Circuit Court for Baltimore County
Case No. 03-K-17-005960

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 3523

September Term, 2018

MICHAEL GEORGE COLLETT

v.

STATE OF MARYLAND

Kehoe,
Leahy,
Adkins, Sally D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Adkins, Sally D., J.

Filed: December 7, 2020

We are first called upon to analyze the proper circumstances for admitting prior inconsistent statements when presented with witness claims of memory loss. Then we assess an instance of that fast diminishing genre of defenses—a challenge to the sufficiency of corroboration of an accomplice's testimony.[1]

In January 2019, a jury found Michael George Collett guilty on all counts for his participation in a robbery with Alicia Venzke that ended with the victim, Carl Robinson, being shot in the leg. The State's main evidence against Collett was Venzke's testimony—that of an accomplice. During the trial, Venzke recounted specific details about the incident, but failed to name who was with her during the robbery. After she repeatedly said that she could not recall, the State introduced a video from Venzke's interrogation, where she revealed Collett's presence at the scene of the crime.

Other than Venzke's testimony, the State's evidence consisted primarily of police witnesses who recounted the victim's identification of his attackers as Venzke, and an unknown tall, skinny white male. No other witness directly identified Collett as a perpetrator of the crime.

Collett presented us with two questions on appeal:

[1] The Court of Appeals abrogated this requirement in August 2019: "[i]n place of that rule, we adopt today a new rule that will no longer require that accomplice testimony be corroborated by independent evidence to sustain a conviction." *State v. Jones*, 466 Md. 142, 150 (2019). Collett's conviction occurred prior to the Court's decision, and we will not apply *State v. Jones* retroactively. *See State v. Hawkins*, 326 Md. 270, 295 (1992) (while adopting a new common law analysis for a crime, the Court of Appeals declined to apply the law retroactively: "[w]e have changed that law, however, for prospective application in the prosecution of that offense").

1. Whether the trial court erred in admitting a key witness's videotaped interrogation as a prior inconsistent statement after concluding incorrectly that the witness feigned memory loss while testifying.

2. Whether the evidence offered by the State was insufficient to support Mr. Collett's conviction under a theory of accomplice liability because the State failed to satisfy its burden to corroborate the principal actor's testimony against Mr. Collett.

We answer both questions in the negative and affirm the trial court's decision.

FACTS AND LEGAL PROCEEDINGS

In November 2017, Michael Collett was dating Alicia Venzke when Venzke arranged a meeting with Carl Robinson after exchanging some phone calls and text messages. Collett knew that Venzke was texting Robinson to rob him, and Venzke said that the decision was made "[s]o we can get money." Not much thought went into this plan—Venzke said that "[t]he time we were texting him it was on a whim." Venzke and Collett "just wanted to move and we needed a car to do so." Shortly before the robbery, Venzke used Collett's phone to text Robinson because her phone's battery died.

In the commission of the robbery, Venzke shot Robinson in the leg. Officer Shelby Sims responded to a 911 call and found Robinson laying on the ground in pain, holding his left leg. The only thing Robinson could say to Sims was that "he couldn't talk, he's been shot." After arriving at the hospital for treatment, Robinson told Officer Joshua Moroz that "a girl named Alicia" shot him. Robinson shared that there were two people involved in the shooting, a white male and a white female, both with handguns. He told Moroz that

"[t]here was a large silver handgun in the male's hand, and then a smaller black handgun in the female's hand."

Later, while talking to Detective Michael Zellers, Robinson described his male assailant as "wearing a black mask, pants and holding a long nose silver revolver . . . . [H]e described the white male as 'six foot, navy blue hooded sweatshirt, black puffy winter jacket. Dark sweatpants, dark hair, skinny, maybe a [sic] 175 pounds, holding a long silver revolver.'" Robinson recounted his experience to Zellers:

> He said when he stepped out from a dark area in the path area leading to the, um, trailer park, the white male basically stated, hey, do you have a light, and he went to dig into his pockets, whatever, to get a light, by the time he looked up he had a revolver pointing at him demanding money or, however the wording was at the time.
>
> And when he turned to Ms. Venzke, like, oh, you know, oh, no, she had a gun pointing from the other angle.

Robinson did not give Zellers any indication that he knew his male attacker. Because Robinson "did not give specific details and facial features . . . [Zellers] would not have been comfortable . . . asking him to identify one subject out of six."

