

Circuit Court for Baltimore County
Case No. C-03-CR-23-001604

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2256

September Term, 2024

DOMERNICK T. HOLLIS

v.

STATE OF MARYLAND

Nazarian,
Shaw,
Kenney, James A., III,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: July 22, 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 persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Domernick Hollis appeals his conviction of second-degree rape by a jury in the Circuit Court for Baltimore County. He contends that the evidence presented at trial was insufficient to support all five of his convictions for second-degree rape and asks us to engage in plain error review of the jury instructions on those same charges. We affirm.

I. BACKGROUND

A grand jury indicted Mr. Hollis in the Circuit Court for Baltimore County on April 10, 2023. The indictment alleged fourteen counts that fell into two date ranges:¹

May 2, 2014–Sept. 30, 2017	Oct. 1, 2017–Dec. 31, 2020
Count 1: sex abuse of a minor by a household member	Count 7: sex abuse of a minor by a household member
Count 2: second-degree rape	Count 8: second-degree rape
Count 3: second-degree sex offense	Count 9: second-degree rape
Count 4: third-degree sex offense	Count 10: second-degree rape
Count 5: fourth-degree sex offense (<i>nolle proessed</i>)	Count 11: second-degree rape
Count 6: second-degree assault (<i>nolle proessed</i>)	Count 12: third-degree sex offense
	Count 13: fourth-degree sex offense (<i>nolle proessed</i>)
	Count 14: second-degree assault (<i>nolle proessed</i>)

Mr. Hollis allegedly committed all of the acts against T.T., his stepson.² At trial, the State *nolle proessed* Counts 5, 6, 13, and 14. The State tried Mr. Hollis before a jury over

¹ As discussed below, the different date ranges in the indictment are important. For clarity we relay them via table, including references to the counts eventually *nolle proessed*.

² We refer to the victim by initials and to his non-defendant family members by their relationship to him. At time of trial, T’s preferred pronouns were he and him.

the span of two days, starting on October 7, 2024. The jury convicted Mr. Hollis of all remaining counts.

T’s stepmother testified first. She offered some background on when T first came forward with his accusations in therapy and how events transpired afterwards, including the police investigation. After she testified, T testified, then T’s mother. T’s mother offered further context about the time T first came forward and the investigation, as well as Mr. Hollis’s threats when confronted with the accusations. After that, Detective Michaela Vann of the Baltimore County Police Department’s Crimes Against Children Unit testified about her investigation, which included monitoring a forensic interview with T remotely.

During his testimony, T relayed five different instances of sexual conduct by Mr. Hollis; we’ll refer to them as Incidents 1 through 5. T’s victim testimony was the only direct evidence of the Incidents. And because of the time interval between perpetration and disclosure, no useful physical or scientific evidence could be collected.

According to T’s testimony, Incident 1 occurred in May 2014 in Dundalk, when T was about eight years old.³ T testified that the incident occurred “[i]n [Mr. Hollis’s] bedroom” and that Mr. Hollis “told [him] to pull down [his] pants and underwear. He was naked. And he put his mouth on [T’s] . . . [v]agina.”

For Incident 2, T testified that Mr. Hollis “sucked [his] chest” and “nipples,” “put his mouth on [his] vagina.” T testified that Mr. Hollis “put his penis is [sic] [T’s] butt,” and that Mr. Hollis “also put [his penis] in [T’s] vagina,” but then hedged that he didn’t

³ T would not testify to a date or time for any of the other four Incidents.

“remember exactly” on that last part.

As to Incident 3, T testified that there were “two beds” in Mr. Hollis’s truck and that Mr. Hollis took him to one of those beds, took off T’s clothes, and “shoved his penis in [T’s] butt.”

For Incident 4, T testified that Mr. Hollis took him to a “storage unit” which had a bed inside, where Mr. Hollis “pulled down [T’s] pants and he put his mouth on [T’s] vagina.”

