Circuit Court for Prince George's County
Case No. C-16-CR-22-000465

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0133

September Term, 2024

VICTOR HUGO MARROQUIN-ROMERO

v.

STATE OF MARYLAND

Wells, C.J.,
Ripken,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: February 18, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In October of 2023, a jury in the Circuit Court for Prince George's County found Victor Hugo Marroquin-Romero ("Appellant") guilty of two counts of fourth-degree sexual offense and two counts of sexual abuse of a minor. The circuit court imposed an aggregate sentence of thirty years of incarceration. Appellant noted this timely appeal, and presents the following issues for our review:[1]

I. Whether the circuit court abused its discretion in allowing the State's opening statement.

II. Whether the circuit court abused its discretion in allowing Detective Starr's testimony.

For the reasons to follow, we shall affirm Appellant's convictions.

[1] Rephrased and consolidated from:

1. Did the trial Court prejudicially err in not sustaining trial counsel's objection to the State's opening statement to the jury where the state directly tells the jury that "there is no reason for the [victims] to lie," and that the victims "…are telling the truth when they sit on that stand" in a case where there is no DNA or forensic evidence to corroborate or supports the victim's assertions?

2. Did the State's opening statement vouch for the victim's credibility such that it constitutionally and structurally prejudiced the case before the State presented its case to the jury?

3. Did the trial Court prejudicially err in not excluding all of [] [Detective Starr's] testimony as requested by the defense?

4. Did the trial Court prejudicially err in failing to sustain the objection to [Detective Starr's] questioning by the State aimed at eliciting who was charged as a result of her investigation; as the answer to that question was both irrelevant, not probative and unduly prejudiced the due process rights of the accused to a fair trial?

FACTUAL AND PROCEDURAL BACKGROUND

In December of 2022, Appellant was indicted for six offenses against his two nieces, O. and W.[2] Appellant was charged with two counts of sexual abuse of a minor by a family or household member (Counts I and IV); two counts of fourth-degree sexual offense (Counts II and V); and two counts of second-degree assault (Counts III and VI). A jury trial was held in October of 2023. During the trial, four witnesses testified: O., W., Ms. Yamada—O.'s teacher to whom she reported the incident—and Detective Megan Starr ("Det. Starr").

The following relevant facts were elicited at trial. According to the testimony elicited, Appellant perpetrated a variety of sexually assaultive acts against W. in September of 2020. W. told her sister O. and a few friends and relatives of Appellant; however, W. did not report the assaults to adults other than friends and family due to fear that no one would believe her. Appellant then sexually assaulted O. in March of 2022. The following day at school, O. disclosed to Ms. Yamada "the situation that happened" with Appellant. O. also texted W. during her lunchtime. In O.'s text to W., O. told W. the details of Appellant's sexual assault on her, and that she reported Appellant's behavior to Ms. Yamada. Ms. Yamada, as a mandatory reporter, promptly called Child Protective Services ("CPS"). Ms. Yamada's call triggered an investigation, involving CPS and school social

[2] To preserve the anonymity of the minor children, we refer to them by the randomly selected letters "O." and "W."

workers and psychologists.[3] Det. Starr, who is employed in the Prince George's County Child and Vulnerable Adult Abuse Unit within the Prince George's County Police Department, was assigned to investigate O.'s and W.'s reports of sexual assault. While testifying, Det. Starr described her current role and details regarding forensic interviews she conducts or reviews at the Child Advocacy Center ("CAC").[4] Det. Starr's testimony concluded the presentation of the State's case.

At the conclusion of the State's case, Appellant did not present any evidence. Prior to the start of jury deliberations, the State entered a *nolle prosequi* to the second-degree assault charges. The jury found Appellant guilty of the remaining four charges. Appellant was sentenced in February of 2024, and received an aggregate sentence of thirty years of incarceration followed by probation with specified conditions.[5] Additional facts will be incorporated as they become relevant to the issues.

[3] O. and W. go to different schools; hence, O.'s disclosure to Ms. Yamada resulted in a simultaneous investigation at W.'s school.

[4] The CAC is a place where forensic interviews are conducted with victims. In a forensic interview, an interviewer uses "non-leading questions to obtain a statement from the victims in their own words about the abuse that has occurred[.]"

