

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1145

September Term, 2014

RAOUL EMMANUEL HUGHES

v.

STATE OF MARYLAND

Meredith,
Berger,
Kenney, James A., III
(Retired, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: September 2, 2015

*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.

Appellant, Raoul Emmanuel Hughes (“Hughes”) was convicted of four counts of burglary in the first degree; two counts of theft valued between \$1,000 and \$10,000; one count of theft under \$1,000; three counts of malicious destruction over \$500; and one count of malicious destruction under \$500 following a jury trial before the Circuit Court for Montgomery County that took place from June 16, 2014 through June 19, 2014. All of Hughes’s charges stemmed from four burglaries that took place in the same area of Silver Spring, Maryland on March 25, 2013 (the “March 25 Burglaries”).

On appeal, Hughes presents four issues¹ for our review, which we have rephrased as follows:

1. Whether the circuit court erred by precluding Hughes from presenting evidence that the March 25 Burglaries were committed by a third party.

¹ The issues, as presented by Hughes, are:

1. Did the court err in precluding Mr. Hughes from offering evidence that a third party committed the crimes at issue?
2. Did the court err in precluding Mr. Hughes from offering evidence of his medical inability to break and enter into some of the homes at issue?
3. Did the court abuse its discretion in ordering Mr. Hughes to remain in leg irons throughout his trial in the absence of any evidence that Mr. Hughes posed a security threat?
4. Did the court err in denying Mr. Hughes [sic] motion to suppress when officers illegally seized his vehicle, impermissibly allowing them to search its cabin and trunk?

2. Whether the circuit court erred by precluding Hughes from presenting medical evidence that it would have been painful for Hughes to have committed the March 25 Burglaries.
3. Whether the circuit court erred by ordering Hughes to remain in leg restraints during the trial.
4. Whether the circuit court erred by denying Hughes's motion to suppress evidence recovered from a search of the vehicle that he used to drive to the Takoma Park police station on March 25, 2013.

For the reasons that follow, we affirm the judgment of the Circuit Court for Montgomery County.

FACTUAL AND PROCEDURAL BACKGROUND

The robberies of 9816 Arbor View Drive, 1702 Whitehall Drive, 1704 Whitehall Drive, and 1629 Whitehall Drive in Silver Spring, Maryland on March 25, 2013 comprise the March 25 Burglaries for which Hughes was found responsible.

At trial before the Circuit Court for Montgomery County, Quien Luu (“Luu”) testified that she returned to her home, located at 9816 Arbor View Drive, in the early afternoon of March 25, 2013 to find a broken rear window. Inside her home, Luu noticed that her locked bedroom door had been kicked in and that a jewelry box, some Vietnamese currency, and some United State currency that she stored in her bedroom were missing. Luu further observed that a green duffel bag had been taken from the bedroom of her aunt, who lived with Luu at the same address. During a search of Luu’s home following the burglary, Officer

Moran of the Montgomery County Police observed that several cables on the rear exterior of Luu's home had been cut.

Kokying Stephanie So ("So") testified at trial that she returned to her home, located at 1702 Whitehall Drive, around 1:00 p.m. on March 25, 2013 and noticed a police presence on the next street over from hers. So's husband entered the home and observed signs of a burglary which led him to call the police. As officers inspected her home, So noticed that her basement door had been broken and that wires in the back of her home had been cut. She further observed that \$2,000 in United States currency and a red envelope containing a few hundred dollars in currency from Canada and Hong Kong were missing from her home.

Rachel Evans ("Evans") received a call from a friend around 2:00 p.m. on March 25, 2013 alerting her that police had entered her home, located at 1704 Whitehall Drive. Evans was out of town at the time, but, upon returning home, discovered that one of her home's rear windows had been broken, the phone lines outside her home had been cut, and her bedroom had been ransacked. Evans noticed that several designer handbags and sunglasses were missing from her bedroom closet.