For Incident 5, T testified that Mr. Hollis used a “clear and white” sex toy and “stuck it in [T] from behind and in [his] vagina.” He clarified that by from behind, he meant in his “butt” but then recanted, saying, “Actually, I don’t know about the butt part, sorry. I made a mistake on that one. Sorry.”

After the State rested, Mr. Hollis made a motion for judgment of acquittal that the court denied. Mr. Hollis then testified in his own defense and denied the allegations. After resting, Mr. Hollis renewed his motion for judgment of acquittal, which the court denied again. The jury convicted Mr. Hollis on Counts 1–4 and 7–12. The court sentenced him as follows:

As to [Count 1], it is 25 years. As to [Count 2], it is 20 years, consecutive to [Count 1]. [Count 3] merges with [Count 2]. [Count 4] merges with count two. [Count 7] is 25 years consecutive to [Count 2]. [Count 8] is 20 years consecutive to [Count 7]. [Count 9] is 20 years concurrent to [Count 1]. [Count 10] is 20 years concurrent to [Count 1]. [Count 11] is 20 years concurrent to [Count 1]. [Count 12] merges with

[Count 8]. The aggregate sentence is 90 years.⁴

Mr. Hollis noted a timely appeal. We supply additional facts as appropriate to our discussion.

II. DISCUSSION

Mr. Hollis presents for our review two questions, which we rephrase partially⁵ as follows:

1. Did the evidence presented suffice to sustain his five convictions for second-degree rape?
2. Did the circuit court commit plain error in its jury instructions on second-degree rape?

Put another way, Mr. Hollis challenges only his five convictions for second-degree rape—he doesn’t challenge the other convictions. His *first* question challenges the rape convictions on the ground that the evidence was insufficient to support those convictions. After working through the evidence of each Incident and measuring it against the elements

⁴ When sentencing from the bench, the court read down the list of convicted counts in numeric order, renumbering the list in real time to account for the *nolle prossed* counts.

⁵ Mr. Hollis phrased the Questions Presented as:

1. Is the evidence insufficient to sustain the conviction for second degree rape (Count 2) and two of the four unspecified second degree rape convictions (Counts 8, 9, 10, and 11)?
2. Did the circuit court commit plain error in its jury instructions on second degree rape?

The State, in turn, phrased the Questions Presented as:

1. To the extent preserved, did the evidence suffice to convict Mr. Hollis of second-degree rape?
2. Should this Court decline to review for plain error the jury instruction on second-degree rape?

for second-degree rape, we hold *first* that the evidence was sufficient to support all five convictions. *Second*, we decline to exercise our discretion to undertake plain error review of his jury instruction challenge.

The standard of review for sufficiency of the evidence is deferential: we will uphold the jury's findings so long as the evidence sufficed for *any* rational juror to convict beyond a reasonable doubt:

In reviewing a claim of legal insufficiency, we must 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. We give due regard to the jury's finding of facts and its responsibility to weigh and resolve conflicting evidence, draw reasonable inferences from the evidence, and determine witness credibility. Moreover, appellate review of the sufficiency of evidence should not involve undertaking a review of the record that would amount to a retrial of the case.

Brown v. State, 182 Md. App. 138, 156 (2008) (cleaned up) (emphasis in original) (internal citations omitted).

A. The Evidence Was Sufficient To Support Mr. Hollis's Convictions For Second-Degree Rape.

Mr. Hollis contends that there was insufficient evidence of penetration to sustain all five counts of second-degree rape. The State contends *first* that this issue is partially unpreserved for appeal because Mr. Hollis didn't raise the point with sufficient particularity in his motions for judgment of acquittal, *then* argues on the merits that the evidence sufficed to sustain all five convictions. We agree with Mr. Hollis that the issue of penetration is preserved and agree with the State that the evidence sufficed to sustain all five convictions.