[5] Appellant was sentenced under Counts I and IV. For Count I, sexual abuse of O., the court sentenced Appellant to twenty-five years, all but fifteen suspended. For Count IV, sexual abuse of W., the court sentenced Appellant to twenty-five years, all but fifteen suspended. The sentences were to run consecutive. The court also sentenced Appellant to five years of supervised probation, no contact with O., W., or any other minor under the age of eighteen, and to register as a Tier III sex offender, which carries a lifetime registration.

DISCUSSION

I. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN ALLOWING THE STATE'S OPENING STATEMENT.

A. Additional Facts

At trial, the State began its opening statement by providing the jury with the background facts of the case. The prosecutor explained the assaults that occurred by Appellant on W. in 2020, and by Appellant on O. in 2022. The prosecutor also explained how the facts that would be elicited through testimony became known to Ms. Yamada. The prosecutor noted that teachers are mandated reporters, and as such, they are required to report allegations and incidents, like those articulated here, to CPS. The prosecutor then continued,

> So here's the thing about these cases, sexual assault. They usually go two ways. One, let's talk about the victims and what they did wrong. They didn't fight, they didn't say no, they didn't report fast enough, they did "X" and not "Y," they did "A" and not "B," or, they're liars. *These two girls had no reason*--
>
> THE COURT: Come on up.

The parties approached the bench and the following ensued:

> [APPELLANT'S COUNSEL]: Your Honor, I hate to interrupt you. This is no longer a summary of the evidence, this is [n]ow argument, so that's my objection.
>
> THE COURT: Really is more of an opening statement.
>
> [PROSECUTOR]: Thank you, Your Honor.

The parties returned to the trial tables and continued:

> [PROSECUTOR]: *There is no reason for these girls to lie.* They're going to get up on the stand and they'll tell you they do good in school and they don't

> get in trouble, they don't do drugs. *They're telling the truth when they sit on that stand.* So it's not going to be about what they did, it's about what he did.
>
> [APPELLANT'S COUNSEL]: Objection.
>
> THE COURT: Overruled.
>
> [PROSECUTOR]: So where are we? This trial is about finding the truth. And the truth doesn't always get [presented], you know, it's hard to talk about sexual assault. So I want you guys to keep that in mind when these young girls are testifying. People testify in different ways. They don't know you. You guys are fifteen people who they've never met, and they're going to have to sit up there and tell you about how they were physically assaulted by their uncle.

(emphasis added). The prosecutor then completed the remainder of her opening statement.

B. Party Contentions

Appellant asserts that the prosecutor's statements to the jury—that O. and W. were "telling the truth," and that "there [was] no reason for these girls to lie"—were improper. Appellant contends that these statements improperly vouched for, and potentially bolstered, the credibility of O.'s and W.'s testimony. Appellant contends that the State voiced a personal opinion concerning O.'s and W.'s credibility as witnesses, and that accordingly, this jeopardized Appellant's due process right to be tried solely based on the evidence presented. Appellant further asserts that the State's remarks during opening statement were not harmless error, and that "the court's decision to overrule [Appellant's counsel's] objection re[]affirmed [the State's] vouching for the credibility of" O. and W. Thus, Appellant asserts, his convictions should be overturned.

The State initially contends that Appellant's argument is not preserved; the State contends that Appellant preserved two appellate claims related only to sentence fragments,

because Appellant's counsel waited for the prosecutor to finish her sentences before objecting.[6] The State asserts that were we to determine that the issue is preserved, Appellant's argument is still without merit because the prosecutor's statements do not constitute vouching; rather, the State asserts, the prosecutor's statements were related to arguments commonly made in child sex abuse cases as well as the evidence that would be adduced in this case. The State further contends that were we to find that the prosecutor's statements constituted improper vouching, Appellant does not establish that reversal is warranted because the prosecutor's comments were not prejudicial; thus, any error was harmless beyond a reasonable doubt.

