Circuit Court for Baltimore City
Case No. 121208001

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2256

September Term, 2023

DEAMONTE RASHAD SPENCER

v.

STATE OF MARYLAND

Friedman,
Shaw,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: September 26, 2025

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

After a jury trial in the Circuit Court for Baltimore City, appellant Deamonte Spencer was convicted of two counts of murder and several handgun charges. He now appeals those convictions, arguing that the circuit court committed several evidentiary errors and that the evidence was insufficient to identify him as one of the shooters of Kamira and Leah Jeter. For the reasons we discuss below, we reject Spencer's arguments and affirm.

BACKGROUND

On the 100 block of South Kossuth Street in Baltimore City, police responded to a reported homicide. At the scene, the police found a car with Kamira in the front seat with multiple gunshot wounds. Leah lay just outside the car, also with multiple gunshot wounds. Both were pronounced dead. From the scene, police recovered DNA evidence, bullet casings, and the phones of Kamira and Leah. After the initial sweep of the scene, the police had no leads on potential suspects. That changed, however, when a business contacted the police regarding an audio recording of the shooting. In the audio, gunshots can be heard, and a voice, later identified as Leah's, shouts "Sconey, are you serious? You shot her Sconey." After reviewing the audio, the police sought to discover who "Sconey" was in connection with the shooting.[1]

[1] While the transcript identifies this nickname as "Sconey," the evidence that was admitted at trial, and which we discuss later, identifies the nickname as "Scony" without the "e." In this Opinion, we will use the nickname—Sconey or Scony—as it appears in the original source.

At trial, the State attempted to prove that Spencer was "Sconey" and that he had murdered or was an accomplice to the murder of Kamira and Leah. The parties stipulated at trial that the phone number listed as "Sconey" in Kamira and Leah's contacts belonged to Spencer. The State also introduced various cell phone and social media evidence purportedly illustrating that "Sconey" was Spencer. Spencer's DNA was found in the car, and cell cite location data placed his phone number near the scene at the time of the shooting.

At the close of the evidence, the jury found Spencer guilty of two counts of murder, two counts of use of a handgun in the commission of a crime of violence, and possession of a firearm after being convicted of a disqualifying crime. The circuit court sentenced Spencer to two consecutive terms of life imprisonment plus forty-five years, the first ten of which are to be served without parole. Spencer noted this timely appeal.

DISCUSSION

Spencer preserved three challenges to his convictions. *First*, he argues that the circuit court abused its discretion in authenticating printouts of Instagram profile pages.[2] *Second*, he argues that the circuit court abused its discretion by instructing the jury on

[2] Spencer also argues that the circuit court abused its discretion in admitting lay witness testimony identifying Spencer as the individual captured in the Instagram profile pages. The State contends Spencer's argument was waived. An objection to the admission of evidence is waived if it is not made "at the time the evidence is offered." MD. R. 4-323(a). Here, because Spencer's counsel did not object to the question that led to Spencer being identified, Spencer's objection was waived, and we do not review his argument.

accomplice liability. *Third*, he argues that there was insufficient evidence to convict him. We address each argument in turn.

I. AUTHENTICATION

Spencer contends that the circuit court abused its discretion in admitting printouts of two separate Instagram profile pages because they could not be authenticated. The State contends that because the printouts were being offered for a limited purpose, there was sufficient evidence to authenticate them. Alternatively, it argues that any error in their admission was harmless. We agree with the State. For the reasons that follow, we hold that the circuit court properly exercised its discretion in authenticating and admitting the printouts of the Instagram pages.

In the circuit court, Spencer moved to exclude two printouts of Instagram profile pages for "Scony_g" and "Scony_da_g," each with a profile picture that resembles Spencer. The State made clear that it was not offering the printouts to prove that Spencer had created the Instagram profiles, but only to show that the police had found the profiles while researching "Sconey." Based on that proffer, the circuit court denied Spencer's motion. Later, on direct examination, Detective Jones testified that, after hearing the word "Sconey" from the audio of the camera near the shooting, he searched social media to attempt to determine what "Sconey" meant, and he found and made printouts of the two public Instagram profiles using that name. The circuit court, over Spencer's objection, then admitted the two printouts.