Venzke was arrested the day after the robbery, around 3 p.m. in front of her house. Collett was found a "very close, walking distance" from Venzke's house. During Venzke's interrogation, Zellers let her know that Collett was in the other room, to which she responded with "I figured . . . ." From the very beginning, Venzke said she did not want to talk about what happened. Seeing the marks on Venzke's arms, Zellers asked whether Venzke was using drugs. She responded that they "are just old marks," and she has "old scars" because she has "been almost three months clean."

When discussing the robbery, Zellers asked Venzke why she shot Robinson. Venzke answered that Robinson "jumped . . . towards [Collett]." In an attempt to clarify, Zellers asked when Robinson "jumped toward [Collett]," if she was "afraid he was going to hurt him," to which she responded with an affirmative "Um-hum." As to the question of whether Collett's gun went off, Venzke said: "I can't remember. I was worried about me, what I did," but stated that it did not go off to her knowledge. Venzke eventually pled guilty to first degree assault and the use of a firearm in a violent crime and received a sentence of five years with no parole.

The Trial

Collett's trial took place on January 4 and January 7, 2019. Venzke, the State's star witness, testified about the incident, but when asked about certain key facts, claimed she had forgotten. Venzke acknowledged that she and someone else participated in the robbery but said that she could not remember who: "I was with somebody else, but I don't remember who it was." She remembered the gun that she used, that she shot Robinson, and that she talked to a few different people about joining her in the robbery, but ultimately could not remember which one went with her: "[t]here was three of them." Venzke attributed her loss of memory to her drug usage: "I been doing Xanax and drinking liquor almost every day because I got clean off heroin, so I substitute one drug for another." On the night of the robbery, she "at least did two Xan—two milligram bars of Xanax and . . . drank a lot."

The State offered to play the tape of the police interview for Venzke without the jurors being present, as an attempt to refresh her memory. If it did not refresh her recollection, then the State planned to play it for the jury as a prior inconsistent statement—inconsistent because she feigned her memory loss.

Defense counsel countered that there was a missing step, one that should precede playing the tape, even without a jury present:

> [Y]ou first ask that witness, would playing this tape or playing this back to you help refresh your recollection. It's clear to me that she might say that won't help her at all. [2]

In discussing whether to show Venzke the tape first without the jury, the trial judge found that "she is feigning memory loss at this point . . . given the inconsistencies just within her testimony today, let alone, I, obviously, don't know what those tapes show, or tell us." The court then decided to "just proceed Monday morning with the jurors, and if you want to ask the questions again you can." The State offered to provide the court with a copy of the taped interrogation to view over the weekend.

The following Monday, when trial resumed, the trial judge noted that he had reviewed the videotape of Venzke's prior statement, made a finding that Venzke did feign her memory loss, and ruled that it would allow the State to use her prior inconsistent

[2] Defense counsel continued:

> I also wonder how admissible those tapes are when the witness is available to testify.
> ***
> I will submit to the Court. I'm asking the court to dismiss the case. It won't be the last time I ask.

statement in its evidence. Defense counsel objected, citing several reasons.[3] The court noted defense counsel's objections but explained that Venzke's statement fell under the Maryland Rule 5-802.1 exception for prior inconsistent statements.

The State then played the video for the jury in which Venzke confirmed Collett's presence during the commission of the crime. Venzke testified after that her memory was refreshed a "little bit," and that she was under the influence of drugs during her police interview. During cross-examination, Venzke emphasized how she lied during her interrogation:

> [Defense counsel] Q.: You said you were not telling the truth to the police about whether you were drunk or under the influence in that interview?
>
> [Venzke] A.: Um-hum.

[3] Defense counsel offered three points:

> I don't believe that the statement made . . . to the police or to detectives was made under oath. It certainly wasn't made in court, that differs it from the type of grand jury, prior grand jury testimony or anything like that.
>
> There is no evidence of any threats or coercion to get her to change her—her story. That differs it from any type of talk of intimidation or influence, second.
>
> And third, is finally, um, because I've been on this side of the table . . . as a prosecutor many times. . . . [T]he witness is available to testify in this case. That differs it from any chance where we are, or in this case the State, will have a witness that for whatever reason was unavailable.
>
> ***
>
> And so, again, this is a continuing objection, your Honor.

> [Defense counsel] Q.: Was there anything discussed in that interview that you weren't telling the truth about?
>
> [Venzke] A.: Yeah.
>
> [Defense counsel] Q.: What else weren't you telling the truth about?
>
> [Venzke] A.: That I shot him because he jumped at [Collett].