C. Standard of Review

The determination of whether a prosecutor's comments during opening statement constitute improper vouching—and are thereby "prejudicial or simply rhetorical flourish"[7]—is "largely within the trial judge's discretion because he or she is in the best position to determine the propriety of argument in relation to the evidence [to be] adduced in the case." *Ingram v. State*, 427 Md. 717, 728 (2012). "On review, an appellate court should not reverse the trial court unless that court clearly abused the exercise of its discretion and prejudiced the accused." *Degren v. State*, 352 Md. 400, 431 (1999). "A trial

[6] We disagree and find this issue preserved. "In order to preserve an objection to an allegedly improper closing argument, defense counsel must object either immediately after the argument was made or immediately after the prosecutor's initial closing argument is completed." *Small v. State*, 235 Md. App. 648, 697 (2018). Here, Appellant's counsel objected to the prosecutor's statements as she was making them, therefore his objections were timely, and we shall address the merits of Appellant's argument. *See supra* I.A.

[7] *Degren v. State*, 352 Md. 400, 431 (1999).

court abuses its discretion when its 'ruling either does not logically follow from the findings upon which it supposedly rests or has no reasonable relationship to its announced objective.'" *Ingram*, 427 Md. at 726–27 (quoting *McLennan v. State*, 418 Md. 335, 354 (2011)). However, "[n]ot every improper prosecutorial remark . . . necessitates reversal." *Small v. State*, 235 Md. App. 648, 697 (2018).

D. Analysis

The primary purpose of an opening statement in a criminal case is to apprise the factfinder "with reasonable succinctness" of the issues being raised and "what the State or the defense expects to prove so as to prepare the [factfinder] for the evidence to be adduced." *Wilhelm v. State*, 272 Md. 404, 411–12 (1974), *abrogated on other grounds by Simpson v. State*, 442 Md. 446 (2015). A prosecutor's opening statement "should not include reference to facts which are plainly inadmissible and which he cannot or will not be permitted to prove, or which he in good faith does not expect to prove." *Id.* at 412. Although attorneys are afforded "great leeway" in presenting their opening statements, one technique that has consistently garnered the Supreme Court of Maryland's disapproval for "infringing on a defendant's right to a fair trial, is when a prosecutor 'vouches' for (or against) the credibility of a witness." *Spain v. State*, 386 Md. 145, 152–53 (2005).

The Supreme Court of the United States, in proscribing prosecutorial vouching, has explained that such an act carries two primary dangers:

> [S]uch comments can convey the impression that evidence not presented to the jury, but known to the prosecutor, supports the charges against the defendant and *can thus jeopardize the defendant's right to be tried solely on the basis of the evidence presented to the jury*; and the prosecutor's opinion carries with it the imprimatur of the Government and *may induce the jury to*

trust the Government's judgment rather than its own view of the evidence.

United States v. Young, 470 U.S. 1, 18–19 (1985) (emphasis added). Most cases in which a claim of improper prosecutorial vouching arose have examined whether the challenged statement offends either or both of the "two dangers" raised by the Supreme Court of the United States.[8] *See e.g.*, *Spain*, 386 Md. at 156–58 (reviewing whether the prosecutor's statements during closing argument "invite[d] the jury to draw inferences from information that was not admitted at trial" and whether the prosecutor's statements implied improperly that the "witness's status as a police officer entitled him to greater credibility in the jury's eyes than any other category of witness[.]").

Acknowledging those "two dangers," the Supreme Court of Maryland has stated that vouching "occurs when a prosecutor 'places the prestige of the government behind a witness through *personal assurances* of the witness's veracity . . . or suggests that information not presented to the jury supports the witness's testimony.'" *Sivells v. State*, 196 Md. App. 254, 277 (2010) (quoting *Spain*, 386 Md. at 153) (further citation omitted)

[8] In *Simpson v. State*, the Maryland Supreme Court applied Maryland precedent—related to improper statements—from closing arguments to opening statements. 442 Md. at 459–62. The Court considered whether the prosecutor's comments in opening statement, which referred several times to that which the defendant "will tell" the jury, were improper vouching that infringed on the defendant's Fifth Amendment right against self-incrimination. *Id.* at 454. The Court noted that it had several opportunities in previous cases to address a comparable claim in closing arguments, but that it had never addressed such a claim in opening statements. *Id.* at 456, 459. The Court held that case law regarding improper vouching for infringing on the defendant's Fifth Amendment right against self-incrimination in closing arguments, is applicable to the same claim regarding remarks made in opening statements. *Id.* at 458–59. Here, we see no reason to diverge from that pattern. Accordingly, we apply Maryland case law regarding claims of vouching from closing arguments—concerning personal assurances of a witness's credibility—to the prosecutor's opening statement.