Evidence must be authentic to be admitted, and evidence is authentic if there is "proof from which a reasonable juror could find that the evidence is what the proponent

claims it to be" by a preponderance of the evidence. MD. R. 5-901(a); *Mooney v. State*, 487 Md. 701, 717, 728 (2024). "The bar for authentication of evidence is not particularly high." *Mooney*, 487 Md. at 717 (citation omitted). The type of foundation that must be laid for the authentication of a piece of evidence depends on what the evidence is and why it is being offered. *See* MD. R. 5-901(b) (giving examples of how different evidence can be authenticated based on why it is offered). As relevant here, the "[t]estimony of a witness with knowledge that the offered evidence is what it is claimed to be" may properly lay the foundation for authentication. MD. R. 5-901(b)(1).

The type of foundation needed to authenticate social media evidence depends on what the proponent seeks to prove. Our courts have repeatedly held that if the proponent seeks to attribute the authorship of social media evidence to a specific author, the proponent must lay a foundation as to both the document and its authorship. *Griffin v. State*, 419 Md. 343, 357-58 (2011) (concluding that printouts of messages from a Myspace page could not be admitted to show that the defendant's girlfriend had threatened a witness unless the State laid a foundation to establish that she had authored the messages); *State v. Sample*, 468 Md. 560, 602 (2020) (holding that business records of a Facebook profile could be admitted to show that defendant used his profile to unfriend an accomplice's profile because the State laid a foundation to establish that he authored the profile). Although our courts have not opined on it yet, it seems obvious that, on the other hand, if the proponent merely wants to establish the existence of the social media evidence, they only need proof to support a finding that the social media evidence is what the proponent claims it to be. *See United States v. Isabella*, 918 F.3d 816, 842-44 (10th Cir. 2019) (holding that trial court properly

exercised its discretion in admitting printouts of websites visited on defendant's computer to show that defendant visited those websites because the government laid a foundation through testimony of an officer and forensic analysis describing how he found the defendant's search history); *Jones v. Nat'l Am. Univ.*, 608 F.3d 1039, 1045-46 (8th Cir. 2010) (holding that trial court properly exercised its discretion in admitting printouts of website job postings to show that defendant included management experience requirement in postings because plaintiff laid a foundation through his own testimony that he was familiar with the website and that printouts were in same format as job posting on the website). The standard for authentication depends on whether the State sought to prove authorship of the Instagram profiles or merely prove the existence of the profiles online.

There was sufficient proof from which a reasonable juror could find that the printouts are what the State purported them to be. The State proffered the printouts to show that the police had found the profiles while investigating the nickname "Sconey." Because the State did not offer the printouts to show who had authored them, it was not necessary for the State to authenticate the source of the profiles. That Detective Jones described the way in which he found the profiles and captured them in a printout was sufficient to enable a reasonable juror to find that he had, in fact, found those Instagram profiles on the internet and that the printouts were, in fact, printouts of those Instagram profile pages. Given the limited basis on which the State proffered the evidence, the State laid a sufficient foundation from which a reasonable juror could find that the printouts were Instagram profile pages that associate an image resembling Spencer with the name "Sconey."

Spencer argues that the printouts cannot be authenticated because the Instagram profiles could have been fabricated or the photographs associated with the Instagram profiles could have been manipulated. Spencer is asking more of the State than it needed to provide, however. "The proponent [of social media evidence] need not rule out all possibilities [that are] inconsistent with [authentication], or prove beyond any doubt that the [social media] evidence is what it purports to be." *Sample*, 468 Md. at 593 (citation omitted). Spencer's arguments "go to the weight of the evidence—not to its admissibility." *Id.* (citation omitted). Because the State need not *guarantee* that the printouts are what it purports them to be, Spencer's arguments are unpersuasive.

Because the State produced sufficient proof from which a reasonable juror could find that the printouts of the two Instagram profiles are what the State purported them to be, the circuit court properly exercised its discretion in authenticating and admitting them.[3]

[3] Because authentication of the mere existence of a social media profile is a relatively novel issue, we also address the State's contention that the admission of the printouts was harmless.

An error is harmless if we can declare beyond a reasonable doubt that it did not influence the verdict. *Fields v. State*, 395 Md. 758, 764 (2006) (citation omitted). Erroneously admitted evidence fails to influence the verdict if it is cumulative of other evidence. *Dove v. State*, 415 Md. 727, 743-45 (2010). Evidence is cumulative if it "tends to prove the same point as other evidence" already admitted. *Id.* In this case, the printouts of the Instagram profile pages are cumulative of other properly admitted evidence. The printouts were admitted to prove that Spencer is "Sconey." There was other evidence at trial, however, that makes this same point. *First*, the State introduced Detective Jones's testimony in which he described YouTube videos that he found that tie Spencer to "Sconey." In researching what the nickname "Sconey" was, Detective Jones testified that he "went onto YouTube … and came across music videos for Sconey G., otherwise known as Deamonte Spencer." Detective Jones identified Spencer as the individual in the videos. *Second*, the State introduced significant evidence linking the nickname "Sconey" to Spencer's phone. This evidence included: that in Kamira and Leah's phones, Spencer's

II. JURY INSTRUCTION ON ACCOMPLICE LIABILITY

In the circuit court, the State requested a jury instruction on accomplice liability. Spencer objected and argued that there was insufficient evidence of the existence of an accomplice to the shooter to grant the instruction. The circuit court overruled the objection and instructed the jury on accomplice liability.

