

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2464

September Term, 2015

LAMONT TURNER, JR.

v.

STATE OF MARYLAND

Krauser, C.J.,
Nazarian,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 2, 2016

*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.

Accused of punching and choking Lakeisha Gaither, the victim, and then driving away in her vehicle after being confronted by two passersby, Lamont Turner, Jr., appellant, was convicted by a jury, in the Circuit Court for Montgomery County, of second-degree assault and unauthorized removal of property. Turner's sole argument on appeal is that the trial court erred in permitting Officer Eric Mueller to testify about a statement made to him by Gaither following the assault because, he claims, that statement was inadmissible hearsay. For the reasons that follow, we affirm.

At trial, the State's evidence revealed that, after being assaulted by Turner, Gaither was transported to the hospital. While at the hospital, Gaither became "scared for her life" and called the police after Turner called her multiple times, and she saw Turner in the hospital parking lot. When Officer Mueller, the responding officer, was questioned about that call, he stated as follows:

MUELLER: [O]ur communications received a call . . . advising that [the victim] was scared and fearful because the person who had assaulted her earlier –

DEFENSE COUNSEL: Your Honor, I'm going to object. This is hearsay.

PROSECUTOR: Not for the truth of the matter, Your Honor, it's why the officer responded.

THE COURT: I'll overrule[,] you may answer.

MUELLER: We received a call from the victim . . . who had just been released from the hospital, that she had received a phone call from the subject advising that he had been looking for her, and where was she, and she said at the hospital, he said, well I'm here, and if you don't – basically made threats of hurting himself or her at that time and so she was fearful, so she called the police.

Turner challenges the admission of the foregoing testimony by Officer Mueller. He asserts that, although it “would have been sufficient for Officer Mueller to testify that he [came] to the hospital because he received a call from Ms. Gaither,” when he “went on to testify that Ms. Gaither told him that Mr. Turner was at the hospital and that he had threatened to harm both himself and her, the court should have excluded the testimony as hearsay.” *See generally Graves v. State*, 334 Md. 30, 38-40 (1994) (noting that while an extrajudicial statement can be admissible as nonhearsay when offered for the purpose of showing that an officer acted upon that statement during his investigation, when such testimony “becomes more specific by repeating definite complaints of a particular crime by the accused, this is so likely to be misused by the jury as evidence of the fact asserted that it should be excluded as hearsay”). The State does not contest appellant’s claim that Officer Mueller’s testimony was inadmissible hearsay but argues that Turner failed to preserve that claim for appellate review and, in any event, that any error was harmless.

We need not resolve all of these issues, however, because, even if we assume that the trial court erred in admitting Officer Mueller’s testimony, and the issue was preserved, we agree that the error was harmless beyond a reasonable doubt. “The harmless error rule embod[ies] the principle that courts should exercise judgment in preference to the automatic reversal for ‘error’ and ignore errors that do not affect the essential fairness of the trial.” *Barksdale v. Wilkowsky*, 419 Md. 649, 657–58 (2011) (internal quotation marks and citation omitted)). To prevail in a harmless error analysis, the beneficiary of the alleged error must satisfy the appellate court “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.” *Dorsey v. State*, 276 Md. 638, 659 (1976). “To say that an error did not contribute to the verdict is . . . to find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed by the record.” *Bellamy v. State*, 403 Md. 308, 332 (2008) (internal quotation marks and citation omitted)).

The evidence of Turner’s guilt was overwhelming and largely uncontroverted. The victim’s testimony was corroborated by two disinterested witnesses, who saw Turner assault Gaither and then drive away in her vehicle. Moreover, and unlike the cases relied on by appellant, the challenged out-of-court statement in this case did not implicate appellant in the charged conduct but, instead, concerned an uncharged and unspecified threat he allegedly made hours after the alleged assault occurred. *Cf. Parker v. State*, 408 Md. 428, 446-48 (2009) (reversible error to admit a statement by an informant to a detective that he had seen appellant selling heroin, the crime for which appellant was charged, ostensibly for the limited purpose of showing why detective had gone to scene); *Graves*, 334 Md. at 38-43 (reversible error to admit arrestee’s hearsay statement to police that the appellant was his accomplice, for the nonhearsay purpose of showing why police included defendant’s picture in photographic array to be shown to victim, as the limited probative value for that purpose was substantially outweighed by danger of unfair prejudice since it directly implicated the defendant). Furthermore, the challenged testimony did not bolster the testimonies of Gaither or the two eyewitnesses by corroborating their accounts of any critical facts, and the State did not rely on the testimony in closing argument. Consequently

we are persuaded beyond a reasonable doubt that the admission of Officer Mueller's testimony, if error, did not influence the jury's verdict and was therefore harmless.

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