Circuit Court for Montgomery County
Case No. 138417C

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 365

September Term, 2023

RENE ALEXIS SALVADOR

v.

STATE OF MARYLAND

Leahy,
Shaw,
Albright,

JJ.

Opinion by Shaw, J.

Filed: August 13, 2024

*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).

Following a jury trial in the Circuit Court for Montgomery County, Rene Alexis Salvador, appellant, was convicted of sexual abuse of a minor, second-degree rape, and third-degree sexual offense. He was sentenced to incarceration for a term of twenty-five years for sexual abuse of a minor, a consecutive term of twenty years, with all but ten years suspended, for second-degree rape, and a suspended term of ten years for third-degree sexual offense. Appellant was sentenced to five years supervised probation. This timely appeal was filed.

QUESTIONS PRESENTED

Appellant presents five questions for our consideration:

1. Did the trial court err in allowing the prosecution to improperly bolster O's testimony by allowing her prior consistent statement to a friend?

2. Did the trial court err in allowing the prosecution to improperly bolster O's testimony by allowing a child protective services investigator's testimony that O described four separate incidents of abuse?

3. Did the trial court err in allowing O's mother to opine on her daughter's credibility?

4. Did the trial court err in allowing a detective to testify about the course of the investigation that culminated with her obtaining an arrest warrant for appellant?

5. Did the trial court err in limiting appellant's presentation of evidence of bias?

For the reasons set forth below, we shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant was charged with sexual abuse and second-degree rape of his step-daughter N., when she was between six and seven years old. At the time of trial, N., who was born on August 31, 2006, was sixteen years old. N.'s mother, M., testified that she was married to appellant for seven years. When she first met appellant, she had two children from a prior relationship, C. and A., and was expecting N., who was not appellant's biological child. Appellant testified that he treated N. as if she was his own child. After appellant and M. married, they had two children together, J. and S. The family lived in a two-bedroom, one bathroom house in Montgomery County. The two oldest children, C. and A., slept in one of the bedrooms and appellant, M., N., J., and S. all shared the other bedroom. They all slept in "one big bed," although later, there was also a twin bed in that room. According to appellant, N. sometimes slept in the bedroom with her older siblings and sometimes in the bedroom he shared with M. and the two youngest children.

M. worked in a kitchen outside the family home from 6 a.m. to 2:30 p.m. and appellant worked at a restaurant from either 9 a.m. to 9 p.m. or 10 a.m. to 10 p.m. M. testified that appellant assisted with the children, sometimes took N. to school, and provided financial support for the family. Appellant initially denied that he helped care for the children, but then testified that if M. was cooking he would help care for them. He also testified that M. started work earlier than he did so he was in the family home with the children in the mornings. Tuesdays were his days off. Appellant stated that he was alone with N. only when her "siblings were there too," that N. spent all her time with her siblings, and that there was never a time when he was alone with N. in the family home.

N. testified that when she was six years old and in the first grade, she and appellant were alone, lying next to each other under the covers "in the bed in the room that we shared[.]" N. was using an iPad. Appellant "pulled [her] hand near his … penis, and proceeded to pull [her] arm down to touch him." When appellant tried to put her hand on his penis, he lifted up the covers and N. saw that appellant's shorts were pulled down. She saw his penis but at trial did not remember what it looked like. N. "pulled away," but appellant proceeded "to pull it" and make her touch him. Appellant tried "to bribe" N. by saying he would get her a bunny if she touched him, although that did not happen. According to N., "[i]t was really quick" and she did not know what made appellant stop. Appellant told N. that "he would do something to [her] mom if [she] was to ever tell anyone." N. testified that she was "scared" and "nervous" and did not tell anyone what happened.

On a subsequent occasion, when N. was in the first grade, appellant came up behind her in the bathroom when she was getting ready for school and she "felt his penis from behind[.]" N. left the bathroom and did not tell anyone what happened because she was "still super nervous." According to N., at that time she did not know the words to describe "sexual stuff."

Then one time when N. was alone in the twin bed in the room she shared with her mother, appellant, and two younger siblings. Appellant entered the room, locked the door, laid down behind N., pulled down her pants, and put his penis in her vagina. According to N., appellant "was going in a back and forth motion." She "was faced sideways" and appellant's chest "was facing her back." She did not turn around to see what appellant was

doing and she stayed in the same position the entire time. N. testified that she did not remember what it felt like when appellant put his penis in her vagina "because [she] just froze." N. did not recall if there was any pain or any wetness around her private area. N. testified that "[i]t was really quick" and she did not know what made appellant stop. N. felt "confused" about what happened and did not tell anyone about it.