On appeal, Spencer argues that the circuit court abused its discretion by giving this instruction. Under the Maryland rules, "[t]he court may, and at the request of any party shall, instruct the jury as to the applicable law." MD. R. 4-325(c). This rule requires a circuit court to give a requested jury instruction if the following three elements are met: "[t]he instruction must state correctly the law, the instruction must apply to the facts of the case (e.g., be generated by some evidence), and the content of the jury instruction must not be covered fairly in a given instruction." *Molina v. State*, 244 Md. App. 67, 147-48 (2019) (citation omitted). Only the second element—whether the instruction was applicable to the facts of this case—is at issue here. Under the second element, a party generates a jury instruction if it provides "some evidence" to support the application of the legal theory the instruction describes. *Id.* at 148. The "some evidence" standard has been described as "a fairly low hurdle," such that it is "well short of the showing required by the …

phone number was listed as "Sconey"; that the billing subscriber listed for Spencer's phone number was "Sconey Smith"; that Spencer's phone sent Leah's phone two audio files titled "Sconey G, Snakes in the Grass" and "Sconey G, blood in the streets." Because this body of evidence repeatedly links "Sconey" to Spencer, it proves the same point as the printouts of the Instagram profile pages and is thus cumulative. Accordingly, the admission of the printouts, if erroneous, was harmless beyond a reasonable doubt.

'preponderance' standard[]." *Id.* (citation omitted); *Hayes v. State*, 247 Md. App. 252, 291 (2020).

Under the legal theory of accomplice liability, a defendant who aids, commands, counsels, or encourages another to commit a crime may be guilty of that crime to the same extent as the actual perpetrator. *Sweeney v. State*, 242 Md. App. 160, 174 (2019) (citation omitted). The State need not "allege the crime was committed by a specific person[] to pursue an accomplice theory." *Id.* at 175. To generate an accomplice liability instruction, the State need only present evidence that the defendant "in some way participated in the commission of the felony by aiding … an actual perpetrator." *Id.* (citation omitted) (emphasis removed). Thus, the issue is whether there was "some evidence" to generate an accomplice liability theory at trial.

In this case, the State provided "some evidence" necessary to support the accomplice liability jury instruction. Two pieces of evidence were sufficient together to generate the jury instruction. *First*, after reviewing the bullet casings left at the crime scene, a firearms examiner testified that there were at least two different firearms involved in the shooting. *Second*, Detective Jones testified that, based on his investigation, he didn't "believe … that one person was shooting two guns." He explained that two shooters may have been involved: one exiting the car and firing from the rear driver's side door and another exiting the car and firing from the rear passenger's side door. These pieces of testimony together present "some evidence" that Spencer may have acted as an accomplice to a second shooter. For example, a reasonable jury could have found that, based on this evidence, Spencer shot Kamira, and then Spencer aided an unknown person in shooting

Leah. Regardless of whether Spencer acted as an accomplice, because there was "some evidence" that he may have aided an actual perpetrator, the circuit court did not abuse its discretion in giving the accomplice liability jury instruction.

III. SUFFICIENCY OF THE EVIDENCE

Finally, Spencer claims that there was insufficient evidence to convict him of first-degree murder or use of a firearm in the commission of a crime of violence. In particular, Spencer argues the evidence is insufficient to identify him as the shooter of Kamira and Leah.

We review Spencer's argument under the sufficiency of the evidence standard, which asks whether "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt" when the evidence is presented in the light most favorable to the State. *Scriber v. State*, 236 Md. App. 332, 344 (2018) (emphasis in original) (citation omitted). Under this standard, "the limited question before an appellate court is not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded *any* rational fact finder." *Id.* (emphasis in original) (citation omitted). "We defer to any possible reasonable inferences the jury could have drawn from the admitted evidence and need not 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." *Fuentes v. State*, 454 Md. 296, 308 (2017).[4]

[4] Spencer claims that, because his conviction is based only on circumstantial evidence, it must be overturned if there are circumstances suggesting a "reasonable

There was sufficient evidence from which a rational jury could have identified Spencer as the individual that shot or assisted in the shooting of Kamira and Leah. A rational jury could have inferred that Spencer is "Sconey," that Spencer was present at the shooting, and that the gunshot and audio evidence depicted Spencer shooting or acting as an accomplice to the shooting of Kamira and Leah.

