Circuit Court for Montgomery County
Case No. 133097C

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2536

September Term, 2018

JARRED STEPHON BARCLAY

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Friedman,

JJ.

Opinion by Arthur, J.

Filed: October 22, 2019

*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.

A jury in the Circuit Court for Montgomery County convicted appellant Jarred Stephon Barclay of two counts of human trafficking and one count of receiving the earnings of a person engaged in prostitution. The court sentenced Barclay to six years in prison. He noted a timely appeal in which he asks us to consider the following questions:

1. Did the circuit court err in denying Appellant's motion to suppress on the ground that Appellant lacked standing to challenge the seizure of evidence recovered as a result of the car stop?
2. Was the evidence sufficient to convict Appellant?
3. Did the court err in allowing the State to elicit improper lay opinion testimony?

For the reasons that follow, we shall affirm the judgments of the trial court.

BACKGROUND

Hearing on Motion to Suppress

Before trial, Barclay filed a written motion to suppress "all evidence seized pursuant to the stop and search of [the] car in which he was a passenger" on August 30, 2017. The motion asserted that on that date the Montgomery County Police were conducting surveillance at a hotel in Rockville on suspicion that prostitution was being conducted there. On two separate occasions, the detectives observed men enter room 207, one with a woman identified as Haley Davis. Both men left the room within minutes after they entered it. The detectives stopped and questioned both men and seized their telephones, but neither made an incriminating statement.

Several hours passed with no activity, but at 6:23 p.m. a woman identified as Jessica Moriarty arrived at the hotel in an automobile, with a man identified as Barclay as

her passenger. Barclay got out of the car, walked into the hotel through a side door, and knocked on the door of room 207. At 6:26 p.m. Davis met him in the hallway, and they went into room 207 together. Three minutes later, Barclay left the room, holding his right pants pocket. He re-entered Moriarty's car, which she had moved near the door that was closest to the exit from the parking lot.

After Moriarty drove away, the police stopped her car. As Detective Sergeant David Papalia approached the driver's side window, he smelled fresh marijuana and observed an open wallet containing "two folds of currency," totaling $693, between Moriarty's legs. A search of the car and its occupants revealed a small bag of marijuana between Barclay's buttocks, but no weapons. Barclay had no cash on his person. In his investigative note, Detective Papalia wrote that the police stopped the car because of their "concern[] that Barclay may have committed a robbery or assault" of Haley Davis, the woman in room 207.

In his motion, Barclay argued that the police had no lawful ground on which to stop Moriarty's car in the absence of a traffic violation or other reasonable suspicion that a crime had been committed. Barclay dismissed Detective Papalia's concern that he may have robbed or assaulted Haley Davis, arguing that Davis did not report a crime, that no one heard any calls of distress from her room, that the police found no weapons after searching Barclay and the car, and that after the arrest the officers took over two hours to check on Davis (which suggests that they were not concerned that she had been robbed or assaulted).

In its written response, the State proffered that on August 30, 2017, the Montgomery County police were conducting surveillance at the hotel because an advertisement on the internet (on Backpage.com) had led them to link the occupant of room 207 (Haley Davis) to prostitution. The police had observed the two men who, separately, entered and exited room 207 (one after 15 minutes, the other after 10). Later, the police observed Moriarty drive into the parking lot. Barclay got out of Moriarty's car, went into the hotel, and walked down the hall toward Davis's room, where she came out to meet him. He entered the room at 6:26 p.m. and left "rapidly" two minutes later, holding a "large bulge" in his pocket. Barclay "quickly" got back into Moriarty's car, which she had moved to the side of the hotel nearest to the parking lot exit, and the car "rapidly" left the parking lot.

According to the State, the officers believed that Davis was engaged in prostitution and knew that persons engaged in prostitution are "often victims in robberies." Because Barclay ran out of Davis's room minutes after he had entered it, holding a bulge in his pocket, and because Moriarty had moved the car near the exit after she dropped Barclay off, the officers suspected that he "may have engaged in a robbery," or that he had "received money from a prostitute." In a single sentence at the conclusion of the opposition, the State added that Barclay lacked standing to contest the search of Moriarty's car or the money that was seized from her. *But see Brendlin v. California*, 551 U.S. 249, 257 (2007) (holding that a passenger has standing to challenge the constitutionality of a traffic stop).