The following day, appellant put N. on his lap and tried to make her touch his penis again. When appellant "tried to pull [her] arm down" N. "bit his arm and screamed" because her mother was in the house at the time. N.'s mother came into the bedroom and N. got off of appellant. N. testified that appellant's face was "completely red." N. revealed to her mother only that appellant had tried to make her touch him. Her mother became upset and kicked appellant out of the house. N. testified that appellant never lived with her again.

N.'s mother, M., testified that she was giving one of the younger children a bath when she heard N. yell. When she entered the bedroom that she and appellant shared with N. and the younger children, she saw appellant, N. and J. She described N. as being "nervous," "scared," and "shaking," and testified that appellant's face was red. M. asked N. what was going on and N. told her that appellant "had grabbed her hand to make her touch his parts." Appellant said that N. and J. had been fighting over an iPad. M. and appellant agreed that appellant would not have any further contact with N. and that N. would stay with her biological father when M. was at work. Thereafter, N.'s biological father took her to school and M. picked her up. M. and N. slept on the sofa in the living room. A "few weeks or months" after that event, M. told appellant that they "couldn't go

on anymore." She waited that period of time to tell him because she was not making much money and appellant contributed more to the household. M. did not report the incident to anyone. M. asserted that she did not go to the police about what happened to N. because appellant "always threatens you" and because she did not know that appellant had raped N. N. did not tell her that anything else had happened until about two years before the trial.

A couple of days after the last incident, N. told her older sister, C., that appellant tried to make her touch him, that she had bitten him, and "a little bit more about the night incident" including that appellant put his penis inside her. N. told C. not to tell their mother because she worried about how she would react. According to C., when N. told her that appellant tried to get her to touch his penis she "looked startled, like she looks very scared like almost crying." C. testified that N. did not tell her that appellant tried to have intercourse with her.

At some point when N. was in the fourth or fifth grade, appellant told N. that he "was sorry" for what he had done to her. At that time, N. took the same school bus as her two younger siblings, J. and S., whom appellant picked up from the bus stop. Appellant offered to buy N. an ice cream, but she declined. N. did not say anything to appellant and went home.

When N. was in middle school she learned about sexual assault in a health class and, by that time, she knew the words penis, vagina, and sex. During middle school, "it started to affect [her] more, as [she] like remembered and started to learn more about how wrong it was[.]" When she was in the seventh grade, N. told her friend, E., details about what had

happened to her. She asked E. not to tell anyone "[b]ecause it happened so long ago" and she "just didn't want anyone else to know at that point."

E. testified that when she was in seventh grade, and she and N. were discussing some social media posts about sex trafficking, N. told her that she had been raped by appellant when she was about six years old. N. said, just in passing, that she got flashbacks from that night and that it bothered her. N. also told E. about a time when she was sitting on appellant's lap and he wanted her to touch him. N. asked E. not to tell anyone because she did not want appellant to get in trouble and did not want her siblings "to not have their father in their lives." E. did not tell anyone else what N. had told her, but she urged N. to tell someone at school, such as a school counselor. The first time E. told an adult about what N. said to her was in a phone call with a female detective in 2021.

When N. was in the ninth grade, she and two of her younger siblings were interviewed by Britney Colandreo, a social worker for Montgomery County Child Protective Services, in reference to an allegation of possible sexual abuse that occurred within N.'s family, but did not involve her. The social worker asked N. if anyone had ever touched her inappropriately, and N. said no because "it was really long ago" and she "didn't think it would matter." A couple of weeks later, in March 2021, N. was again interviewed by Colandreo. N. told the social worker about things that appellant had done to her because "[s]omeone had already told her." N. testified that she did not want to tell Colandreo what had happened because it made her "uncomfortable" to talk about it and she never planned to tell the police or child protective services what had happened.

Colandreo testified that she conducted a recorded interview of N. on March 18, 2021, in connection with an unrelated investigation of a family member. N. told her that no one ever saw or touched her private parts or chest area and no one ever asked her to touch them in those areas. At that time, Colandreo did not have any information that N. might have been abused. On March 24, 2021, Colandreo visited N.'s home and learned there was a possibility that N. had been sexually abused by appellant. Colandreo obtained that information from a person other than N., M. or C. Colandreo conducted a second interview of N. on March 31, 2021, during which she told N. that she already knew that something happened to her. N. disclosed details of four separate incidents of abuse by appellant.

Montgomery County Police Detective Courtnie Maines interviewed N., her mother, and her sister, C. C. told Detective Maines that when they were younger, N. told her that appellant tried to put his penis in her mouth and that she bit him.