(emphasis added). Of these two types of vouching, Appellant contends that only the former occurred; however, courts generally analyze both types of vouching together, as the two categories frequently overlap. *See Washington v. State*, 180 Md. App. 458, 472 (2008) (determining that the key issue is whether the prosecutor's statements regarding the witnesses' credibility were based on conclusions that could be drawn from the evidence); *see also Spain*, 386 Md. at 155–56 (holding that the prosecutor's statements about a witness "did not implicate any information that was outside the evidence presented at trial. . . . Nor did such comments . . . explicitly invoke the prestige or office of the State[.]").

"While there is no bright-line rule concerning where an attorney is permitted to tread during closing arguments, Maryland has squarely held that although vouching for a witness's credibility is improper, '[t]he rule against vouching does not preclude a prosecutor from addressing the credibility of witnesses in closing argument.'" *Small*, 235 Md. App. at 698 (quoting *Sivells*, 196 Md. App. at 278). This is because "[t]he credibility of witnesses in a criminal trial often is . . . a critical issue for the jury to consider." *Sivells*, 196 Md. App. at 278; *see Spain*, 386 Md. at 154 ("Part of the analysis of credibility involves determining whether a witness has a motive or incentive not to tell the truth."). "Attorneys therefore [frequently] feel compelled . . . to comment on the motives, or absence thereof, that a witness may have for testifying in a particular way, so long as those conclusions may be inferred from the evidence introduced and admitted at trial." *Spain*, 386 Md. at 155.

The distinction, although narrow, is thus: a prosecutor may comment on a witness's credibility, as this is "a transcendent factor in the factfinder's decision [of] whether to convict or acquit a defendant[,]" but may not assure the factfinder of the witness's

credibility based on the prosecutor's personal knowledge related to the witness. *See id.* at 154–55.

Further, even if a prosecutor makes a comment that may be considered improper vouching for the credibility of a witness, reversal is only justified when it appears that the jury was misled or influenced to the prejudice of the accused by the remarks of the prosecutor. *Small*, 235 Md. App. at 697. Thus, we must first determine whether the circuit court abused its discretion in deciding that the prosecutor's statements did not constitute improper vouching; if we determine that the statements were improper vouching, then we must decide whether that error was harmless. *See Donaldson v. State*, 416 Md. 467, 489–94, 496–501 (2010).

Here, the circuit court did not abuse its discretion. The prosecutor's comments were not improper vouching because the comments did not explicitly invoke the prestige of the State, nor did such comments implicate any information that was outside the evidence presented at trial. *See Spain*, 386 Md. at 155–56. Regarding the former, the prosecutor did not explicitly express her personal belief in the credibility of O. and W. Although the prosecutor initially stated "[t]here is no reason for these girls to lie[,]" she then continued in explaining the reason that was the case, and properly prefaced her comments with what the evidence was expected to show at trial. *See Wilhelm*, 272 Md. at 411–12 (the primary purpose of an opening statement is to inform the factfinder of "what the State or defense *expects* to prove[.]") (emphasis added). The prosecutor stated "[t]hey're *going* to get up on the stand and *they'll tell you* they do good in school and they don't get in trouble, they don't do drugs." (emphasis added). *See Sivells*, 196 Md. App. at 278 ("[W]here a

prosecutor argues that a witness is being truthful based on the testimony given at trial, and does not assure the jury that the credibility of the witness is based on his own personal knowledge, the prosecutor is engaging in proper argument and is not vouching.") (internal citation and quotation marks omitted).