At the start of the suppression hearing, defense counsel reiterated his challenge to the stop and the admission of any evidence obtained therefrom. The prosecutor responded that the only evidence seized in the search was the money, which had been taken from Moriarty, who was not a party to the case. Therefore, in the State's view, Barclay had no standing to challenge the seizure of the money.

The suppression court asked defense counsel what he sought to suppress. He responded, "anything that the police observed as a result of" the stop. The court replied that a person cannot move to suppress evidence that the officers observed after a putatively illegal stop. *But see United States v. Crews*, 445 U.S. 463, 470 (1980) (stating that "the exclusionary sanction applies to any 'fruits' of a constitutional violation—whether such evidence be tangible, physical material actually seized in an illegal search, items observed or words overheard in the course of the unlawful activity, or confessions or statements of the accused obtained during an illegal arrest and detention[]") (footnotes omitted); *Wong Sun v. United States*, 371 U.S. 471, 485 (1963) (stating that "testimony as to matters observed during an unlawful invasion has been excluded in order to enforce the basic constitutional policies"). Because of its misapprehension of the potential scope of a motion to suppress, the court questioned the need for a suppression hearing.

The court, however, also perceived that, on the basis of the parties' proffers, the officers knew that Barclay had just been in a room that was being used for prostitution. The court asked defense counsel whether the officers had reasonable suspicion that Barclay was soliciting prostitution or facilitating prostitution, so that they could conduct a

Terry stop[1] of the car in which he was traveling. Defense counsel did not directly respond. Instead, counsel stressed the officer's assertion that they had stopped Barclay because they believed that he may have committed a robbery. The trial court replied that the officers' specific grounds and assertions did not matter, as long as the objective evidence supported a finding that a reasonable law enforcement officer could have reasonable suspicion that criminal activity was afoot.

The court said that it could conduct a "five minute hearing" on whether the officers had reasonable suspicion to stop the car, but that the hearing was unnecessary because (in the court's understanding) Barclay lacked standing to contest the seizure of evidence. The court added, "But even if he did [have standing], the stop was reasonable anyway[]." When defense counsel reiterated that the officers claimed to have stopped the car because they believed that Davis may have been robbed or assaulted, the court responded, "[I]t doesn't matter as long as objectively there was reasonable suspicion for the stop." The court proceeded to deny the motion to suppress, placing its decision on the ground that Barclay lacked standing.

Trial

At trial, the State established that on August 29, 2017, Barclay and Haley Davis approached the check-in desk at a hotel in Rockville. Davis presented her identification and a credit card and checked into the hotel. Barclay walked outside and returned with Davis's luggage, which he brought up to her room.

[1] *See Terry v. Ohio*, 392 U.S. 1 (1968).

The next day, prompted by a posting on a website on which persons engaged in prostitution advertise their services, the Vice and Intelligence Unit of the Montgomery County Police was performing "proactive enforcement" of the human trafficking and anti-prostitution laws at the hotel. The detectives undertook active surveillance of room 207, discovering that Davis was its sole occupant. The detectives observed two men entering the room separately and staying for less than an hour. As the men exited the hotel, the detectives stopped them and questioned them.

That evening, the detectives observed Barclay arrive at the hotel as a passenger in a car driven by Moriarty. Barclay walked normally and did not seem to have anything in his rights pants pocket. He knocked on Davis's door and was allowed to enter. A few minutes later, he ran out of the hotel, holding his right pants pocket. He then re-entered the car, and it exited the parking lot.

The police stopped the car shortly after it left the hotel. As Detective Papalia approached the driver's side of the car, he smelled marijuana and observed that Moriarty, the driver, had a small, unzipped purse containing two separate folds of cash between her legs. Moriarty told Detective Melissa Dzenkowski that Barclay had handed her the money, which totaled $693, as soon as he re-entered the car at the hotel. A search of Barclay's person revealed less than $20 in cash and a small amount of marijuana in his pants. Detective Papalia observed no other indicia of drug use or possession in the car.

Later, the detectives spoke with Davis in her hotel room. They observed no evidence of drug use or distribution.

The State compelled testimony from the two men who had been seen entering Davis's hotel room. Each testified that on August 30, 2017, he had gone to the hotel to meet Haley Davis, whom he had discovered on the website advertising prostitution. Once in Davis's hotel room, each man negotiated an exchange of money for sex. Neither man saw Barclay at the hotel nor spoke with a male intermediary in negotiating the acts of prostitution. Nor did either man see evidence of drug use or distribution. After their respective assignations, each man left the hotel and was pulled over by the police.