Detective Becky Walsh testified after Venzke. She spent the day after the robbery searching for a suspect—Collett—and assisted in finding Venzke. Along with a few other representatives from the investigation, Walsh found Collett a "very close, walking distance" from Venzke's house. Detective Tyler Shaff testified that he helped conduct the search at Venzke's house, and found "a black revolver with six rounds of ammunition, and . . . residency paperwork for Ms. Venzke and Mr. Collett" on a bed in one of the bedrooms, as well as a letter to Collett from Venzke.

Zellers, the lead detective on the case, testified next. He recounted how he was dispatched to the scene and conducted a full walk around the area for evidence. Patrol officers provided Zellers with Robinson's statement that he and Venzke "were in route back to her trailer at the time when . . . a male subject jumped out from behind the bushes . . . and attempted to rob him." Zellers investigated the second number that Venzke used to contact Robinson after her phone died and learned that it "showed a subscriber information of George Collett." Zellers then discovered that Venzke "was dating a man by the name of Michael Collett. That coincided with the subscriber information" of the second phone number, and the police databases "showed a physical description of Mr.

Collett, which fit a description that the victim had given us." After arresting Venzke, Zellers found her very forthcoming, and that "she was able to verify that she was with Michael Collett" for the robbery.

After Zellers, the prosecution rested, and counsel moved for Judgment of Acquittal. Arguments by both parties and the court's ruling are set forth *infra*.

Collett called two witnesses, Brandi Koetting and Marsha Trice, to discuss Collett, and his relationship with Venzke, before closing arguments, when defense counsel further stressed that "there's no corroborating evidence that ties Michael Collett to this crime that Alicia Venzke did." The jury found Collett guilty of first degree assault, attempted armed robbery, use of a firearm in commission of a crime of violence, conspiracy to commit armed robbery, and illegal possession of a regulated firearm by a prohibited person. The court sentenced Collett to forty-five years, with ten years suspended, and no possibility of parole for the first twenty-five years. This appeal followed.

DISCUSSION

Prior Inconsistent Statements

The trial court's admission of Venzke's recorded pretrial statement, undeniably hearsay, is a central point of dispute.[4] The State relies on the hearsay exception recognized by Maryland Rule 5-802.1, which says in part:

> The following statements previously made by a witness who testifies at the trial or hearing and who is subject to cross-

[4] A statement is hearsay if it is an out of court statement by a declarant being offered to prove the truth of the matter asserted. Md. Rule 5-801(c).

> examination concerning the statement are not excluded by the hearsay rule:
> (a) A statement that is **inconsistent with the declarant's testimony**, if the statement was . . . **(3) recorded in substantially verbatim fashion** by stenographic or electronic means contemporaneously with the making of the statement . . . .

Id. (emphasis added). Maryland first adopted this rule in *Nance v. State*, 331 Md. 549 (1993):

> We hold that the factual portion of an inconsistent out-of-court statement is sufficiently trustworthy to be offered as substantive evidence of guilt when the statement is based on the declarant's own knowledge of the facts, is reduced to writing and signed or otherwise adopted by him, and he is subject to cross-examination at the trial where the prior statement is introduced.

Id. at 569 (cleaned up). Mere "peripheral or immaterial matters" do not qualify: "[t]he contradiction(s) must be material." *Wise v. State*, 243 Md. App. 257, 272 (2019), *aff'd* __ Md. __, No. 73, Sept. Term 2019, slip op. (Nov. 24, 2020).

Venzke testified about various details concerning the robbery—where she committed the robbery, that Robinson did not pull a weapon on her, that she used her silver gun to shoot Robinson, and that Collett was at her parents' house after the robbery. Venzke agreed that she told the detectives the truth.

She could not, however, remember who was with her: "I know I was with somebody but I just don't recall with who." Venzke said that she did not remember various parts of her interrogation "because [she] was not in [her] right state of mind" and still feeling the effects of one Xanax earlier in the day.

The State asked Venzke questions about what she discussed with the detectives, such as whether they asked about Collett, whether they searched her parents' home, and whether Collett was involved in the robbery. Venzke remembered all of these questions. She said that she was aware—during the interrogation—that it was being recorded. She even managed to remember that the detectives got her a soda while she was there.

The State contends that not only was Venzke's memory loss feigned, but that she positively and directly contradicted her prior statements to the police as well. Venzke told the police that she pulled the trigger on Robinson because "[h]e jumped . . . towards [Collett]." At trial, however, she testified that she shot Robinson because she "didn't have [her] mind right" and "secretly hated" him. We now examine whether these explanations sufficiently contradict each other so as to make them inconsistent.