Peifen Heesch ("Heesch") was in her home, located at 1629 Whitehall Drive, on March 25, 2013 when her doorbell rang around 12:30 p.m. Heesch went to answer the front door but found no one there. Shortly thereafter, Heesch's house alarm indicated that her home's back door had been opened. Heesch went to the back door to investigate and discovered a man banging on the door. The man noticed Heesch as she observed him, so

Heesch retreated upstairs where she locked herself in a bathroom and called the police. Heesch initially attempted to call the police on her home's land line, but, after realizing that the line was dead, proceeded to call them on her cell phone. Heesch alerted officers that a black or Hispanic male, in his thirties, of average build wearing a dark hooded sweatshirt had attempted to break into her home. Officers arrived at Heesch's home several minutes later but could not find the man Heesch described.

At the time of the March 25 Burglaries, Detective Theresa Durham of the Montgomery County Police was investigating Hughes as a suspect in a burglary that occurred in Burtonsville, Maryland in November of 2012.² Detective Durham contacted Hughes and asked him to come the police station on March 25, 2013, after learning that Hughes had been inquiring about picking up his Chevrolet van³ which the police had determined was stolen. Detective Durham, therefore, arranged for Hughes to come to the station, ostensibly to pick up the van. Detective Durham's true intention, however, was to arrest Hughes for automobile theft upon arrival.

Hughes arrived at the Takoma Park police station in a black BMW sedan (the "BMW"). He was accompanied by his girlfriend, Keesha Thomas ("Thomas"), who sat in

² In a separate trial, Hughes was convicted of first-degree burglary and theft of property valued at at least \$1,000 but less than \$10,000 for the November 2012 burglary in Burtonsville, Maryland. That case is currently on appeal to this court. *Raoul Emmanuel Hughes v. State of Maryland*, No. 453, Sept. Term 2014.

³ The Chevrolet van had been impounded when Hughes was arrested on an earlier occasion.

the front passenger seat. Hughes parked the car, left the engine running, and went in to the police station. Thomas remained seated in the BMW. After entering the station, Hughes was immediately arrested for automobile theft. At the same time, several officers, including a canine, exited the station and approached the BMW.⁴ Thomas was asked to exit the vehicle. Detective Durham asked Thomas whether there was anything illegal in the vehicle, and Thomas responded that immediately prior to arriving at the station Hughes had given her “a couple baggies” which Thomas believed contained either heroin or cocaine, but which actually contained marijuana. Thomas further told Detective Dunham that she had some marijuana in her purse, which was sitting on the front seat of the vehicle. The canine alerted to the presence of drugs in the BMW.

Thereafter, officers searched the BMW. They recovered latex gloves, a pair of Timberland boots, a wet brown/gray jacket, a knit ski hat, a reflector vest, a duffle bag containing red Chinese envelopes, foreign currency, purses, a jewelry box, jewelry, white rubberized cotton gloves, and a red rubberized telephone with wires. The police later obtained a warrant and further searched the vehicle, recovering wire cutters among other items. The only drugs recovered from the BMW were found in Thomas’s purse.

⁴ Unsurprisingly, the way in which the officers approached the vehicle and interacted with Thomas were characterized differently by various witnesses. Thomas, for example, testified that “the car was surrounded by a bunch of detectives” and that she was “ordered” to get out of the BMW. Detective Durham testified that she removed Thomas from the car for her “safety” due to the presence of the canine, saying, “Why don’t we step from the car and talk?”

Hughes was ultimately charged with burglary and related charges. Hughes moved to suppress the items recovered from the BMW and a hearing was held on his motion to suppress on March 10, 2014.⁵ At the motions hearing, Hughes argued that he was arrested without probable cause and that the subsequent search of the BMW was the fruit of an illegal arrest.⁶ He asserted that the canine sniff and information provided by Thomas “flow[ed] from his unlawful arrest,” arguing that the only reason the police could conduct the canine sniff and speak with Thomas was because the police illegally restrained Hughes and prevented him from leaving the police station.

In response, the prosecutor argued that there was probable cause to support the arrest, based upon modifications that had been made to the van’s vehicle identification number. The prosecutor further argued that the evidence recovered from the BMW had an independent source because the search of the BMW was permissible based upon the canine alert as well as Thomas’s statement regarding drugs in the vehicle. The prosecutor acknowledged that, in his view, the probable cause for the arrest played no role in the justification for the search.