First, preservation. The State contends that Mr. Hollis failed to preserve the issue

of penetration for appeal. To preserve an issue of evidentiary sufficiency, a defendant must make a motion for judgment of acquittal and “state with particularity all reasons why [their motion for judgment of acquittal] should be granted.” Md. Rule 4-324(a); *Stanley v. State*, 248 Md. App. 539, 562–63 (2020) (*quoting* Md. Rule 4-324(a)). “A motion for judgment of acquittal, however, ‘may be sufficient to preserve an issue where the acquittal argument generally includes the issue raised on appeal.’” *Leo v. State*, 268 Md. App. 63, 106 (2025) (*quoting Redkovsky v. State*, 240 Md. App. 252, 261 (2019)).

That’s the case here. In his motion, Mr. Hollis argued that there had been no evidence of penetration:

I would argue that there was no testimony presented to the Court about whether or not there was penetration, or I would argue that the testimony on that element was not sufficient for this charge to be sent back to the Jury.

That was enough to “generally include[] the issue” of penetration. *Leo*, 268 Md. App. at 106 (*quoting Redkovsky*, 240 Md. App. at 261).

Next, the merits. The challenge in this case lies in matching the Incidents, and specifically the acts alleged in each, and the timing of each Incident against the governing definition of second-degree rape, which evolved over the time period at issue here. During the date range alleged for Count 2, the one rape count in the first grouping of charges, second-degree rape required proof of “vaginal intercourse:”

A person *may not engage in vaginal intercourse* with another:

- (1) by force, or the threat of force, without the consent of the other;
- (2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically

helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

Md. Code (2002, 2012 Repl. Vol.), § 3-304(a) of the Criminal Law Article (“CR”) (emphasis added). During both date ranges alleged in the indictment, the term “vaginal intercourse” had the same statutory definition:

(1) “Vaginal intercourse” means genital copulation, whether or not semen is emitted.

(2) “Vaginal intercourse” includes penetration, however slight, of the vagina.

CR § 3-301(g) (2002, 2012 Repl. Vol.); CR § 3-301(g) (2002, 2021 Repl. Vol.).

Then, effective October 1, 2017, the General Assembly amended the definition of second-degree rape to encompass a broader range of “sexual act[s].” *See* 2017 Md. Laws, Chap. 161–62 (amending CR § 3-304(a) to prohibit engaging in “vaginal intercourse **OR A SEXUAL ACT** with another” under certain circumstances and with certain persons (emphasis in original)); CR § 3-304(a) (2002, 2021 Repl. Vol.) (“A person may not engage in vaginal intercourse *or a sexual act . . .*”) (emphasis added)). The State now could prove second-degree rape not only by vaginal penetration, but with proof of any of the defined “[s]exual act[s]”:

(1) “Sexual act” means any of the following acts, regardless of whether semen is emitted:

(i) analingus;

(ii) cunnilingus;

- (iii) fellatio;
- (iv) anal intercourse, including penetration, however slight, of the anus; or
- (v) an act:
 - 1. in which an object or part of an individual's body penetrates, however slightly, into another individual's genital opening or anus; and
 - 2. that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(2) “Sexual act” does not include:

- (i) vaginal intercourse; or
- (ii) an act in which an object or part of an individual's body penetrates an individual's genital opening or anus for an accepted medical purpose.

CR § 3-301(d) (2002, 2021 Repl. Vol.). This version of second-degree rape governed the second grouping of charges, among them Counts 8 through 11.

1. The evidence of Incidents 3, 4, and 5 supported the convictions for Counts 9, 10, and 11.

Against that backdrop, we'll start with the easier dots to connect. *First*, as to Incident 3, T testified that Mr. Hollis “shoved his penis in [T's] butt at that time.” Mr. Hollis contends that use of the word “butt” instead of “anus” in the testimony of a teenaged victim is insufficient to prove anal intercourse via anal penetration, citing *Bible v. State*, 411 Md. 138 (2009), and *Georges v. State*, 252 Md. App. 523 (2021), for the proposition that the buttocks is not the anus. But those cases addressed the definition of “intimate areas” in a statute, not whether someone testifying that “shoving” a “penis in [a] butt” suffices to prove anal penetration, however slight. *Compare Bible*, 411 Md. at 153–56 (holding buttocks qualifies as “intimate area”), and *Georges*, 252 Md. App at 540–41 (relying on holding in