Moreover, because the prosecutor's comments concerning what O. and W. "will tell" the jury were tied to the evidence adduced at trial, the comments did not violate the rule which prohibits a prosecutor from suggesting that information which was not presented to the jury supports a witness's testimony. *Cf. id.* at 280 ("Because the comments were not tied to the evidence presented, the comments violated the rule against vouching and were improper."). At trial, both O. and W. testified in consonance with the prosecutor's opening statement, that O. and W. would tell the jury that they "do good in school and they don't get in trouble." O. testified that she had never been suspended from school; that she had never been arrested; that she generally stays out of trouble; and that she plans to graduate high school, attend Gallaudet University, and open a small business. W. testified that she had a "pretty good" high school experience because she "got the chance to graduate a little bit earlier than [her] peers"; that she never got suspended; and that she currently maintains a full-time job.

Further, when read in context of the entire opening statement, the prosecutor's comments encompassed general themes of sexual assault cases, as exemplified by her statement that occurred seconds prior: "here's the thing about these cases, sexual assault. They usually go two ways." We read this part of the prosecutor's opening statement as commentary on the common biases that many child-victims face when testifying about

sexual assault.[9]

Appellant contends that the prosecutor, whilst "wearing the cloak of a government agent, directly vouched for the credibility of [O. and W.]" However, nowhere in the prosecutor's statement did she preface her comments regarding the credibility of O. and W. with the phrases "I know," "I think," "I believe," or any other phrase that carried a personal assurance regarding O.'s and W.'s veracity. *See Walker v. State*, 373 Md. 360, 403–04 (2003) (holding that the prosecutor engaged in improper vouching when the prosecutor made assertions, based on personal knowledge that a witness was lying); *see also* Bennett L. Gershman, *Prosecutorial Misconduct* § 11:24 (2d ed. 2024) (vouching "includes personal expressions such as 'I think,' 'I know,' 'I believe,' or other expressions that either explicitly or implicitly convey the prosecutor's personal impressions."). The prosecutor also did not suggest that information not presented to the jury supported O.'s and W.'s testimony. The prosecutor's statements did not constitute improper vouching.[10]

[9] *See Mitchell v. State*, 488 Md. 1, 22–24 (2024) (discussing the struggles that child-victims of sexual crimes face regarding their credibility when they testify at trial); *see also* David McCord, *Expert Psychological Testimony about Child Complainants in Sexual Abuse Prosecutions: A Foray into the Admissibility of Novel Psychological Evidence*, 77 J. CRIM. L. & CRIMINOLOGY 1, 45–46 (Spring, 1986) (analyzing how a victim's age plays a role in a jury's credibility assessment).

[10] We note that this determination is limited to the facts and circumstances regarding this case. While it may have been preferable for the prosecutor to preface her statement that O. and W. were "telling the truth when they sit on that stand" with remarks like "the evidence will show" or "you will see from the demeanor of O. and W. that they are telling the truth," the prosecutor prefaced other sentences in her opening statement with such phraseology. *See Whack v. State*, 433 Md. 728, 742 (2013) ("Whether a reversal of a conviction based upon improper closing argument is warranted depends on the facts in each case.") (internal quotation marks and citation omitted). Thus, even if we were to determine that the circuit

Therefore, the circuit court did not abuse its discretion by overruling Appellant's objection to the prosecutor's opening statement.

II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN PERMITTING DET. STARR'S TESTIMONY.

A. Additional Facts

Throughout the duration of Det. Starr's testimony, counsel for Appellant made a myriad of objections. The first objection came immediately after the State called Det. Starr as a fact witness. The court granted Appellant's counsel's request to approach the bench and the following colloquy ensued:

> [APPELLANT'S COUNSEL]: I'm anticipating that I will make a hearsay exception, I wonder was -- I don't think [Det.] Starr was a witness to the --
>
> [PROSECUTION]: She was the detective. So she'll explain the whole investigation. She also in theory [qualifies for the prompt report hearsay exception][11] because she was there for the interview with the child.
>
> [APPELLANT'S COUNSEL]: Like I said, I don't think describing an investigation is relevant to these charges. It's not evidence. It's based on hearsay. So for all of those reasons I'm not sure that she's a competent witness.

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court erred in overruling Appellant's counsel's objection, the outcome would not change, as any error was harmless beyond a reasonable doubt.