⁵ A single motions hearing was held on Hughes’ motion to suppress evidence recovered from the BMW as it pertained to both the instant case and Hughes’s prosecution for the November 2012 Burtonsville, Maryland burglary.

⁶ Hughes asserted that the van had been stolen several years before he took possession of it, and there was no probable cause to support a finding that Hughes knew or should have known that the van was stolen.

The trial court ruled that there was probable cause to support Hughes’s arrest. The court further ruled that the canine alert and Thomas’s statement each separately supported the warrantless search of the BMW under the *Carroll*⁷ doctrine. The court emphasized that “under either theory, the dog alerting [or] what Ms. Thomas said -- either one standing alone I find as probable cause to search the car under *Carroll*.” The court further rejected Hughes’s argument that the search flowed from the arrest, explaining as follows:

So I don’t find that the court can speculate and say, “Well, if the defendant hadn’t been arrested he would have -- or he wasn’t detained he could have run out and gotten his car and driven away.” That wasn’t the case. The facts are clearly that there was probable cause to arrest him. The fact that he could sort things out later maybe with this period of time in jail, maybe with the length of time that had gone by, maybe with a good-faith basis as to why the car had different VIN numbers, maybe with the defense that “Look, I never put the car up on a lift and looked at that VIN number,” he might have won the case. But that’s not the test. The test is probable cause.

And this car had so many flags on it, you didn’t really need to have an expert. But based with the expert, and the police actually -- that was good police work. They went to an expert to check it all out and report it stolen. So I don’t want to go down that road again. So the arrest was proper. And then the car is sitting there running, the door open. Officer Durham had every right to have the dog search/sniff from the outside.

So I’ll deny the defense motion to suppress all the items that were recovered from the BMW and March 25, 2013.^[8]

⁷ *Carroll v. United States*, 267 U.S. 132 (1925).

⁸ The court further ruled that the plain view doctrine supported the officers’ search
(continued...)

At trial, photographs of various items recovered from the BMW were admitted into evidence. Following a four-day jury trial before the Circuit Court for Montgomery County, Hughes was convicted of four counts of burglary in the first degree; two counts of theft valued between \$1,000 and \$10,000; one count of theft under \$1,000; three counts of malicious destruction over \$500; and one count of malicious destruction under \$500. He was sentenced to four consecutive sentences of twenty years for the burglary in the first degree convictions; two sentences of one year each for the theft between \$1,000 and \$10,000 convictions (to run concurrent to his burglary sentences); one sentence of six months for his theft under \$1,000 conviction (to run concurrent to his burglary sentences); and four sentences of sixty days each for his malicious destruction convictions (to run concurrent to his burglary sentences). This timely appeal followed.

DISCUSSION

I. Exclusion of Hughes’s Third Party “Other Crimes” Evidence

Before trial, Hughes made a motion *in limine* seeking to introduce evidence that another individual -- James Hayes (“Hayes”) -- committed the March 25 Burglaries. Hughes proffered that he could show that on the morning of March 25, 2013, Hughes used Thomas’s phone to call Hayes several times. Hughes further proffered that he could produce “cell phone records showing that the night before the burglar[ies] . . . there were several different

⁸ (...continued)
of items in the trunk of the vehicle. That determination is not at issue in this appeal.

locations, different parts of D.C. that were struck with [Hayes’s] cell phone records,” and that “Hughes and . . . Hayes were in contact [via telephone] the morning of the burglar[ies].” Hughes also contended that Hayes fit the physical description that Heesch provided of the man that attempted to break into her home. Finally, Hughes proffered that Hayes pled guilty to two unrelated burglaries in Anne Arundel County that bore “striking . . . similarities” to the March 25 Burglaries.

