

Circuit Court for Baltimore City
Case No. 123159006

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2318

September Term, 2023

WENDY GUERRERO-AYALA

v.

STATE OF MARYLAND

Graeff,
Leahy,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: September 17, 2025

* This is an unreported opinion. The 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).

In the early morning hours of May 13, 2023, William Batres was stabbed with a knife following an argument with appellant, Wendy Guerrero-Ayala. On the night in question, Batres told the police that Guerrero-Ayala stabbed him outside his house, but days later, he told Detective (“Det.”) Heriberto Nieves, an investigating officer, that the stabbing took place inside. Guerrero-Ayala was subsequently indicted in the Circuit Court for Baltimore City with six different charges, including murder, assault, and reckless endangerment.

During the jury trial, over defense objection, Det. Nieves testified that Batres’s statements to him were “consistent” with his own observation of the crime scene. After the jury found Guerrero-Ayala guilty of reckless endangerment and not guilty of all other charges, the circuit court sentenced her to five years of imprisonment.

In this timely appeal, Guerrero-Ayala presents three questions for our review, which we have rephrased accordingly:¹

1. Did the trial court abuse its discretion in admitting the testimony of Det. Nieves?

¹ Guerrero-Ayala’s questions presented are as follows:

1. Did the trial court err by allowing the testimony of Detective Heriberto Nieves confirming his belief that the stabbing took place inside the home as the complainant told the detective?
2. Did the trial court err by denying Appellant’s request at sentencing to present mitigation testimony?
3. Did the trial court err by failing to advise Appellant of her right to representation by counsel on a motion for modification of sentence?

2. Did the circuit court abuse its discretion by denying Guerrero-Ayala's request at sentencing to present mitigation testimony?
3. Did the trial court err by failing to advise Appellant of her right to representation by counsel on a motion for modification of sentence?

First, we hold that the circuit court did not abuse its discretion in admitting Det. Nieves's testimony because it confirmed the detective's independent observations and was not an expressed opinion as to the credibility of a witness. *Second*, we hold, and the State concedes, that the circuit court denied Guerrero-Ayala's right to allocution by not allowing her to submit mitigation testimony at her sentencing hearing. Accordingly, we vacate Guerrero-Ayala's sentence and remand this case for resentencing.²

BACKGROUND³

The Stabbing

On May 13, 2023, Guerrero-Ayala and Batres, her former romantic partner, were living in separate rooms at their shared home in Baltimore City. Sometime between 11:00 p.m. on May 12, 2023, and 2:00 a.m. May 13, 2023, Guerrero-Ayala returned from work, and Batres asked her for the keys to his car because he needed to pick up his check from his boss, but she refused. Following an argument, they went to their respective rooms. A while later, Batres emerged from his room. According to Batres, Guerrero-Ayala then

² We need not reach the third question because the case is remanded for resentencing.

³ The following account is derived from the evidence adduced at Guerrero-Ayala's jury trial, viewed in the light most favorable to the State. *Molina v. State*, 244 Md. App. 67, 87 (2019). Since Guerrero-Ayala does not challenge the sufficiency of the evidence to sustain her conviction, we only provide a summary of the trial record necessary to address the dispositive issues in this appeal. *Lovelace v. State*, 214 Md. App. 512, 518, n.1 (2013).

came out from her room and stabbed his back with a knife. Batres called 911, and an ambulance transported him to Johns Hopkins Bayview Hospital where he underwent surgery. At the hospital, Batres reported that “he was in the alley behind his house when he was stabbed[.]”

Det. Nieves arrived at the crime scene after Batres was taken to the hospital. He spoke with Guerrero-Ayala, her boyfriend, and a patrol officer. Det. Nieves was told that Batres “was stabbed at the corner” of the house. He also saw “blood spatters on the steps” leading to the house. Det. Nieves then looked inside and outside the house for evidence. He only observed blood on the front steps, the front door, and inside the home; there was no blood at the corner of the street. He also spoke with Batres at the hospital a day or two following the incident. At the hospital, Batres told Det. Nieves that he was stabbed in the kitchen of the home and not outside as he had previously stated. This matched the physical evidence Det. Nieves saw at the scene.

Guerrero-Ayala was subsequently indicted on the following six charges: (1) attempted first-degree murder; (2) attempted second-degree murder; (3) first-degree assault; (4) second-degree assault; (5) reckless endangerment; and (6) carrying a dangerous weapon with intent to injure.