Bible), with CR § 3-301(d)(1)(iv) (anal intercourse “include[es] penetration, however slight, of the anus”). Moreover, we don’t require a victim to “speak in sophisticated or clinical terms in describing [their] ordeal.” *Kackley v. State*, 63 Md. App. 532, 538 (1985). Slang or informal speech, or even euphemistic speech, can serve as appropriate evidence. *See Simms v. State*, 52 Md. App. 448, 453 (1982) (“[I]t is clear that the victim need not go into sordid detail to effectively establish that penetration occurred during the course of a sexual assault. Where the key to the prosecutor’s case rests with the victim’s testimony, the courts are normally satisfied with descriptions which, in light of all the surrounding facts, provide a reasonable basis from which to infer that penetration has occurred.”); *Wilson v. State*, 132 Md. App. 510, 516, 520–21 (2000) (holding that informally phrased testimony from a seventy-six-year old victim was “enough to generate a *prima facie* case of penetration”). The phrase “shoved his penis in my butt” provided the jury a reasonable basis to conclude that anal penetration occurred. T’s testimony about Incident 3 sufficed to sustain Count 9.

Second, as to Incident 4, Mr. Hollis concedes that T’s testimony that Mr. Hollis “put his mouth on [T’s] vagina” sufficed to sustain a count of second-degree rape after October 1, 2017. *See* CR §§ 3-304(a)(3), 3-301(d)(1)(ii) (2002, 2021 Repl. Vol.). We agree that the evidence presented regarding Incident 4 was sufficient to support the conviction on Count 10.

Third, as to Incident 5, Mr. Hollis again concedes that T’s testimony that he “stuck

[a clear and white sex toy] . . . in [T’s] vagina”⁶ was sufficient to support a conviction for second-degree rape, *see* CR §§ 3-304(a)(3), 3-301(g)(2) (2002, 2021 Repl. Vol), and we agree that the evidence of Incident 5 was sufficient to support the conviction on Count 11.

2. *The evidence of Incident 1 could not support the convictions for Counts 8, 9, 10, or 11 but could support the conviction for Count 2.*

Incident 1 occurred when T was about eight years old, which would have been sometime around 2014. As indicted, Counts 8, 9, 10, and 11 occurred between October 1, 2017, and December 31, 2020. As a matter of timing, then, Incident 1 cannot support Count 8, 9, 10, or 11. But as discussed above, Counts 9, 10, and 11 are covered by other Incidents.

T’s testimony did, however, connect Incident 1 to Count 2. At the time of Incident 1 and during the date range for Count 2, second-degree rape required proof of vaginal penetration. *See* CR § 3-304(a) (2002, 2012 Repl. Vol.). T testified that Mr. Hollis “raped [T]” and “put his mouth on [T’s] . . . [v]agina.” Although he didn’t testify to any other sexual misconduct during Incident 1, he did specify that Mr. Hollis “raped” him. The jury could not and should not have credited the use of the word “rape” as a legal conclusion, but a rational juror could find beyond a reasonable doubt based on the use of that word in T’s testimony that Incident 1 involved vaginal intercourse via either genital copulation or vaginal penetration. As a result, then, Incident 1 could support the conviction on Count 2.

⁶ T initially testified that Mr. Hollis also “stuck it in [T] from behind . . . [in T’s] [b]utt” but a moment later said, “Actually, I don’t know about the butt part, sorry. I made a mistake on that one. Sorry.”