The circuit court ultimately denied Hughes’s motion *in limine* to present evidence that Hayes committed the March 25 Burglaries. The circuit court found Hughes’s proffer to be “irrelevant” and determined that it did not “negate the guilt or promote the innocence of the defendant.” We hold that the circuit court properly excluded this irrelevant evidence from Hughes’s trial. Indeed, “[e]vidence that is not relevant is not admissible.” Md. Rule 5-402.

In reaching its determination that evidence of Hayes’s allegedly similar burglaries in Anne Arundel County was irrelevant in the instant case, the circuit court cited our decision in *Wilson v. State*. 148 Md. App. 601 (2002). In *Wilson*, we held that the trial court properly excluded evidence of a third party’s criminal history “because the evidence would not tend to exonerate appellants, but rather to establish that [the third party] was also involved.” *Id.* at 645. Accordingly, we held that the trial court in *Wilson* “properly decided that the evidence was not relevant and should not be admitted.” *Id.*

Similarly, in the instant case, the circuit court properly excluded Hughes’s proffered evidence regarding Hayes’s culpability for the March 25 Burglaries after finding that “[t]here

is no proffer, any evidence, that negates guilt or advances the innocence of the defendant based on the proffer.” The circuit court concluded that, at most, Hughes’s proffer could prove was that “Hughes has a friend that commits burglaries” and that this friend -- Hayes -- “committed a burglary before [March 25, 2013] and a burglary after . . . [n]ot in this neighborhood, but in other counties, and that he’s committed burglaries and been convicted of those two.” The circuit court further noted the conspicuous absence of any proffer that “Hayes was driving the BMW . . . [or] that Mr. Hayes . . . was putting in these items into the BMW.” Essentially, Hughes’s proffer failed to tie Hayes conclusively to the March 25 Burglaries in any way.

The circuit court emphasized that although Hayes may have matched Heesch’s description of her attempted burglar, Hughes also did not “look dramatically different [from the description] as far as the height, the weight, the lookout, the ethnicity, or anything along those lines.” Furthermore, the court noted that Hughes’s proffer of Hayes’s cell phone data did not establish that Hayes played a role in the March 25 Burglaries. The circuit court found that Hughes’s proffered cell phone data was irrelevant because Hayes lived in Adelphi, Maryland, and could have plausibly made all of his calls on March 25, 2013 from his home. The circuit court specified that because Hayes does not live “in Des Moines, Iowa, or Huntington, West Virginia,” the cell phone data indicating that his phone was used in the vicinity of the March 25 Burglaries did not tie him to those burglaries. Moreover, the State correctly identified that the cell records proffered by Hughes showed Hayes making a call

for an hour and twenty minutes during the hour and forty five minute period when the March 25 Burglaries occurred. It was, therefore, extremely unlikely that Hayes could have committed the March 25 Burglaries while simultaneously making a phone call.

In light of all of the reasons identified by the circuit court in its oral ruling, we hold that the circuit court properly denied Hughes's motion *in limine* to introduce irrelevant evidence concerning Hayes's role in burglaries carried out in Anne Arundel County.

II. Exclusion of Hughes's Medical Evidence

At trial, Hughes attempted to introduce expert testimony that it would have been very painful for him to have performed two of the March 25 Burglaries: the burglary of Luu's home at 9816 Arbor View Drive and the burglary of Evans's home at 1704 Whitehall Drive. Both Luu and Evans noticed that their homes had broken rear windows following the March 25 Burglaries, through which the burglar presumably entered their homes. Hughes proffered medical records establishing that Hughes had seen a doctor on March 28, 2013 for treatment of a fracture in his left hand. Hughes's expert was prepared to testify "that a fracture in [Hughes's] left hand would have made it very difficult and painful for Mr. Hughes to lift himself through an open window." Hughes's expert, however, did not examine or treat Hughes, but rather merely examined an x-ray taken of Hughes's hand.

The circuit court precluded Hughes's medical expert from testifying at trial because "the doctor [Hughes was] proposing to call did not examine the defendant, so there's absolutely no way he could testify as to what this individual, Mr. Hughes, was able to do

when he saw him, what his strengths, what his weaknesses are, what pain level he had.” The circuit court conceded that Hughes’s proffered expert medical testimony was relevant, but excluded it under Maryland Rule 5-403⁹ because “the State would be highly prejudiced because they would not be able to probe the full extent of any impediment or any -- any impediments or inability of the defendant to perform” the actions required to carry out the March 25 Burglaries.