The jury could infer that Spencer was "Sconey" based on a plethora of evidence. In Kamira and Leah's phones, Spencer's phone number was listed as "Sconey"; the billing subscriber listed for Spencer's phone number was "Sconey Smith"; and Spencer's phone sent Leah's phone two audio files titled "Sconey G, Snakes in the Grass" and "Sconey G, blood in the streets." Additionally, Detective Jones found and identified videos of Spencer rapping under the name "Scony G." From this evidence, a rational jury could infer that "Sconey" and Spencer were the same person and that, by extension, any acts committed by "Sconey" were acts committed by Spencer.

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hypothesis of innocence." *Wilson v. State*, 319 Md. 530, 537 (1990). This standard is incorrect for three reasons. *First*, "there is no difference between direct and circumstantial evidence.... [N]o greater degree of certainty is required when the evidence is circumstantial than when it is direct." *Martin v. State*, 218 Md. App. 1, 35 (2014) (citation omitted). *Second*, the evidence may be sufficient for a conviction even if there are other possible inferences—such as the "reasonable hypothesis of innocence" suggested by Spencer—that the jury could have drawn. *See Smith v. State*, 374 Md. 527, 539 (2003) ("An inference … need only be reasonable and possible; it need not be necessary or inescapable." (cleaned up)). *Third*, when conflicting inferences, some suggesting innocence, and others suggesting guilt, exist, "it is for the fact finder to resolve the conflict." *Neal v. State*, 191 Md. App. 297, 318 (2010) (citation omitted). "The possibility of … conflicting inferences from the evidence does not preclude allowing the fact finder to determine where the truth lies." *Id.* (citation omitted) For these reasons, Spencer's convictions can be sustained on the circumstantial evidence introduced in this case.

Next, the jury could infer that Spencer was present at the shooting. The jury learned that Spencer's DNA was recovered from a black mask within the car at which Kamira and Leah were found, and from a bite mark on Leah's cheek. In addition to DNA evidence, cell site location data showed that the phone associated with Spencer's phone number was near the 100 block of South Kossuth Street at the time of the shooting. Finally, Spencer's phone had been texting both Kamira and Leah's phones about an hour prior to the shooting. The text conversations involved making plans to get together. From this evidence, a rational jury could have inferred that Spencer was in or around the car when the shooting occurred.

The jury could finally infer that the gunshot and audio evidence recovered from the shooting depicted Spencer shooting or acting as an accomplice to the shooting of Kamira and Leah. Regarding the gunshot evidence, the medical examiner indicated that Kamira suffered three gunshot wounds. Leah suffered eleven gunshot wounds. In addition to the gunshot wounds that Kamira and Leah had, the jury listened to an audio recording of the shooting. On the audio recording, several initial shots are fired; then, Leah can be heard shouting "Sconey, are you serious? You shot her Sconey." Finally, 11 gunshots can be heard. As discussed above, the jury could have inferred that "Sconey" is the same person as Spencer. Accordingly, they could also infer, based on the gunshot wounds and audio, that when Leah said "Sconey" shot "her," she was referring to Spencer shooting Kamira; that the eleven shots heard in the audio recording correspond to the eleven gunshot wounds that Leah suffered; and that Spencer, after shooting Kamira, shot or aided in the shooting of Leah. Thus, the jury, in considering the gunshot and audio evidence, could have inferred that Spencer shot Kamira and Leah or acted as an accomplice to the shootings.

Given the circumstantial evidence that Spencer is the same person as "Sconey," that Spencer was present at the shooting, and that the gunshot and audio evidence depicted Spencer shooting or acting as an accomplice to the shooting of Kamira and Leah, there was sufficient evidence from which a rational jury could identify that Spencer committed first degree murder and use of a firearm in the commission of a crime of violence.

CONCLUSION

The circuit court did not abuse its discretion in authenticating and admitting printouts of Instagram profile pages. The circuit court properly exercised its discretion in instructing the jury on accomplice liability. There was sufficient evidence from which a rational jury could identify Spencer as a shooter and convict him of the crimes with which he was charged. Accordingly, we affirm Spencer's convictions.

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