3. *The evidence of Incident 2 could sustain the conviction for Count 8.*

That leaves Count 8 and whether the conviction on that count is supported by the evidence adduced as to Incident 2. T testified that he thought Mr. Hollis “put [his penis] in [T’s] vagina” during Incident 2 and then hedged, “I don’t remember exactly on that time.” On appeal, Mr. Hollis characterizes this testimony as “extremely tentative” and insufficient to sustain a conviction. He does not cite legal authority for that position. Regardless, the jury was free to find even tentative testimony credible. Hedging language from a testifying teenaged victim under the extreme stress of a sex crime trial doesn’t make the victim’s testimony inherently incredible as a matter of law. If the jury chooses to believe the victim in spite of hedging language, that is the jury’s right as finder of fact and arbiter of credibility. *Cf. Rothe v. State*, 242 Md. App. 272, 279–81, 285 (2019) (*citing Bailey v. State*, 16 Md. App. 83, 95–97 (1972)) (putting to rest notions of inherent incredibility).⁷ A rational juror could have found that Incident 2 involved vaginal penetration beyond a reasonable doubt based on T’s testimony. And even if that wasn’t the case, because Count 8 occurred during the period when second-degree rape included cunnilingus, CR §§ 3-304(a)(3), 3-301(d)(1)(ii) (2002, 2021 Repl. Vol.), T’s testimony that Mr. Hollis “put his mouth on [T’s] vagina” during Incident 2 was sufficient to sustain that conviction independently.

And that connects all of the necessary dots: the evidence before the jury in this case

⁷ “The simple message of [*Rothe*] is that [inherent incredibility], if it ever lived, is dead. It has been dead for a long time. Forget it.” *Rothe*, 242 Md. App. at 285.

was sufficient to support all five of Mr. Hollis’s convictions for second-degree rape.

B. We Decline To Exercise Plain Error Review Of The Jury Instructions.

Second, Mr. Hollis contends that the circuit court erred in the second-degree rape instruction that it gave to the jury in this case. He concedes that he failed to object to the instructions, and thus that his argument isn’t preserved, and he asks us to engage in plain error review of the instruction. We decline to exercise our discretion to undertake plain error review of this issue in this case.

“Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court” Md. Rule 8-131(a). Furthermore, the Maryland Rules require counsel to object to jury instructions promptly after they are given:

No party may assign as error the giving or the failure to give an instruction unless the party objects on the record promptly after the court instructs the jury, stating distinctly the matter to which the party objects and the grounds of the objection. . . . An appellate court, on its own initiative or on the suggestion of a party, *may* however take cognizance of any *plain error* in the instructions, material to the rights of the defendant, despite a failure to object.

Md. Rule 4-325(f) (emphasis added). Mr. Hollis concedes that he didn’t object after the instructions were given.

We have described our discretion to decline engaging in plain error review as plenary:

On the question of overlooking non-preservation, the appellate discretion is plenary. As a matter of course, it may be exercised so as not even to consider the initial question of whether

instructional error occurred: “Because the issue has not been preserved, we, in the exercise of our discretion, decline even to read the arguably flawed instruction.” Equally as a matter of course, the appellate court, if faced with an instructional error so patent that it could not be ignored, might nevertheless decline to go further and analyze the course of the trial to determine whether even the obvious error was at all material to the trial outcome: “Because the issue has not been preserved, we, in the exercise of our discretion, decline to make an assessment of whether the admittedly erroneous instruction was in any way material.”

The ultimate appellate discretion, however, is one of whether, even in the face of error both plain and material, to overlook the procedural dereliction and to consider the contention upon its merits.

* * *

“[E]ven if an error in jury instructions is plain, its consideration on appeal is not a matter of right; the rule is couched in permissive terms and necessarily leaves its exercise to the discretion of the appellate court.”

* * *

The only hard and fast rule is that there are no hard and fast rules. That is the nature of discretion.

Austin v. State, 90 Md. App. 254, 262, 264, 272 (1992) (alteration in original) (*quoting Squire v. State*, 32 Md. App. 307, 309 (1976), *rev’d on other grounds*, 280 Md. 132 (1977)).

We are not persuaded that the nature and significance of the asserted error in the context of this case justifies a departure from the normal requirement that the trial court have an opportunity to correct any errors as a condition of review on direct appeal.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
APPELLANT TO PAY COSTS.**