On her first day of testimony, Venzke stated that she "just did a Xanax right before [police officers] came and got [her]." Although Venzke told the police that she was sober and "almost three months clean," at trial she claimed to have "relapsed . . . and went and got two pills of heroin" on the day of her interrogation. Venzke purportedly "lied to [her] parents so many times it's just a natural thing to do, and say, no, I'm not on drugs." She reaffirmed her claims of intoxication during the interrogation after the court played the video, saying that she took "two pills [of heroin], because [she] was too stressed out and upset that [she] couldn't sleep. [Her] nerves were a wreck."

The State believed that her initial testimony was inconsistent with her interrogation: "she's been inconsistent about . . . who was there. Why she shot the individual. The guns. What they did." The State argued that her prior statement to the police was inconsistent with her testimony, including her claim that she no longer could recall who assisted her and was present during the crime.

Feigning Memory Loss

The trial judge undertook to decide "whether a prior statement is inconsistent." Noting that Venzke had no interest in testifying in the first place,[5] the trial court ultimately found that Venzke directly contradicted herself and was feigning memory loss.

Claiming error, Collett points to this statement by trial judge: "I believe she said, and I have it in my earlier notes of her testimony, that she committed the robbery with the defendant on victim Robinson." We agree with Collett that Venzke did not say this at trial

[5] Venzke made it clear from the beginning that she did not want to testify:

> [Prosecution] Q.: . . . [L]et me ask you first off, Alicia, did you want to be here today–
>
> [Venzke] A.: No, I did not.
>
> ***
>
> [Prosecution] Q.: . . . . Can you explain to me what you were doing that night [of the robbery], a little earlier in the day, like probably around five, six in the evening?
>
> [Venzke] A.: Do I have to?

and the judge made a mistake in his recollection.[6] The issue is whether the mistake made a difference to the court's overall finding of feigned memory loss:

> When an appellant, in a criminal case, establishes error, unless a reviewing court, upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict, such error cannot be deemed "harmless" and a reversal is mandated. Such reviewing court must thus be satisfied 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.

Dionas v. State, 436 Md. 97, 108 (2013) (cleaned up). In its most simple formulation, the doctrine of harmless error has been formulated as a determination of "whether the trial court's error was unimportant in relation to everything else the jury considered in reaching its verdict." *Id.* *See also Paydar v. State*, 243 Md. App. 441, 458 (2019).

This case is not the typical erroneous admission or exclusion of evidence, but it is analogous thereto—in believing, without supporting evidence, that Venzke had testified that Collett was with her at the robbery, it is as if the court, making its evidentiary decision whether to admit Venzke's prior inconsistent statement, considered evidence that was inadmissible, *and believed it*. This was error—but may have been harmless.

Our harmless error analysis starts with consideration of whether this belief was important to the court's second level fact-finding that Venzke was feigning her memory loss about who committed the robbery with her. We conclude that it was not. The trial

[6] The trial judge made the statement that Venzke directly implicated Collett in the robbery not only on the second day of trial, but on the close of the first day as well.

court had reviewed the tape of Venzke's interview with the police which occurred the day after the robbery. Thus, it knew that Venzke had previously implicated Collett. Whether she implicated Collett in her testimony (which the trial court said in error) or in her recorded statement to the police (which she did), is not materially significant to the feigning issue. That turned on whether Venzke truly had lost her memory that Collett was involved.

The court did consider matters significant to the feigning issue: Venzke's credibility at trial when describing the robbery, including her reluctance to testify, and the stark contrast between the details she did remember at the police station and at the trial and the crucial fact she claimed to have forgotten—who helped commit the robbery.

We restate and elaborate on the specifics about the robbery that she managed to recall: she texted the victim from Collett's cell phone; she shot the victim in the leg with a .22 revolver; she did so because she secretly hated the victim, who had given drugs to her in the past; she walked to meet the victim at the BP station across from the Walmart at Carroll Island, which was between their two residences; once she met the victim, they stopped at a store for him to get cigarettes; they walked through "a cut that [she] always use[s] to take when [she] was home . . . a little open spot, a bit of trees . . . ." She robbed him and shot him there because there were fewer people who could see them. She recalled that the victim "did not pull a weapon" on her.

She also clearly remembered details of her arrest—at 3 p.m. on the day after the robbery while she was walking to Royal Farms to get cigarettes—despite having consumed alcohol until 5 a.m. and taken some Xanax. Specifics she recalled from her police interview

include: the police gave her a soda; she signed a Miranda warnings form and understood her rights; the police made no promises to her; they told her that they had searched her parents' house and found her second gun.