“We review rulings on the admissibility of evidence ordinarily on an abuse of discretion standard.” *Bernadyn v. State*, 390 Md. 1, 7 (2005). We have held that reversal based on a circuit court’s decision to exclude relevant evidence “should be reserved for those rare and bizarre exercises of discretion that are, in the judgment of the appellate court, not only wrong but flagrantly and outrageously so.” *Oesby v. State*, 142 Md. App. 144, 167-68 (2002). Based on our review of the record, we hold that the circuit court’s exclusion of Hughes’s expert medical testimony was a proper exercise of its discretion.

“According to Md. Rule 5–702, which codified the modern common-law rule regarding expert testimony, a trial court must determine . . . whether the trier of fact will receive appreciable help from the expert testimony in order to understand the evidence or to determine a fact in issue.” *Sippio v. State*, 350 Md. 633, 649 (1998). In the instant case, the

⁹ Maryland Rule 5-403 provides that “[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” Md. Rule 5-403.

circuit court found that “the State would be hamstrung in the sense that they couldn’t cross-examine [Hughes’s expert] as to what the extent or range of motion, what [Hughes’s] strengths, all the tests that you could give on a hand.” This limitation on the State, in turn, would have made it incredibly difficult for the jury to have assessed the actual extent of Hughes’s physical abilities on March 25, 2013 had Hughes’s proposed medical expert testified. We, therefore, hold that the circuit court properly exercised its discretion in excluding Hughes’s relevant medical expert testimony on the grounds that its prejudice to the State and jury outweighed its probative value.

Moreover, the testimony of Hughes’s proposed medical expert would not have established that it was medically impossible for Hughes to have committed all of the March 25 Burglaries, limiting the probative value of such testimony. Rather, Hughes’s proposed expert would have merely testified that it would have been “painful, very painful . . . for somebody with Mr. Hughes’s medical condition” to climb through the rear windows of Luu’s and Evans’s homes. Evans’s testimony at trial, however, indicated that a burglar could have entered her rear window without having to lift himself up, which Hughes alleged would have been prohibitively painful for him to do. Evans indicated that a burglar could have stepped up on an iron railing leading to her basement, and then stepped onto her raised patio and easily accessed her rear window from there.

III. Hughes's Leg Restraints

Before jury selection in the instant case, Hughes's attorneys requested that Hughes's leg restraints be removed during jury selection and the subsequent trial. The circuit court, however, denied Hughes's request. On appeal, Hughes contends that having to sit in leg restraints throughout his entire trial prejudiced the jury against him, contributing to his ultimate conviction.

The Court of Appeals has previously held “that the trial judge has broad discretion in maintaining courtroom security.” *Hunt v. State*, 321 Md. 387, 408 (1990). In reviewing a trial judge's decision concerning courtroom security, we must “not determine whether less stringent security measures were available to the trial court, but rather whether the measures applied were reasonable and whether they posed an unacceptable risk of prejudice to the defendant.” *Id.* Furthermore, in exercising his or her discretion over matters of courtroom security, “the decision as to whether an accused should wear leg cuffs or shackles must be made by the judge personally, and may not be delegated to courtroom security personnel.” *Whittlesey v. State*, 340 Md. 30, 84 (1995).

Hughes argues that the circuit court impermissibly delegated its decision concerning Hughes's leg restraints to courtroom security personnel and that he was unacceptably prejudiced by being forced to remain in leg restraints throughout his trial. Just before the venire panel entered the courtroom for jury selection in Hughes's trial, Hughes's attorneys requested that Hughes be permitted to change out of his blue, button-down shirt issued by

the Department of Corrections (DOC). The circuit court denied Hughes's request to change his clothes, noting that Hughes looked "fine with that blue shirt" because it was "a normal blue shirt with a collar." Ultimately, the circuit court concluded that the venire panel would not be able to tell that Hughes was dressed in a shirt provided by the DOC. The circuit court had a picture taken of Hughes's appearance in his blue, DOC-issued shirt on the day of jury selection. This picture confirms the observations of the circuit court that Hughes had "not stripes on his uniform . . . no numbers showing" and, therefore, "nothing to indicate that he [was] incarcerated."