Trial and Sentencing

A three-day trial commenced on December 13 and concluded on December 15, 2023. During its case-in-chief, the State called two witnesses—first Batres,⁴ and then Det. Nieves. The defense did not call any witness.

Batres testified about the circumstances surrounding the stabbing incident, as summarized above. During cross-examination, defense counsel asked Batres whether he told a police officer in the ambulance that he was stabbed “behind the house.” Batres initially denied that was what he told police, but after counsel refreshed his recollection with a video clip, he explained that he was not in his “right mind” at the time, maintaining that he was stabbed inside, not behind, the house.

Det. Nieves testified that his observations at the crime scene led him to conclude that the stabbing took place inside the house. Det. Nieves stated that he did not see any blood leading from the corner to the house. Rather, the only blood he saw outside of the house was on the front door and on the steps. Det. Nieves explained that the blood was likely on the door because Mr. Batres, “after calling 911, opened the front door to tell the Dispatch the number for the house, because he didn’t remember[.]” All other blood was found inside the home. Over defense counsel’s objection, Det. Nieves stated that his observations at the house were “consistent” with what Batres told him at the hospital.⁵

⁴ Mr. Batres testified through an interpreter.

⁵ Specifically, the following exchange took place:

(Continued)

On the final day of the trial, December 15, 2023, the jury found Guerrero-Ayala guilty of the reckless endangerment charge and acquitted her on all other charges. Following the return of the guilty verdict, the court repeatedly asked if either party asked for a presentence investigation report (“PSI”) in preparation for sentencing, but the parties declined. On one of these occasions, the court acknowledged that “there are things [the court did not] know about [Guerrero-Ayala], like age, prior criminal history, [] all the things that go into [the calculation of sentencing] guidelines.” Still, the parties declined a PSI.

About a month later, the court reconvened for sentencing. After Batres offered the victim’s impact statement, defense counsel informed the court that there were mitigation witnesses on behalf of Guerrero-Ayala waiting to be heard. The following colloquy ensued:

[DEFENSE COUNSEL]: And, if I may, Judge, she has a couple, two people who want to speak.

THE COURT: No, sir.

[DEFENSE COUNSEL]: No. Okay.

[STATE]: So, when you interviewed him, was what he told you consistent with what your -- with what you saw at the scene?

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DET. NIEVES]: Yes, it is.

THE COURT: The victim has a right to make a victim impact statement, but the statute does not provide for statements from Defendant's family. I get them when I have a PSI, but I don't hear from them.

[DEFENSE COUNSEL]: Well, Judge, I just ask you to note that there are four people here who are all friends and know her well, know her from living in Spain, know her to be a peaceful person. Never in trouble. And her ex-husband is actually here.

THE COURT: So, I told you, sir, I'm not going to hear from them.

Guerrero-Ayala made a brief statement on her own behalf. The court then sentenced Guerrero-Ayala to five years of incarceration for her reckless endangerment conviction. As noted, Guerrero-Ayala timely filed this appeal.

DISCUSSION

I.

Testimony of Detective Nieves

Parties' Contentions

Guerrero-Ayala contends that the circuit court erred in allowing Det. Nieves to testify that Batres's statements during the detective's investigation were consistent with his independent observations of the crime scene. She claims that Det. Nieves's testimony improperly went to the credibility of Batres himself, noting that "the credibility of a witness . . . [is] solely within the province of the jury[.]" (Quoting *Bohnert v. State*, 312 Md. 266, 277 (1988)). She emphasizes that "testimony from a witness relating to the credibility of another witness is to be rejected as a matter of law." *Id.* at 278. Guerrero-Ayala further argues that admission of Det. Nieves's testimony is not without harm as it

impacts the jury’s ability to come to a fair verdict.

The State counters that testimony “based on the perception of the witness” and “helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue” may be permissible under Maryland Rule 5-701. Because the prosecutor asked whether Batres’s statement was “consistent with” Det. Nieves’s personal observations of physical evidence, the State argues, the testimony speaks not to credibility of another witness but to support Det. Nieves’s own conclusions. The State argues that *Brooks v. State*, 439 Md. 698 (2014), controls here, as it deals directly with testimony tying a statement made during an investigation to physical evidence. The State concludes that the trial court was within its discretion to allow the testimony and did not invade the exclusive province of the jury.