The State also compelled testimony from Moriarty, who testified that she and Barclay, her boyfriend, met in Hagerstown on August 30, 2017, with the intention of going out to eat. Barclay directed her to the hotel, which was approximately an hour away. She claimed not to know why he directed her there and claimed not to have asked him.

At the hotel, Moriarty stayed in the car while Barclay went inside. When he returned five to ten minutes later, they left the hotel en route to a gas station, but got pulled over by the police before they could reach it. Despite her prior statement to the police, Moriarty denied that Barclay had given her the money that was found in her lap after the pair left the hotel. She said some of the money was hers and that Barclay had handed her only enough money to pay for gas and food as they were driving to the gas station.

The State had charged Moriarty as an accomplice in Barclay's crimes and detained her, though it ultimately dropped the charges against her. Nonetheless, while Moriarty was detained, she and Barclay spoke by telephone on a recorded line. During those calls,

Barclay told Moriarty that he would take the blame; that if she were forced to come to court, she could say that she did not know what he was doing; and that she "wouldn't get into any trouble because [she] didn't do anything."

At the close of the State's case, Barclay moved for judgment of acquittal, arguing that the State had put on no evidence of his knowledge of Davis's illegal activities. Although he was present when Davis checked into the hotel and helped her with her bags on August 29, 2017, he argued that he was not present or involved when the only illegal activity occurred the next day. The only evidence the State had presented, he said, was his brief presence in Davis's hotel room, which was for an "unknown purpose." The jury heard no evidence that he had set up Davis's appointments or that Davis transferred any money to him. Nor had the jury heard any evidence about how much money Barclay had in his possession before he visited the hotel room.

The court denied the motion. Barclay introduced no evidence, and the court denied his renewed motion for judgment of acquittal at the close of the entire case. The jury found him guilty.

DISCUSSION

I. Motion to Suppress

Barclay contends that the suppression court erred in denying his motion to suppress, because, he says, the court erred in concluding that he lacked standing to challenge the seizure of cash from Moriarty. He also argues that the police officers had no probable cause or reasonable, articulable suspicion to believe that he or Moriarty had

committed a crime when they stopped Moriarty's car. He concludes that the alleged errors require reversal or a remand for a new suppression hearing.

"'When reviewing the disposition of a motion to suppress evidence alleged to have been seized in contravention of the Fourth Amendment . . . , we view the evidence adduced at the suppression hearing, and the inferences fairly deducible therefrom, in the light most favorable to the party that prevailed on the motion.'" *Bailey v. State*, 412 Md. 349, 362 (2010) (alteration in original) (quoting *Crosby v. State*, 408 Md. 490, 504 (2009)). "'[A]n appellate court reviews for clear error the trial court's findings of fact, and reviews without deference the trial court's application of the law to its findings of fact.'" *Varriale v. State*, 444 Md. 400, 410 (2015) (quoting *Hailes v. State*, 442 Md. 488, 499 (2015)).

A law enforcement officer may stop and briefly detain a person for the purposes of investigation if he or she has a reasonable suspicion supported by articulable facts that criminal activity may be afoot. *Terry v. Ohio*, 392 U.S. at 30; *accord Holt v. State*, 435 Md. 443, 459 (2013). Reasonable suspicion is "'a particularized and objective basis for suspecting the particular person stopped of criminal activity.'" *Illinois v. Wardlow*, 528 U.S. 119, 128 (2000) (quoting *United States v. Cortez*, 449 U.S. 411, 417-18 (1981)). It is a "'common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.'" *Bost v. State*, 406 Md. 341, 356 (2008) (quoting *Stokes v. State*, 362 Md. 407, 415 (2001)); *accord Holt v. State*, 435 Md. at 460. "While the level of required suspicion is less than that required by the probable cause standard, reasonable suspicion nevertheless embraces something more

than an 'inchoate and unparticularized suspicion or "hunch."'" *Crosby v. State*, 408 Md. at 507 (quoting *Terry v. Ohio*, 392 U.S. at 27); *accord Holt v. State*, 435 Md. at 460. Even if a person's suspicious conduct is susceptible of an innocent explanation, "*Terry* recognized that the officers could detain the individuals to resolve the ambiguity." *Illinois v. Wardlow*, 528 U.S. at 125.

