

Circuit Court for Baltimore County  
Case No: 03-K-18-003401

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2476

September Term, 2019

No. 905

September Term 2021

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TAVON EDWARDS

v.

STATE OF MARYLAND

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Arthur,  
Shaw,  
Woodward, Patrick L.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: April 27, 2022

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Baltimore County, Tavon Malik Edwards, appellant, was convicted of second degree murder<sup>1</sup> and use of a firearm in the commission of a crime of violence in connection with the shooting death of Howard Blevins.<sup>2</sup> On appeal, Mr. Edwards raises a single question for the Court’s review:

1. Did the court err in admitting a photograph of Appellant that was irrelevant and also inadmissible pursuant to Maryland Rule 5-403?

For the reasons that follow, we shall affirm.

### **BACKGROUND**

As the State avers in its brief, this appeal stems from a “five-day trial with 14 witnesses and more than 50 exhibits.” In June 2018, Howard Blevins was shot and killed at the Hartland Village Apartments complex in Baltimore County, Maryland. At trial, several residents of the apartment complex were called upon to recount their recollection of events on the night of the murder. The testimony of resident Jessica Eaton is pertinent to the single question raised by Mr. Edwards on appeal. Ms. Eaton testified that she was in her apartment on the night in question when she heard “three shots fired.” After she “hesitated for a minute or two,” she looked out of her window and observed “a gentleman running from around behind the building to a vehicle and a vehicle taking off.” Of the gentleman, she testified that she “could not see his hair or his face[.]” She did observe the appearance of his clothing and “observed him wearing white shoes[.]”

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<sup>1</sup> Md. Code Ann., Crim. Law § 2-204.

<sup>2</sup> Md. Code Ann., Crim. Law § 4-204.b.

Witness, Duvall Knight, testified that he was acquainted with both Mr. Blevins, also known to him as “J. Rock,” and Mr. Edwards, whose phone number was saved in his phone as “Tay or Black Tay.” During various interviews with the police, Mr. Knight recounted that several phone calls transpired on June 1, 2018, the date of Mr. Blevins’ killing, between his phone and the phone number linked to Mr. Edwards. During one of the calls, Mr. Knight recounted a conversation in which Mr. Edwards stated “your man J. Rock[,] he dead. He dead. As soon as I’m going to see that n\*\*\*\*\*, I’m going to kill him ... or get him killed.”

During the course of Mr. Knight’s testimony, the State sought to introduce a photograph of Mr. Edwards. The photograph depicts Mr. Edwards under a sign that reads: “No loitering. Violators will be prosecuted.” In the photograph, Mr. Edwards is smoking a “cigarillo,” held in his right hand, and the middle finger of his left hand is extended. After introducing the photograph, the following exchange transpired at trial:

Q: I’m showing you what’s been previously marked as State’s Exhibit 31A. Who is this?

A: Oh, Tay.

Q: And have you taken an opportunity today to look at the Defendant?

A: Yes.

Q: Okay. And what did you call him?

A: Tay.

Q: Okay.

[STATE]: At this time the State would move to admit State’s Exhibit 31A.

THE COURT: Any objection?

[DEFENSE COUNSEL]: No objection.

THE COURT: It's admitted.

(State's Exhibit 31A was admitted into evidence)

Q: And this is the individual you knew as Tay?

A: Yes.

[DEFENSE COUNSEL]: Actually, can we approach Your Honor?

(Bench discussion ensued at 9:58:02 a.m.)

[DEFENSE COUNSEL]: Your Honor, I actually want to raise an objection to this piece of evidence. I don't know that it's necessary at all. It's just a photo line. He knows my client by looking at him. They don't need to admit this photo. I think its prejudicial. More prejudicial [than] probative that photo.

THE COURT: I'm not sure what the prejudice is. It's just a picture of him standing up there.

[DEFENSE COUNSEL]: I believe what I'm seeing is somebody that could be interpreted as flashing signals and I - - you know, I don't want the jury to try to wonder what that means. It's just - -

THE COURT: What's the relevance of the photo?

[STATE]: It shows his white shoes which are consistent with one of the witnesses advised - -

THE COURT: The objection is overruled.

### **DISCUSSION**

On appeal, Mr. Edwards contends that the court erred in admitting the photograph of the defendant because it did not constitute relevant evidence. Pursuant to Maryland Rule

5-403, evidence is relevant when it possesses “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Md. Rule 5-401.

Mr. Edwards first argues that to the extent that the photograph was entered as evidence that Mr. Knight knew Mr. Edwards, that fact was not in dispute at trial and, therefore, the photograph was irrelevant to prove any fact of consequence at trial. Firstly, Mr. Edwards does not direct this Court to any portion of the record in which it was established, before the State moved to have the photograph admitted, that he did not contest Mr. Knight’s assertion that the men were acquainted. In this light, it was prudent that the State take steps to establish that Mr. Knight possessed knowledge of Mr. Edwards at the outset of its questioning. Secondly, “photographs do not lack probative value merely because they illustrate a point that is uncontested.” *State v. Broberg*, 342 Md. 544, 554 (1996). On the contrary, it was relevant that Mr. Knight knew and could identify Mr. Edwards at trial because it set a foundation for his testimony regarding the telephone conversations that transpired between the two men on the date of Mr. Blevins’ death, implicating Mr. Edwards in the murder.

The photograph was also relevant, albeit to a lesser extent, in that it depicted Mr. Edwards wearing white shoes consistent with Ms. Eaton’s description that a man fleeing the scene of the shooting was wearing white shoes. Mr. Edwards contends that this fact is irrelevant because white shoes are so “generic” that his being photographed in them at one point in time only establishes that “he was like every other male” in his ownership of white

shoes. Though the possession of white shoes may be a generic fact, it does not render Mr. Edwards' possession of them irrelevant. Rather, to the extent that the State could present any evidence that Mr. Edwards possessed any of the items of clothing that resembled the description provided by Ms. Eaton, we believe that such evidence would be relevant under Maryland Rule 5-403.

Lastly, Mr. Edwards contends that even if there were any probative value to the photograph, such value was “substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury ... or needless presentation of cumulative evidence.” (quoting Rule 5-403). Pursuant to Maryland Rule 5-403, relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice[.]” However, the “balancing of probative value against prejudicial effect is committed to the sound discretion of the trial judge” and the “trial court’s decision will not be disturbed unless plainly arbitrary, because the trial judge is in the best position to make this assessment.” *Broberg*, 342 Md. at 552 (quotation marks and citation omitted). We are not persuaded that the court abused its discretion as alleged by Mr. Edwards and, therefore, will not disturb its exercise of discretion on appeal. It was reasonable for the court to deem that the photograph’s depiction of Mr. Edwards underneath a “No Loitering” sign, smoking a “cigarillo” did not suggest that he was not a “responsible citizen” as alleged by Mr. Edwards on appeal. It was also reasonable for the court to deem that the hand signal flashed by Mr. Edwards did not necessarily portray that he had some type of gang affiliation as asserted, especially absent other evidence of gang-involvement. Altogether, it was

reasonable for the court to determine that the probative value of the photograph was not substantially outweighed by any danger of unfair prejudice.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE  
COUNTY AFFIRMED. COSTS TO  
BE PAID BY APPELLANT.**