[11] Md. Rule 5-802.1(d). The Rule provides in pertinent part:

> The following statements previously made by a witness who testifies at the trial or hearing and who is subject to cross-examination concerning the statement are not excluded by the hearsay rule:
>
> (d) A statement that is one of prompt complaint of sexually assaultive behavior to which the declarant was subjected if the statement is consistent with the declarant's testimony[.]

Id.

> THE COURT: I think she can testify as to what she did or didn't do, why she did certain things, why she didn't do certain things.
>
> [APPELLANT'S COUNSEL]: How would that be relevant to whether or not my client -- the investigation resulted in hearsay. She spoke to people, she looked --
>
> [PROSECUTION]: She's not going to testify to anything anybody told her.
>
> [APPELLANT'S COUNSEL]: That's why I'm asking [for a] proffer[—] what could she say that wouldn't be based on hearsay?
>
> [PROSECUTION]: Well, she'll talk[] about how she got the case, how interviews were done at the CAC, where they were consistent with the prompt report that had been given. She won't testify about anything said at the CAC. But I think she can say that they were consistent. And especially in these cases, she'll talk about why she wasn't able to do any sort of DNA testing that juries always want to see and have questions about, and basically why those things weren't done in this case.
>
> [APPELLANT'S COUNSEL]: I still don't see the relevance.
>
> THE COURT: I do. Overruled.

The circuit court then permitted Det. Starr to testify.

During her testimony, Det. Starr also identified Appellant in court. The prosecutor asked Det. Starr two questions: how Det. Starr concluded her investigation, and "[w]hat, if anything, was the end result" of her investigation. The court sustained objections to both of those questions, and the following colloquy ensued:

> [PROSECUTION]: Who, if anyone, was charged, ever, as a result of your investigation?
>
> [APPELLANT'S COUNSEL]: Objection. May we approach?
>
> THE COURT: Sure, come on up.

The parties approached the bench and the following ensued:

> [APPELLANT'S COUNSEL]: Irrelevant, prejudicial --
>
> THE COURT: How is it prejudicial?
>
> [APPELLANT'S COUNSEL]: It's prejudicial, Your Honor, because it reenforces the very notion that the jury instructions are intended to obviate, and that is that charging decisions, charging documents, accusations, [and] allegations, are not relevant to the jur[y's] consideration of whether or not my client engaged in conduct that[] fits under the rubric of the indictment. So what . . . she has concluded is completely asking --
>
> ****
>
> THE COURT: I think [the prosecutor] can ask if [Det. Starr] arrested someone and leave it at that, not why, not, you know, just did [Det. Starr] -- who, if anyone, did [Det. Starr] arrest.
>
> [APPELLANT'S COUNSEL]: How is that relevant?
>
> THE COURT: I think that [is] the only natural conclusion of the evidence. So I'm going to overrule.

The parties returned to the trial tables and continued:

> [PROSECUTION]: At the end of your investigation, who, if anyone, did you arrest in this case?
>
> [DET. STARR]: Mr. Victor Hugo Mar[r]oquin-Rome[r]o.

Det. Starr then testified that Appellant was in the courtroom sitting at the defense table and identified him by describing his clothing.

B. Party Contentions

Appellant raises several issues regarding Det. Starr's testimony. Appellant first contends that the trial court erred in allowing Det. Starr to testify, alleging that she was not a fact witness and thus her testimony was irrelevant. Appellant also contends that the entirety of Det. Starr's testimony was unduly prejudicial pursuant to Maryland Rule 5-403.

Next, Appellant asserts that the circuit court abused its discretion when it overruled an objection, which allowed Det. Starr to identify Appellant. Appellant argues that Det. Starr's identification of Appellant was an improper confirmatory identification, and was unduly prejudicial, because Det. Starr did not have familiarity with Appellant. Appellant asserts that he is "entitled to a reversal of his convictions" due to these errors.

The State responds that Det. Starr's testimony was relevant, providing a litany of facts to support its contention that the trial court did not err when it allowed Det. Starr to testify. The State asserts that Appellant's claim—that the entirety of Det. Starr's testimony was unduly prejudicial—is not preserved for our review. As for the in-court identification, the State contends that this argument is also not preserved. The State asserts that, assuming we reach the in-court identification, the argument is without merit because on multiple occasions, the jury was informed that Appellant was charged as a result of the investigation.