Courts "must look at the 'totality of the circumstances' of each case to see whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing." *United States v. Arvizu*, 534 U.S. 266, 273 (2002) (quoting *United States v. Cortez*, 449 U.S. at 417-18); *see also Bost v. State*, 406 Md. at 356 (stating that "[t]he test is 'the totality of the circumstances,' viewed through the eyes of a reasonable, prudent, police officer"). A court must not isolate each individual circumstance for separate consideration. *See Holt v. State*, 435 Md. at 460; *see also In re David S.*, 367 Md. 523, 535 (2002) (stating that, "[u]nder the totality of circumstances, no one factor is dispositive").

The State agrees with Barclay that he had standing, as a passenger, "to contest the lawfulness of a traffic stop of a car in which he is traveling, and that if that stop is unlawful, any evidence gained as a result of that stop is the 'fruit of the poisonous tree.'" Brief at 2. The State also agrees with Barclay that "the 'fruit of the poisonous tree' includes intangible evidence, so that in this case, it would include the officers' testimony that they saw an open purse with money between the driver's legs." *Id.* at 2-3. In view of the State's concessions, the question becomes whether the trial court's decision to deny the motion to suppress was legally correct notwithstanding its erroneous conclusion

that Barclay lacked standing to challenge the stop and to suppress the officers' testimony about their subsequent observations.

In our judgment, the decision was legally correct. Although the court should not have denied Barclay's motion to suppress on grounds of standing, it did not err in denying the motion. Based on the proffers in Barclay's written motion to suppress and the State's answer, none of which is disputed, and based on the statements made at the suppression hearing, the court correctly found that the police officers had a reasonable, articulable suspicion that Barclay had been involved in a crime, such that they could conduct a brief investigative stop of the car in which he was a passenger.

In summary, the police had information that someone was engaged in prostitution at the hotel. They observed two men who, separately, entered Davis's hotel room and left very shortly thereafter, in a manner suggesting that they had visited a person engaged in prostitution. They also observed Barclay enter the hotel through a side door; go up to the room that Davis was apparently using for prostitution; and emerge hurriedly three minutes later, clutching a suspicious bulge in his pants. On the basis of these observations, the officers surmised that Barclay may have robbed or received money from a person engaged in prostitution. As the suppression court recognized, these factors could give a reasonable officer a "'particularized and objective basis' for suspecting legal wrongdoing." *United States v. Arvizu*, 534 U.S. at 273 (quoting *United States v. Cortez*, 449 U.S. at 417-18). In the words of the suppression court, "[I]f he did [have standing], the stop was reasonable[.]"

It is true that the court did not formally place its decision on that ground. Nonetheless, it would be a complete waste of judicial resources for us to remand this case for another suppression hearing[2] when the pertinent facts are undisputed, and when the court has already announced that it would reach the correct decision on those undisputed facts. "'[A]n appellee is entitled to assert any ground adequately shown by the record for upholding the trial court's decision,'" and "'if legally correct, the trial court's decision will be affirmed on such alternative ground.'" *Barrett v. State*, 234 Md. App. 653, 665 (2017) (quoting *Unger v. State*, 427 Md. 383, 406 (2012)), *cert denied*, 457 Md. 401 (2018).

II. Sufficiency of the Evidence

Barclay argues that the evidence adduced at trial was insufficient to sustain the convictions of human trafficking and taking earnings from prostitution, because, he says, the State failed to prove that he was aware that Davis was involved in prostitution, a necessary element of the crimes. He argues that, in the absence of any testimony by Davis, the State presented "at most, a circumstantial case that Mr. Barclay was up to *something,*" perhaps marijuana distribution, but that the jury would have been required "to speculate to find that he played an active role in Ms. Davis's prostitution." (emphasis in original). (Barclay's brief, 16, 19, 21).

[2] Barclay would not be entitled to a new trial because of the suppression court's misconception about standing; at most, he would be entitled to a new suppression hearing. *See Bates v. State*, 64 Md. App. 279, 292 (1985).

In assessing the sufficiency of the evidence supporting a criminal conviction, we ask "'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.'" *McClurkin v. State*, 222 Md. App. 461, 486 (2015) (emphasis in original) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "In applying that standard, we give 'due regard to the [fact-finder's] findings of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses.'" *Id.* (alteration in original) (quoting *Harrison v. State*, 382 Md. 477, 488 (2004)). We do not "'distinguish between circumstantial and direct evidence because [a] conviction may be sustained on the basis of a single strand of direct evidence or successive links of circumstantial evidence.'" *Montgomery v. State*, 206 Md. App. 357, 385 (2012) (alteration in original) (quoting *Morris v. State*, 192 Md. App. 1, 31 (2010)). A court, on appellate review of evidentiary sufficiency, will not "retry the case" or "re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence." *Smith v. State*, 415 Md. 174, 185 (2010).