Standard of Review

It is established that “[w]e review a circuit court’s ruling on the admissibility of lay testimony for an abuse of discretion.” *Randall v. State*, 223 Md. App. 519, 577 (2015). When we review the decision of a trial court to admit evidence or testimony, “[a]n abuse of discretion is found where the decision is ‘well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.’” *Freeman v. State*, 487 Md. 420, 429 (2024) (quoting *Devincentz v. State*, 460 Md. 518, 550 (2018)). Exercises of discretion which are “manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons” are subject to reversal. *Mainor v. State*, 475 Md. 487, 499 (2021).

Legal Framework

Lay witness testimony is governed by Maryland Rule 5-701. The rule provides two criteria for testimony offered by a lay person at trial: (1) the “testimony is rationally based on the perception of the witness”; and (2) “the testimony is helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue.” Md. Rule 5-701. So long as the testimony provided by the witness meets these two requirements, the decision whether to admit or block the testimony is up to the discretion of the court. *Robinson v. State*, 348 Md. 104, 118-19 (1997); *see also Bell v. State*, 114 Md. App. 480, 508 (1997) (“The admissibility of lay opinion testimony that satisfies the criteria [of Md. Rule 5-701] is vested in the sound discretion of the trial court.”).

There are well-established limitations to Maryland Rule 5-701. Testimony which vouches for or impugns the credibility of another witness generally runs afoul of the above requirements. As the Supreme Court of Maryland stated in *Bohnert v. State*, “[i]t is the settled law of this State that a witness. . . may not give an opinion on whether he believes a witness is telling the truth.” 312 Md. 266, 278 (1988). Such opinions are “irrelevant [] and questions to that effect are improper.” *Hunter v. State*, 397 Md. 580 (2007) (quoting *Mutyambizi v. State*, 33 Md. App. 55, 61 (1976)). When such testimony is given, it is to be “rejected as a matter of law.” *Bohnert*, 312 Md. at 278.

Testimony which relies only upon statements made by a witness may cross this line into commentary on credibility. In *Bohnert*, a social worker was unable to testify as to any physical evidence and instead could only opine on the consistency of the statements of the

victim which, inevitably, lead to commentary on the credibility of the witness. 312 Md. 266, 278-79 (1988). The Supreme Court of Maryland held that the social worker’s testimony was “inadmissible as a matter of law because it invaded the province of the jury in two ways.” *Id.* at 279. The Court first found that the testimony “encroached on the jury’s function to judge the credibility of the witnesses.” *Id.* Second, the Court reasoned, the testimony interfered with the jury’s ability “to resolve contested facts.” *Id.* In *Robinson v. State*, 151 Md. App. 384, 388 (2003), this Court applied the holding from *Bohnert* to a detective’s testimony that he did not find inconsistencies with the victim’s statements, and reached the same conclusion, finding that the testimony went to the credibility of the witness and, therefore, violated the province of the jury. *Id.*

Alternatively, when the testimony serves to assess consistency with *other evidence*, the testimony does not violate Md. Rule 5-701 because it relies solely upon the perception of the witness. For example, in *Brooks v. State*, a case factually closer to the present case, the State asked a nurse whether a victim’s “statement was ‘consistent or inconsistent with’ the injuries [the nurse] had observed during her physical examination of” the victim. 439 Md. 698, 706 (2014). Unlike the testimony in *Robinson*, the testimony of the nurse in *Brooks* compared her independent observations of the physical evidence to the victim’s statement. *Id.* This distinction is important and goes to the age-old adage: words matter. In *Brooks*, the State’s inquiry was worded so that it “did not require [the nurse] necessarily to endorse any particular version of the truth” when answering. 439 Md. 698, 733 (2014). The resulting testimony only established that the victim’s testimony “was not excluded

from the set of possible explanations of her physical condition.” *Id.*; see also *Conyers v. State*, 354 Md. 132, 153–54 (1999) (holding that testimony establishing a potential explanation for the jury to consider was not a comment on the witnesses’ credibility). Because the testimony in *Brooks* did not impede upon the province of the jury to be the ultimate triers of fact, the Supreme Court of Maryland affirmed the circuit court’s decision to allow the testimony. *Brooks*, 439 Md. at 743–44.