C. Preservation

We begin by noting our agreement with the State, that two of Appellant's claims related to Det. Starr's testimony are not preserved for our review. "Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]" Md. Rule 8-131(a). To comply with Rule 8-131(a), "an appellant who desires to contest a court's ruling or other error on appeal" is required "to have made a timely objection at trial." *Lopez-Villa v. State*, 478 Md. 1, 19 (2022) (internal quotation marks and citation omitted). An appellant's failure to make a timely objection at trial "bars the appellant from obtaining review of the claimed error as a matter of right." *Id.* Where an appellant fails to make a timely objection, the only way an appellate

court may address an unpreserved issue is through exercising its discretion under plain error review, which is quite a rare phenomenon. *Newton v. State*, 455 Md. 341, 364 (2017); *see also Chaney v. State*, 397 Md. 460, 468 (2007) (explaining that appellate courts should "rarely exercise" their discretion to review unpreserved issues because "considerations of both fairness and judicial efficiency ordinarily require that all challenges . . . be presented in the first instance to the trial court[.]").

Here, Appellant failed to preserve two claims. First, Appellant failed to preserve the claim that "the trial court committed prejudicial error in allowing Det. Starr to testify at all," because this was not one of the stated grounds for the objection when the State called Det. Starr as a witness. The stated grounds of Appellant's counsel's objection were hearsay, relevance, and lack of personal knowledge. Further, at the bench conference, Appellant's counsel honed his focus to the relevance objection, arguing to the circuit court, "I still don't see the relevance[,]" never raising the grounds of undue prejudice. *See Klauenberg v. State*, 355 Md. 528, 541 (1999) ("It is well-settled that when specific grounds are given at trial for an objection, the party objecting will be held to those grounds and ordinarily waives any grounds not specified that are later raised on appeal."). Thus, because Appellant's counsel did not object to Det. Starr's testimony on the grounds that it was unduly prejudicial, this issue is waived from our review.

Second, Appellant failed to preserve a claim regarding Det. Starr's in-court identification. "[T]o preserve an objection, a party must either object each time a question concerning the matter is posed or request a continuing objection to the entire line of questioning." *Fone v. State*, 233 Md. App. 88, 113 (2017) (internal quotation marks and

citation omitted). Appellant's counsel twice objected to a preceding line of questioning concerning the conclusion of Det. Starr's investigation, which the circuit court twice sustained. However, following a bench conference, from which the circuit court issued a narrowing instruction regarding the scope of the prosecutor's question, the prosecutor then continued with questioning, during which Appellant's counsel did not object. Appellant's counsel, likewise, did not request a continuing objection to the entire line of questioning. The prosecutor and Det. Starr then engaged in the following interchange:

> [PROSECUTION]: Do you see him in the courtroom [to]day?
>
> [DET. STARR]: Yes.
>
> [PROSECUTION]: Could you identify him by something he's wearing and where he's sitting?
>
> [DET. STARR]: At the defense table, wearing a -- the long shirt.
>
> [PROSECUTION]: Your Honor, if the record could reflect that [Det. Starr] has identified the defendant.
>
> THE COURT: The record will so reflect.
>
> [PROSECUTION]: Nothing further.

Because Appellant's counsel did not note a timely objection, or a continuing objection to the preceding line of questioning, this issue is likewise not preserved for our review.

Appellant does not acknowledge these issues as unpreserved; nor does he request that we exercise our discretion to engage in plain error review. Appellant's desired actions were not articulated to the circuit court at the time of this interchange and the preceding objections and discourse are not sufficient nor timely. Accordingly, we decline to address these contentions on their merits. Thus, the only issue preserved for our review as to Det.

Starr's testimony, is relevance.