Viewing the evidence in a light most favorable to the State, we conclude that the jury could have reasonably found that Barclay engaged in human trafficking and received money from a person engaged in prostitution.

At the time of the offenses in this case, Md. Code (2002, 2012 Repl. Vol., 2017 Supp.), § 11-303 of the Criminal Law Article ("CL") concerned the crime of "pandering," which the parties to this case refer to as human trafficking. Section 11-303(a)(1) stated, in pertinent part, that

> A person may not knowingly:
>
> (i) take or cause another to be taken to any place for prostitution;
>
> (ii) place, cause to be placed, or harbor another in any place for prostitution; [or]
>
> (iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution[.]

Id.

At the time of the offenses in this case, § 11-303(e) stated that "[a] person who knowingly benefits financially or by receiving anything of value from participation in a venture that includes an act described in subsection (a) . . . of this section is subject to the same penalties that would apply if the person had violated that subsection."

CL § 11-304 concerns the offense of receiving the earnings of a person engaged in prostitution. That statute states: "A person may not receive or acquire money or proceeds from the earnings of a person engaged in prostitution with the intent to . . . promote . . . [or] profit from a crime under this subtitle[.]"

The evidence was sufficient to establish that Barclay took Davis to the hotel "for prostitution," in violation of CL § 11-303(a)(1); that he benefitted financially from that venture, in violation of CL § 11-303(e); and that he received proceeds from the earnings of a person engaged in prostitution with the intent to profit from the crimes of prostitution or human trafficking, in violation of CL § 11-304. Davis checked into the hotel with Barclay, and he carried her bags to her room. The next day, while the police were engaged in surveillance at the hotel because of a posting on a website known to promote prostitution, two men arrived separately at Davis's hotel room and negotiated a monetary

rate in exchange for sexual services, which were rendered. That evening, Barclay arrived at the hotel, with empty pockets; entered Davis's room; and left moments later, holding a bulge in his pocket. At the ensuing stop, Davis's companion, Moriarty, had $693 in cash in her lap, which, she told the officers, she had received from Barclay after he came out of the hotel. In these circumstances, the jury could have reasonably inferred that Barclay installed Davis at the hotel so that she could engage in prostitution and that he came back the next day to claim the proceeds.

Furthermore, in recorded phone conversations with Moriarty after his arrest, Barclay emphasized he would "take the blame" and that she could tell the court that she did not know what he was doing. The jury could interpret Barclay's willingness to "take the blame" as an expression of his consciousness of guilt of the crimes with which he was charged; the jury could interpret Barclay's other comments as an attempt to influence Moriarty's testimony, which could also evidence his consciousness of guilt.

Barclay argues that the jury could have inferred that he was involved in a drug distribution scheme rather than a prostitution scheme. Perhaps the jury could have drawn that inference, though it seems unlikely because Davis was very clearly engaged in prostitution; Davis's customers saw no drugs in Davis's room; the police saw no evidence of drug use, drug paraphernalia, or drug sales in Davis's room; and the arresting officers found only a small amount of marijuana on Barclay. But the presence of other potential inferences does not negate the inference that Barclay took Davis to the hotel to engage in prostitution and that he returned to the hotel to claim her earnings.

III. Lay Opinion Testimony

During Barclay's cross-examination of Detective Papalia, he established that the detective, who had "made a lot of drug arrests," smelled marijuana when Moriarty's car was pulled over. (T1. 121). On redirect, the detective confirmed that he had retrieved a small amount of marijuana from Barclay, but that Barclay had not been charged with possession. (T1. 124). The prosecutor then asked:

Q. Did you see any evidence of drug dealing in the car?

A. Not that I recall. No.

The trial court overruled Barclay's objection.

On appeal, Barclay argues that the court abused its discretion in permitting Detective Papalia to offer what he calls "expert testimony" regarding the absence of evidence of drug dealing. Barclay relies principally on *Ragland v. State*, 385 Md. 706, 726 (2005), in which the Court of Appeals held that a trial court abused its discretion in permitting two police officers to offer what purported to be lay opinion, based on their training and experience as officers, that they had witnessed drug transactions.