Analysis

Applying the foregoing principles to this appeal, we conclude that Det. Nieves’s trial testimony comports with Maryland Rule 5-701 because it did not stray from his own perception and was necessary for the determination of a fact in issue—namely, where the attack occurred. Therefore, we find that the trial court did not abuse its discretion when allowing the testimony. We explain.

First, the testimony provided by Det. Nieves focuses squarely upon his own perceptions. As in *Brooks*, the instant case deals with testimony comparing two pieces of evidence, both observed by the witness in question, to see if the evidence is consistent. Here, the State asked Det. Nieves whether the statement of Batres was consistent with Det. Nieves’s own independent observations of the physical evidence at the scene of the attack. By answering “[y]es” to the inquiry, Det. Nieves was not providing commentary on Batres’s credibility nor was he passing judgment on Batres’s previous testimony. Just as the nurse in *Brooks* provided testimony as to what she perceived, Det. Nieves provided his own conclusions based on his independent investigation. *Brooks*, 439 Md. at 706. By

basing his testimony within the boundaries of his own perception of the evidence, Det. Nieves's testimony does not violate the first prong of Md. Rule 5-701.

Second, Det. Nieves's testimony provided the jury with important information regarding a fact in issue. As detailed in Guerrero-Ayala's Brief, Batres's statements to emergency personnel and police immediately following the attack made it unclear as to where the attack took place. Det. Nieves's testimony provided the jury with a possible explanation of what happened on May 13, 2023: Det. Nieves only observed blood on the front steps, door, and inside the house because, as Batres told Det. Nieves in the hospital, Batres was stabbed in the kitchen. Det. Nieves's description of the physical evidence is especially critical here as it was the only description of the physical evidence the jury received during the trial. Given that Det. Nieves's testimony assisted the jury with their charge by providing relevant observations of the evidence, it did not violate the second prong of Md. Rule 5-701.

The circuit court did not err in allowing Det. Nieves to testify as to his observations of the evidence. His testimony did not run afoul of Maryland Rule 5-701 and did not invade upon the province of the jury. There is nothing in the record to suggest that the circuit court abused its discretion to admit this testimony. Therefore, we affirm.

II.

Failure to Hear Mitigation Testimony

Parties' Contentions

Guerrero-Ayala next argues, and the State concedes, the circuit court erred in failing to comply with Maryland Rule 4-342(e) in declining to hear mitigation testimony offered at sentencing. Both parties agree that as a proper relief, the case should be remanded to the circuit court for resentencing.

Standard of Review

Judges are “vested with very broad discretion in sentencing criminal defendants.” *Poe v. State*, 341 Md. 523, 531 (1996). We review their decisions to determine if the court abused that discretion in the process of sentencing. *Shifflett v. State*, 315 Md. 382, 387 (1989). As part of our review, there are three circumstances which, if applicable, can justify the reversal of a sentence on appeal. First, “whether the sentence constitutes cruel and unusual punishment or violates other constitutional requirements”; second, “whether the sentencing judge was motivated by ill-will, prejudice or other impermissible considerations”; and finally, “whether the sentence is within statutory limits.” *Cruz-Quintanilla v. State*, 455 Md. 35, 41 (2017) (quoting *Jackson v. State*, 364 Md. 192, 200 (2001)).

Legal Framework

Maryland Rule 4-342(e) states that, “[b]efore imposing sentence, the court shall afford the defendant the opportunity, personally and through counsel, to make a statement

and to present information in mitigation of punishment.” (emphasis added). The right to allocution is one that is recognized by state governments across the nation. *Shifflett*, 315 Md. at 386. Allocution “exists in Maryland [] to improve the truth-finding process by considering comments from the defendant's perspective.” *Id.* at 387. By ensuring that defendants can present mitigation evidence at sentencing, our judicial system “promotes the appearance of justice by making it clear that the sentencing court is receptive to persuasive remarks of all concerned.” *Id.* Further, mitigation evidence allows judges to “fashion a sentence based upon the facts and circumstances of the crime committed and the background of the defendant, including his or her reputation, prior offenses, health, habits, mental and moral propensities, and social background.” *Poe*, 341 Md. at 532.