Just prior to the entrance of the venire panel into the courtroom, Hughes further requested that his leg restraints be removed. Hughes's attorney proposed that Hughes's leg restraints would prejudice the jury against him because "there may be occasions where [Hughes] has to come to the bench." The circuit court judge denied Hughes's request at that time because Hughes had already declared that he was not "going to participate in the trial in protest" and the matter of Hughes's leg restraints could be revisited at a later time "if he changes his mind after the jury selection, if he wants to participate[.]"

Although the circuit court did not remove Hughes's leg restraints prior to jury selection, it did grant his request to switch seats with his defense counsel "so at least his leg irons [were not] showing to the jurors" seated near the defense table. Before issuing a decision with respect to Hughes's request, the circuit court asked the courtroom sheriff whether he had any problem with the proposed arrangement. The circuit court proceeded to

allow Hughes to trade places with his defense counsel only after the sheriff indicated that he had no objection. After allowing Hughes to change his seat, the circuit court asked a deputy of the DOC who was present in the courtroom if the DOC “require[d] that [Hughes] remain in leg irons[.]” The deputy responded that “[w]e were told to have him in leg irons.” The circuit court then concluded that “if there’s any bench conferences . . . I don’t have any problem with one of [Hughes’s attorneys] . . . communicating or writing down the verbatim response of the juror, and discuss[ing] it with your client.” The circuit court, accordingly, ordered that Hughes remain in leg restraints during jury selection and the subsequent trial.

Contrary to Hughes’s assertion on appeal, the circuit court did not impermissibly delegate its decision regarding Hughes’s leg restraints to the courtroom sheriff or the DOC deputy present prior to jury selection. Rather, the decision to leave Hughes in leg restraints was made by the circuit court judge alone. In denying Hughes’s request to have his leg restraints removed, the circuit court judge took the input of the sheriff and DOC deputy into account, but reserved the ultimate decision-making authority for himself. The circuit court, therefore, did not abuse its discretion when it required Hughes to remain in leg restraints throughout his trial.

Moreover, the record before us in this appeal does not contain evidence of any prejudicial effect that Hughes’s leg restraints had on the jury’s ultimate verdict. Indeed, the circuit court expended considerable effort to ensure that Hughes was not prejudiced by the fact that he was forced to wear leg restraints during trial. First, the circuit court allowed

Hughes to change seats with his defense counsel so that jurors seated near the end of the defense table would not be able to see Hughes's legs. Second, the record in the instant case indicates that Hughes remained seated throughout the entire trial, in keeping with his stated intent not to participate in his case. That fact, combined with the fact that Hughes's counsel never argued that Hughes's leg restraints were visible or audible to the jury, makes it very unlikely that the jury was ever aware that Hughes's legs were restrained during the trial. Finally, before allowing the venire panel into the courtroom, the circuit court explicitly found that nothing about Hughes's appearance would "indicate that he's incarcerated" and that "there's no way [the jurors] have to see his pants, especially if he's not participating in the trial, if he's sitting there." The circuit court appropriately agreed to revisit the issue should Hughes decide that he wanted to begin participating in his defense.

IV. Hughes's Motion to Suppress

On appeal, Hughes argues that the circuit court erred by denying his motion to suppress the materials recovered from the BMW. Specifically, Hughes asserts that the circuit court erred because the seizure of the BMW was illegal and the items recovered during the search which followed should have been suppressed. As we shall explain, this issue is not properly before us.

Pursuant to Md. Rule 8-131(a), we will "not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court." As we have explained, Hughes's argument before the trial court was based upon an assertion that his

arrest was illegal and that the subsequent search of the BMW was the fruit of that illegal arrest.¹⁰ This argument was detailed in the motion to suppress and accompanying memorandum of law filed in the trial court, as well as at the hearing on the motion.