D. Standard of Review

Once a trial court makes a determination that a piece of evidence is relevant, a reviewing court is "generally loath to reverse a trial court[,]"[12] because "[d]eterminations regarding the admissibility of evidence are generally left to the sound discretion of [that] court." *Blizter v. Breski*, 259 Md. App. 257, 279 (2023) (internal citation and quotation marks omitted). Our review of a trial court's decision to admit evidence is "a two-step process of analysis." *Montague v. State*, 471 Md. 657, 673 (2020). First, we must determine "whether the evidence is legally relevant[,] which is a conclusion of law that we review de novo." *Id.* "After determining whether the evidence in question is relevant, we consider whether the trial court abused its discretion by admitting relevant evidence which should have been excluded as unfairly prejudicial." *Id.* An abuse of discretion occurs "where no reasonable person would take the view adopted by the circuit court." *Id.* at 674 (internal quotation marks and citation omitted).

E. Analysis

Following the two-step analysis in *Montague*, we must first determine whether the evidence was relevant. "Evidence is relevant if it has 'any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.'" *Id.* (quoting Md. Rule 5-401). More simply, evidence is relevant if it is material and carries probative value. *See Smith v. State*,

[12] *Merzbacher v. State*, 346 Md. 391, 405 (1997).

218 Md. App. 689, 704 (2014). "Evidence is material if it bears on a fact of consequence to an issue in the case." *Id.* Measuring a piece of evidence's probative value involves evaluating the "strength of the connection between the evidence and the issue, to the tendency of the evidence to establish the proposition that it is offered to prove." *Id.* (internal quotation marks and citations omitted). Maryland courts have noted that having "any tendency" to make "any fact" more or less probable "is a very low bar to meet." *Montague*, 471 Md. at 674 (citing *Williams v. State*, 457 Md. 551, 564 (2018) and *State v. Simms*, 420 Md. 705, 727 (2011)).

Here, Det. Starr's testimony regarding her investigation was material and carried probative value because it bore on a fact of consequence to an issue in the case—Appellant's guilt. *See Smith*, 218 Md. App. at 704. Det. Starr's testimony was material because she was assigned as the "lead detective" to investigate O.'s and W.'s claim against Appellant. Det. Starr was present at the CAC while a forensic interviewer conducted interviews with O. and W., watching them in real-time from a separate room via Webex. Both O. and W. wrote disclosures,[13] which Det. Starr reviewed in conducting her investigation. O.'s and W.'s disclosures were consistent with the information O. and W. provided during their forensic interviews. Further, Det. Starr's testimony meets the "low bar" of having probative value because it makes a fact of consequence, whether Appellant committed the crimes that he was indicted for, more probable. *Id.* The circuit court correctly applied the relevance standard from Maryland Rule 5-401.

[13] Det. Starr defined a disclosure as a "statement made to talk about or made to give details about abuse."

After determining whether the evidence was relevant, we must next determine whether the circuit court abused its discretion in admitting relevant evidence which should have been excluded as unfairly prejudicial. Under Maryland Rule 5-403, "a trial court may exclude relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice or other countervailing concerns." *Montague*, 471 Md. at 674. Determining whether a particular piece of evidence is unfairly prejudicial involves "balancing the inflammatory character of the evidence against the utility the evidence will provide to the jurors' evaluation of the issues in the case." *Smith*, 218 Md. App. at 705. When balancing a piece of evidence's probative value against its danger of unfair prejudice, we "are mindful that prejudicial evidence is not excluded under Rule 5-403 only because it hurts one party's case." *Montague*, 471 Md. at 674. Rather, "probative value is substantially outweighed by unfair prejudice when the evidence 'tends to have some adverse effect . . . beyond tending to prove the fact or issue that justified its admission.'" *Id.* (quoting *State v. Heath*, 464 Md. 445, 464 (2019)).

In Appellant's case, we conclude that Det. Starr's testimony was not unduly prejudicial. We do not find that Det. Starr's testimony had an adverse effect beyond the justification of its admission, and further, we discern no inflammatory character concerning Det. Starr's testimony. Rather, Det. Starr's testimony carried utility by providing a timeline to the jury regarding the investigation. Det. Starr testified regarding her role and tenure in her current position, how she learned of O.'s and W.'s allegations, and her work in investigating those allegations. Therefore, the circuit court's decision that Det. Starr's testimony was relevant was not an abuse of discretion.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.