Venzke's recollection of these details about the robbery and its aftermath, when contrasted with her purported failure to recall who was her partner in crime—a classic case of selective memory—undeniably provides a strong foundation for the trial court's finding that the witness was feigning her memory loss. Considering this, as the trial court did, with Venzke's stated reluctance to testify at all, we conclude there was no error in admitting Venzke's prior recorded statement to the police pursuant to *Nance* and Rule 5-802.1.

Other Contradictions

The State also offered, and the trial court secondarily considered, positive contradictions by Venzke—(1) her state of intoxication during the interrogation and robbery (asserted at trial but denied at police station), and (2) her reason for shooting Robinson. These, independently, would justify admission of some or all of the video interrogation under Rule 5-802.1 without a finding of feigned memory loss.

Refreshing Venzke's Memory

Collett urges us to consider that the trial court could have attempted to refresh Venzke's memory prior to playing the video of her prior inconsistent statement.[7] We rejected a similar argument in *Thomas v. State*, 213 Md. App. 388 (2013) in which the defendant argued that the "State failed to lay the proper foundation under Maryland Rule 5-613 to impeach the witnesses with the prior statements." *Id.* at 405. Judge Graeff, writing for the Court, rejected that defense argument, explaining the difference between use of a prior inconsistent statement under Rule 5-613 and Rule 5-802.1(a):

> Maryland Rule 5-613 permits impeachment of a witness' credibility by evidence that the witness made a prior statement that is inconsistent with his or her in-court testimony, but only if a sufficient foundation first has been established. The Rule provides:
>
> > (a) **Examining witness concerning prior statement.** A party examining a witness about a prior written or oral statement made by the witness need not show it to the witness or disclose its contents at that time, provided that before the end of the examination (1) the statement, if written, is disclosed to the witness and the parties, or if the statement is oral, the contents of the statement and the circumstances under which it was made, including the persons to whom it was made, are disclosed to the

[7] Arguably, this argument is not preserved, as counsel's objections were vague and expressed in uncertain terms:

> I don't . . . obviously object—when you're going to refresh a witness's recollection . . . you first ask that witness, would playing this tape or playing this back to you help refresh your recollection. It's clear to me that she might say that won't help her at all.

The only other statement from Collett's counsel was to muse "how admissible those tapes are when the witness is available to testify."

> witness and (2) the witness is given an opportunity to explain or deny it.
> (b) **Extrinsic evidence of prior inconsistent statement of witness.** Unless the interests of justice otherwise require, extrinsic evidence of a prior inconsistent statement by a witness is not admissible under this Rule (1) until the requirements of section (a) have been met and the witness has failed to admit having made the statement and (2) unless the statement concerns a non-collateral matter.
> ***
> These foundational requirements, however, apply only when the prior inconsistent statement is offered to impeach. . . . When extrinsic evidence of a prior inconsistent statement is offered as substantive evidence, Maryland Rule 5-802.1 controls. . . . Rule 5-802.1 does not contain the same foundational requirements as Rule 5-613.

Id. at 405–07 (cleaned up). Here, Venzke's prior statements, which were recorded by electronic means, met the requirement of this rule. Because the statements were admissible as substantive evidence, *Thomas* and Rule 5-802.1 control, and Rule 5-613(b), regarding admissibility as impeachment, is inapplicable.

We affirm the trial court's admission of Venzke's prior inconsistent statement as substantive evidence.

Corroboration

Collett says that there was insufficient evidence to sustain his convictions because the testimony of Venzke, a co-conspirator, was not sufficiently corroborated by the State. The State argues that the evidence presented at trial was sufficient, and that it provided the slight corroboration required. During trial, the State responded to counsel's motion for acquittal by adding that the requirement to corroborate "is a scintilla," and that "there's

sufficient amount in the light most favorable to the State to tie it outside of the testimony of Alicia Venzke, such as the nature of the phone that was recovered." The State also argued that the nature of the weapons recovered corroborated Venzke's testimony, as well as the victim's description of his male assailant. Ultimately, the court agreed with the State that there was sufficient corroboration, basing its decision on the presence of the defendant's paperwork in Venzke's home and the victim's description.