This case is a bit different from *Ragland*. Unlike the officers in *Ragland*, Detective Papalia was not asked to express an opinion, based on his specialized knowledge, skill, experience, training or education (*id.* at 725), about whether Barclay was engaged in drug dealing. He certainly was not asked anything like the objectionable question in *Ragland*, which was, "[C]an you give us your opinion of what occurred on that deal on that encounter on the street?" *Id.* at 712. Instead, he was simply asked whether he did or did not see evidence of drug dealing. In 2018, when this case was

tried, any lay witness with even a modicum of familiarity with contemporary American popular culture would recognize some of the indicia of drug dealing.

The detective's challenged testimony is best understood as a form of permissible lay opinion testimony, i.e., as "testimony that is rationally based on the perception of the witness." *Id.* at 717. "Lay opinion testimony is permissible 'where it is impossible, difficult, or inefficient to verbalize or communicate the underlying data observed by the witness.'" *Walter v. State*, 239 Md. App. 168, 201 (2018) (quoting *Robinson v. State*, 348 Md. 104, 119 (1997)). "'A trial court should, within the sound exercise of its discretion, admit lay opinion testimony if such testimony is derived from first-hand knowledge; is rationally connected to the underlying facts; is helpful to the trier of fact; and is not barred by any other rule of evidence.'" *Id.* at 200-01 (quoting *Robinson v. State*, 348 Md. at 118).

The detective's testimony, that he observed no evidence of drug dealing, was a shorthand way of saying that he observed no green vegetal matter or white powder, no packaging materials, no scales, etc. The court did not abuse its discretion in allowing the detective to offer that testimony. *See id.* at 200-01.

In any event, immediately after the detective offered the challenged testimony, the following exchange occurred:

Q. Did you see any drug scales in the car?

A. I did not.

Q. Did you see any wrapping papers in the car?

A. I don't remember seeing anything like that.

> Q. Did you see any other indicia of drugs other than this very small bag of marijuana that was in the defendant's pocket?
>
> A. I did not. (T1. 124).

Barclay did not object to any of this testimony, which covers the same subject as the testimony that he claims was erroneously admitted. Nor did he request and receive a continuing objection after the court overruled his first objection. For that reason, his claim of error is waived. *See DeLeon v. State*, 407 Md. 16, 31 (2008) ("[o]bjections are waived if, at another point during the trial, evidence on the same point is admitted without objection[]").

Finally, even assuming that the court improperly admitted Detective Papalia's one-line answer to the question about whether he observed any evidence of drug distribution, any error would have been harmless beyond a reasonable doubt. *See Dorsey v. State*, 276 Md. 638, 659 (1976) (in a criminal case, error is harmless when a reviewing court, after independently reviewing the record, is satisfied beyond a reasonable doubt "that there is no reasonable possibility that the evidence complained of—whether erroneously admitted or excluded—may have contributed to the rendition of the guilty verdict"). Improperly admitted evidence may be harmless when it is merely cumulative of other evidence. *See Robeson v. State*, 285 Md. 498, 507 (stating that "[t]he law in this State is settled that where a witness later gives testimony, without objection, which is to the same effect as earlier testimony to which an objection was overruled, any error in the earlier ruling is harmless"); *Yates v. State*, 202 Md. App. 700, 709 (2011) (recognizing that Maryland appellate courts have found "the erroneous admission of evidence to be

harmless if evidence to the same effect was introduced, without objection, at another time during the trial”), *aff’d*, 429 Md. 112 (2012); *Berry v. State*, 155 Md. App. 144, 170 (2004) (stating that “[w]e shall not find reversible error when objectionable testimony is admitted if the essential contents of that objectionable testimony have already been established and presented to the jury without objection through the testimony of other witnesses”).

Here, Detective Papalia’s challenged testimony, that he observed no evidence of drug dealing, was cumulative of the detective’s subsequent testimony that he saw no scales, wrapping paper, or other indicia of drug distribution. The testimony was also cumulative of the testimony of Davis’s clients and of the officer who inspected her hotel room, that they saw no evidence of drugs or drug distribution in the room. Accordingly, any error by the trial court in admitting Detective Papalia’s challenged testimony was harmless beyond a reasonable doubt.

JUDGMENTS OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED; COSTS ASSESSED TO APPELLANT.