The trial court has broad discretion in rendering a sentence once the requisites of Maryland Rule 4-342(e), and our decisional law interpreting that rule, are met. *Jones v. State*, 414 Md. 686, 703 (2010). For example, a court “shall afford the defendant the opportunity” not only to speak on the defendant’s own behalf, but also to “present information” before announcing the sentence. Md. Rule 4-342(e). Additionally, the court “has to consider mitigating evidence when it is offered.” *Jones*, 414 Md. at 701. On the other hand, while consideration of the mitigating evidence is mandatory, the court “need not [] accept it.” *Id.* The court may also exercise its discretion in “curtail[ing] allocution that is irrelevant or unreasonably protracted.” *Harris v. State*, 306 Md. 344, 359 (1986). When a defendant asserts the right to allocution, however, the court must honor the request. *Perry v. State*, 150 Md. App. 403, 446 (2002).

To sentence a defendant without mitigation evidence when it is offered is to sentence without “possession of the fullest information possible concerning the [their] life and characteristics.” *Smith v. State*, 308 Md. 162, 167 (1986). This is the very purpose of Maryland Rule 4-342(e): “to improve the truth-finding process by considering comments from the defendant’s perspective.” *Shifflett*, 315 Md. at 387. Therefore, when trial courts deny defendants their right to allocution as codified in Maryland Rule 4-342(e), the appropriate remedy is “re-sentencing.” *Mainor v. State*, 475 Md. 487, 514 (2021); *see also Shifflett*, 315 Md. at 388.

Analysis

We agree with the parties that the circuit court erred when it did not allow Guerrero-Ayala to present mitigation evidence during the sentencing hearing. Because the court violated the mandate of Maryland Rule 4-342(e), its sentence was rendered without consideration “the fullest information possible.” *Smith*, 308 Md. at 167. Accordingly, we vacate and remand to the circuit court for resentencing. *Mainor*, 475 Md. at 518.

As explained above, the language of Maryland Rule 4-342(e) clearly states the duties of the court when it comes to hearing mitigation evidence from a defendant prior to sentencing. The record in the instant case shows that Guerrero-Ayala was able to make a statement at the sentencing hearing, but that only partially fulfills the mandate of the Rule. To be in full compliance with Rule 4-342(e), the court needed to allow defense counsel to present the mitigation witnesses as part of the “information in mitigation of punishment” to which Guerrero-Ayala had a right. Md. Rule 4-342(e). When the court stated that it

would only hear from defense mitigation witnesses when the court has a PSI, the court misapplied the rule. There is no limitation to mitigation evidence provided in Rule 4-342(e), and we have nothing in our decisional law that instructs that a defendant's right to put on mitigation testimony is limited to circumstances in which a PSI is ordered. As discussed above, although the court may, within its discretion, curtail evidence or testimony that is unnecessarily long or otherwise burdensome to the court, it cannot deny a defendant the opportunity to present mitigation testimony outright.

Here, defense counsel twice requested the court permit Guerrero-Ayala to exercise his right to present mitigating information prior to sentencing. Each time, the court denied Guerrero-Ayala the opportunity to exercise that right, despite admitting in open court that it did not have all the information needed to sentence the Guerrero-Ayala. The decision by the circuit court to not hear mitigation testimony when it was offered by defense counsel rendered the court incapable of tailoring the sentence to the defendant as the law requires. *Poe*, 341 Md. at 532. This is especially relevant in this case where, despite the court verifying with counsel on three separate occasions, neither party requested a PSI.⁶ As the Supreme Court of Maryland stated in *Mainor*, “no reasonable person could determine that both the PSI and . . . testimony were unnecessary while still adhering to the guiding principle requiring a defendant's sentence to be personally tailored and individualized[.]” 475 Md. at 513.

⁶ When inquiring about the PSI, the court never informed the parties of its view that turning down the PSI would mean either party would lose an opportunity to present testimony or other information at sentencing.

The sentencing court’s failure to obtain the “fullest information possible” by denying Guerrero-Ayala the opportunity to present mitigating information means the court based its decision on “impermissible considerations.” *Cruz-Quintanilla*, 455 Md. at 41. In doing so, the sentencing court abused its discretion. *Shifflett*, 315 Md. at 387–88. For this reason, we vacate the decision of the circuit court and remand for resentencing.

**JUDGMENTS OF THE CIRCUIT COURT
FOR THE CITY OF BALTIMORE
AFFIRMED IN PART AND VACATED IN
PART; REMANDED TO THE CIRCUIT
COURT OF BALTIMORE CITY FOR
RESENTENCING CONSISTENT WITH
THIS OPINION; COSTS TO BE DIVIDED
EVENLY.**