the defendant on the same charges.") (quoting *State v. Kramer*, 318 Md. 576, 593 (1990), and *Huffington v. State*, 302 Md. 184, 189 (1983)). We, therefore, address Yurovic's sufficiency claim.

B. Standard of Review

We review the legal sufficiency of the evidence *de novo*. *Wilder v. State*, 191 Md. App. 319, 335 (2010). In conducting this review, we determine "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

We review "not only the evidence in a light most favorable to the State, but also all reasonable inferences deducible from the evidence in a light most favorable to the

State." *Smith v. State*, 415 Md. 174, 185–86 (2010). "That standard applies to all criminal cases, regardless of whether the conviction rests upon direct evidence, a mixture of direct and circumstantial, or circumstantial evidence alone." *Id.* at 185.

It is not our "role to retry the case, . . . re-weigh the credibility of witnesses[,] or attempt to resolve any conflicts in the evidence." *Id.* We do not "second-guess the jury's determination where there are competing rational inferences available[,]" nor do we "decide whether the jury could have drawn other inferences from the evidence, refused to draw inferences, or whether [we] would have drawn different inferences from the evidence." *Id.* at 183–84.

In evaluating a sufficiency challenge following the discovery of trial error, we "analyze all of the evidence—admitted erroneously or not—presented at trial." *Williams v. State*, 251 Md. App. 523, 569 (2021) (citing *Lockhart v. Nelson*, 488 U.S. 33, 40–42 (1988)).

C. Analysis

The State's case was largely circumstantial. No eyewitness could identify Yurcovic as the robber, his DNA was not found on the recovered handgun, and he was not caught in possession of the stolen money. Nevertheless, viewing the evidence in the light most favorable to the State, we conclude a rational jury could find beyond a reasonable doubt that Yurcovic committed the robbery.

The cumulative effect of the circumstantial evidence was substantial. *First*, the physical evidence placed Yurcovic within the general description of the robber. Defense

counsel conceded Yurcovic fit the "physique" of the person in the surveillance video. More tellingly, Yurcovic had extensive tattoos covering his arms, hands, and face. This could explain why the robber took extraordinary measures to conceal his entire body, leaving only a small slit across his eyes to see.

Second, the robber wore distinctive shoes visible in the surveillance footage. Police obtained a photograph from a phone "linked to" Yurcovic's Facebook account showing someone wearing similar shoes standing next to Yurcovic's cat. Although Yurcovic initially denied owning these shoes during his interview, he later contradicted this denial in a jail call, complaining that the detective was showing him "pictures of shit off people's phones with my shoes on." This admission, combined with the surveillance footage, created a strong inference that Yurcovic was the robber.

Third, Yurcovic had a close connection to the gun recovered near the crime scene. He admitted being "good friends" with Swope, whose DNA was found on the weapon. He acknowledged that a photograph of the recovered gun was "definitely" the same gun Swope had tried to sell to him. Most significantly, in a jail call, Yurcovic stated the gun had "never been shot." This statement suggested familiarity with the weapon extending beyond a single interaction. It implied Yurcovic had handled the gun extensively enough to know its history—knowledge consistent with his having used it in the robbery.

Fourth, Yurcovic had a motive to commit the robbery. He told police he lacked even $200 to purchase the gun from Swope. In a jail call, he desperately asked his ex-wife: "Why'd you have to call me and tell me that you needed 500 dollars? Why did you have

to do that? God, why did you have to do that to me?" This exchange suggested acute financial need—a classic motive for robbery.

Fifth, the only plausible alternative suspect was eliminated by virtue of his death. Swope, whose DNA was on the gun, died ten days before the robbery. This fact, which Yurcovic himself acknowledged in a jail call, meant Swope could not have been the perpetrator. While Yurcovic argues that other unknown persons might have committed the crime, the jury was entitled to find this speculation unpersuasive in light of the specific evidence connecting Yurcovic to the gun and the crime scene.

Viewing this evidence cumulatively and drawing all reasonable inferences in favor of the State, we conclude a rational jury could find beyond a reasonable doubt that Yurcovic committed the robbery. The evidence showed he: (1) matched the general physical description of the robber and had a distinguishing characteristic (extensive tattoos) that explained the robber's unusual clothing; (2) owned the distinctive shoes worn by the robber; (3) had access to and familiarity with the weapon likely used in the robbery; (4) had a financial motive to commit the robbery; and (5) was connected to the crime scene through his friend's gun, which was found nearby.

Yurcovic emphasizes what the State did not prove: his DNA was not on the gun; his cell phone was not tracked to the crime scene; he was not found in possession of the stolen items; and the witnesses could not identify him. While such evidence would certainly have strengthened the State's case, its absence does not render the evidence insufficient. "Even in a case resting solely on circumstantial evidence and resting moreover on a single strand

of circumstantial evidence, if two inferences reasonably could be drawn, one consistent with guilt and the other consistent with innocence, the choice of which of these inferences to draw is exclusively that of the [fact finder] and not that of a court assessing the legal sufficiency of the evidence." *Ross v. State*, 232 Md. App. 72, 98 (2017).

Here, the State presented multiple strands of circumstantial evidence, each independently probative and mutually reinforcing. A rational jury could weave these strands together into a coherent narrative of guilt. That Yurcovic might offer innocent explanations for some of these facts does not render the evidence insufficient; it simply means the jury was required to assess competing inferences and choose which to credit. The jury did so, and we cannot say that its verdict lacked a sufficient evidentiary foundation.

Accordingly, while Yurcovic is entitled to a new trial because of the *Miranda* violation, the Double Jeopardy Clause does not bar that retrial. The evidence was sufficient to support the convictions, and the State may elect to retry Yurcovic if it chooses to do so.

CONCLUSION

We hold the motions court erred in denying Yurcovic's motion to suppress his post-invocation statements to police. Master Trooper Jaskiewicz did not scrupulously honor Yurcovic's clear and unambiguous invocation of his right to remain silent. Instead, she deliberately engaged him in conversation designed to induce him to change his mind and

waive his rights. This conduct violated the Fifth Amendment as interpreted in *Miranda* and its progeny.

We further hold the trial court acted within its discretion in admitting the challenged jail calls, subject to the preservation and waiver issues we have discussed. On retrial, the parties and the trial court should carefully consider which, if any, of these calls remain relevant in light of the exclusion of Yurcovic's post-invocation statements.

Because the admission of Yurcovic's post-invocation statements was not harmless error, we vacate his convictions and remand for a new trial. On retrial, the State must prove its case without the benefit of any statements Yurcovic made following his invocation of his right to remain silent.

Finally, we hold that the evidence was sufficient to support Yurcovic's convictions. The cumulative effect of the evidence—his physical similarity to the robber, his ownership of the distinctive shoes, his connection to and familiarity with the weapon, his financial motive, and the elimination of alternative suspects—was sufficient to permit a rational jury to find him guilty beyond a reasonable doubt. Thus, Double Jeopardy does not bar a retrial.

JUDGMENTS OF THE CIRCUIT COURT FOR CECIL COUNTY AFFIRMED IN PART AND REVERSED IN PART.

APPELLANT'S CONVICTIONS AND SENTENCES VACATED. CASE REMANDED FOR A NEW TRIAL.

CECIL COUNTY TO PAY THE COSTS.