On appeal, Hughes raises a significantly different argument. He does not challenge the legality of his arrest but instead asserts that his car was illegally seized before the police had probable cause. Specifically, he argues “that the police seized Mr. Hughes’s car and its passenger *before* the police had any probable cause to believe it contained any contraband.” Critically, this issue was neither raised before nor decided by the trial court. Accordingly, the issue is not properly before us on appeal.

Indeed, we would be remiss to address the merits of Hughes’s argument. When determining whether property has been seized -- in this case, the BMW -- a court must determine whether there was “some meaningful interference with an individual’s possessory interest in the property.” *United States v. Jacobsen*, 466 U.S. 109, 113 (1984). Whether meaningful interference with an individual’s possessory interest has occurred is a fact-specific inquiry which was not explored at all before the trial court. Accordingly, it would be inappropriate to undertake such an analysis on appeal.

¹⁰ Defense counsel did comment, in passing, that “the opening of [Hughes’s car] door is an unlawful seizure -- an unlawful entry.” No actual argument beyond this comment was offered. For example, defense counsel made no reference to Hughes’s possessory interest in the vehicle, and did not argue that there had any meaningful interference with said possessory interest. We do not believe that defense counsel’s comment, divorced from any actual argument as to why the opening of the door constituted a seizure, is sufficient to preserve the issue for our review.

We note without deciding, however, that the State presents several compelling arguments in its brief that may have prevailed before the trial court and/or on appeal, had this issue been properly raised. The State argues that: (1) Hughes’s car was not seized; (2) even if an unlawful seizure occurred, Hughes failed to demonstrate that the evidence he sought to suppress was the fruit of the allegedly illegal seizure; and (3) any illegality was attenuated by Thomas’s admission. Any or all of these arguments may have proved availing had the issue been properly raised before the trial court. Because the issue was not raised, however, we will not address it here.

Hughes further contends that the circuit court erred by admitting the materials recovered from Hughes’s vehicle into evidence at trial. The State responds that this issue is both unpreserved and unpersuasive. We agree with the State.

Prior to the start of trial, Hughes moved *in limine* to preclude the admission of evidence found in his vehicle on relevancy grounds. The motion was denied. Maryland Rule 4-323(a) provides: “An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived.” “[W]hen a motion *in limine* to exclude evidence is denied, the issue of the admissibility of the evidence that was the subject of the motion is not preserved for appellate review unless a contemporaneous objection is made at the time the evidence is later introduced at trial.” *Morton v. State*, 200 Md. App. 529,

540-41 (2011) (quoting *Klauenberg v. State*, 355 Md. 528, 539 (1999)). Absent a contemporaneous objection, the issue is unpreserved.

During the trial, defense counsel stated that he had “no objection” to the admission of photographs of materials recovered from Hughes’s vehicle, testimony about the materials recovered from Hughes’s vehicle, and the overwhelming majority of the materials themselves. During Detective Durham’s testimony, the prosecutor moved into evidence multiple photographs of Hughes’s vehicle and evidence recovered from it. Defense counsel stated that he had “no objection” to the admission of this evidence. Defense counsel further failed to object to Detective Durham’s testimony about the evidence recovered from the vehicle. Detective Durham identified various items in the photographs, including Hughes’s car, Timberland boots, wire cutters, a red telephone with alligator clips, and gloves. Defense counsel made one objection when the prosecutor sought to introduce the wire cutters into evidence.¹¹ Critically, however, defense counsel did not object to the admission of the photograph of the wire cutters or to the testimony of Detective Durham about how and where the wire cutters were recovered. “Objections are waived if, at another point during the trial,

¹¹ When the State sought to introduce the wire cutters, the trial court asked defense counsel, “Same objection?” Defense counsel responded, “Same objection.”

evidence on the same point is admitted without objection.” *DeLeon v. State*, 407 Md. 16, 31 (2008). Accordingly, this issue is not preserved.

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