This Court previously discussed its standard of review for sufficiency of the evidence:

> The standard of review for appellate review of evidentiary sufficiency is whether any rational trier of fact could have found the essential elements of the crimes beyond a reasonable doubt. We view the evidence in the light most favorable to the prosecution. We give due regard to the fact finder's finding of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses. Although our analysis does not involve a re-weighing of the evidence, we must determine whether the jury's verdict was supported by either direct or circumstantial evidence by which any rational trier of fact could find appellant guilty beyond a reasonable doubt.

Brice v. State, 225 Md. App. 666, 692–93 (2015) (cleaned up). Our job is to assess the burden of production: "at the end of the case and with respect to the burden of production, the exculpatory inferences do not exist. They are not a part of that version of the evidence most favorable to the State's case." *Cerrato-Molina v. State*, 223 Md. App. 329, 351 (2015) (cleaned up).

At the time of Collett's trial, under Maryland law, "a conviction may not rest on the uncorroborated testimony of an accomplice." *Williams v. State*, 364 Md. 160, 179 (2001).

See note 1, *supra*. For corroborating evidence in accomplice liability, "only slight corroboration is required." *Turner v. State*, 294 Md. 640, 642 (1982). Corroborative evidence need not be sufficient to convict on its own, but "it must relate to material facts tending either (1) to identify the accused with the perpetrators of the crime or (2) to show the participation of the accused in the crime itself." *Brown v. State*, 281 Md. 241, 244 (1977). Corroboration does not need to "extend to every detail and indeed may even be circumstantial . . . ." *Id.* If the corroborative evidence tends to establish either identification or participation, "the trier of fact may credit the accomplice's testimony even with respect to matters as to which no corroboration was adduced." *Id.*

Collett argues that Robinson's description of his male assailant is too vague to implicate Collett and asserts that the description does not meet legal requirements for a sufficient identification. The State responds that the "jury could observe Collett in the courtroom during the trial and determine whether Collett's physical appearance matched the description given"—tall, around six feet, and skinny, around 175 pounds. We agree with the State.

The Court of Appeals in *Mulcahy v. State*, 221 Md. 413 (1960) held that corroborating identification of one of the perpetrators was sufficient because he "was wearing a brown topcoat when arrested as one of the suspects was reported to have been wearing at the scene of the crime." *Mulcahy*, 221 Md. at 428. The eyewitnesses and police officer were not able to identify the defendant at the scene of the crime, but the similar clothing, proximity to the other defendants both before and after the crime, and consistent

non-accomplice testimony, was enough to corroborate accomplice testimony. *Id.* at 427–28.

In *Proctor v. State*, 49 Md. App. 696 (1981), the Court of Special Appeals held that a generic description of a "white over green or perhaps light green over a darker green full sized General Motors automobile" was enough to corroborate a few defendants' participation in a burglary after an officer successfully apprehended a similar car to the one described by the eyewitness. *Proctor*, 49 Md. App. at 701 (cleaned up). The same eyewitness also observed three individuals at the scene of the crime, and although "his description of the vehicles involved was hazy," the slight connection between the description of the cars and the defendants' presence in the vehicles was enough to corroborate the testimony. *Id.* Both *Mulcahy* and *Proctor* involved such slight corroboration—a topcoat or car description—that we find these cases support the sufficiency of the State's corroboration of Venzke's testimony.

Collett normally stays with Koetting, who testified to Collett's whereabouts in the days leading up to the robbery. She said that Collett and Venzke "got dropped off at [Venzke's] parents' house the night before the incident happened." She believed that on the night of the robbery, Collett "was asleep at [Venzke's] parents' house" instead of staying with Koetting, as he typically does.

Venzke used Collett's phone to coordinate a meet-up with Robinson. Collett's parole and probation paperwork was found in Venzke's bedroom. The day after the robbery, officers arrested Collett within walking distance of Venzke's home. The evidence

can be circumstantial as long as it corroborates the accomplice's testimony. *See Brown*, 281 Md. at 244.

Zellers testified about Robinson's description of Collett, and how it matched a database physical description of Collett. The jury could view Collett to see whether his appearance aligned with the victim's description. Venzke's use of Collett's cell phone close in time to the robbery is also corroborating. We are not persuaded by Collett's argument that the evidence was too attenuated to be corroborating. Matching physical description of Collett and contemporaneous cell phone usage connecting him to the crime are hardly attenuated. Taken as a whole, the State properly corroborated Venzke's testimony, and met its burden for sufficiency of the evidence in doing so.

CONCLUSION

For the reasons stated above, we hold that the trial court properly admitted Venzke's prior inconsistent statement, and that the State produced sufficient corroborating evidence for a jury to find Collett guilty. We affirm the trial court's decision on both questions.

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