Appellant testified on his own behalf. He stated that one night in 2013, a female employee at the restaurant where he worked asked him for a ride home and he agreed. His wife, M., was "checking on" him when he and his female co-worker were seated in the car waiting for it to warm up. M. came up to the car and pulled the female co-worker out by her hair. Two months later, appellant moved out of the family home. Appellant testified that about two months prior to that time, there was an incident in his home that involved N. and J. fighting over an iPad. Appellant removed the iPad from N.'s hand. Appellant testified that N. never complained about him grabbing her hand. M. was present at the time of the dispute over the iPad and, according to appellant, "just looked and said stop fighting,

that's all." According to appellant, about a year after the incident, at a time when he wanted to resume living with M., he told N. that "children fight, but I was wrong to take the iPad out from her."

About a week and a half before the investigation in the instant case, appellant called M. because he had concerns about one of his children being at risk. He denied threatening M., but told her that he would hold her responsible for whatever happened to one of his daughters because she had not let him know about what was happening. M. was very angry and hung up the phone on appellant.

Appellant first learned of the investigation in the instant case on March 31, 2021. He denied ever engaging in any sexual activity with N. and denied that N. ever bit him. He also denied that, at the time of the dispute over the iPad, N. told her mother that he had tried to touch her. Appellant denied that he ever lifted a blanket or asked N. to touch his penis, that he put his penis on N.'s back in the bathroom at the family home, that he ever put his penis into her vagina, and that he put N. on his lap and asked her to touch his penis. Appellant denied that there was ever a time when he and N. were alone together in the bedroom. According to appellant, he and M. divorced because of the female co-worker he offered to drive home.

DISCUSSION

I.

Appellant first challenges the trial court's decision to admit E.'s testimony about statements made to her by N. He argues that the trial court erred in allowing the prosecution to improperly bolster N.'s testimony by allowing her prior consistent statement to E.

Specifically, appellant contends that E.'s testimony about N.'s prior statement was inadmissible under Maryland Rule 5-802.1(b), as a prior consistent statement, and under Maryland Rule 5-616(c)(2), as rehabilitation testimony.

Standard of Review

This Court ordinarily reviews admissibility of evidence under an abuse of discretion standard. *Colkley v. State*, 251 Md. App. 243, 263, *cert. denied*, 476 Md. 268 (2021). Hearsay is "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Md. Rule 5-801(c). "Except as otherwise provided by [the Maryland Rules] or permitted by applicable constitutional provisions or statutes, hearsay is not admissible." Md. Rule 5-802. Whether evidence qualifies as an exception to the rule against hearsay presents a question of law for the circuit court, which we review without deference. *Wise v. State*, 471 Md. 431, 442 (2020). We scrutinize the circuit court's factual findings only for clear error. *Gordon v. State*, 431 Md. 527, 538 (2013); *Baker v. State*, 223 Md. App. 750, 760 (2015). Under the clear error standard, "'[w]e do not second-guess [the trier of fact's] determination where there are competing rational inferences available.'" *State v. Manion*, 442 Md. 419, 431 (2015)(quoting *Smith v. State*, 415 Md. 174, 183 (2010)). Even if evidence was improperly admitted, the error must be prejudicial to warrant reversal. Md. Rule 5-103(a)("Error may not be predicated upon a ruling that admits or excludes evidence unless the party is prejudiced by the ruling[.]"); *Urbanski v. State*, 256 Md. App. 414, 439 (2022)("[I]f the evidence was not properly admitted, on review, we would apply the longstanding principle that improperly admitted evidence must be prejudicial to warrant reversible error.").

Prior Consistent Statements

A prior consistent statement offered not for its truth or for substantive evidence may be used to rehabilitate a witness's credibility under Rule 5-616(c)(2), which provides:

> (2) Except as provided by statute, evidence of the witness's prior statements that are consistent with the witness's present testimony, when their having been made detracts from the impeachment[.]

When a prior consistent statement is offered for its truth and as substantive evidence, it may be admitted as an exception to the rule against hearsay if it is:

> (b) A statement that is consistent with the declarant's testimony, if the statement is offered to rebut an express or implied charge against the declarant of fabrication, or improper influence or motive[.]

Md. Rule 5-802.1(b).

The key difference between the two rules is that Rule 5-616(c)(2) applies to non-hearsay rehabilitative statements and Rule 5-802.1(b) applies to hearsay statements that rebut an express or implied charge of fabrication or motive to deceive. Even "[w]hen a prior consistent statement is inadmissible under Rule 5-802.1(b), it may nevertheless be admissible as non-hearsay to bolster credibility under Rule 5-616(c)(2)[.]" *Quansah v. State*, 207 Md. App. 636, 658 (2012). In *Thomas v. State*, Maryland's Supreme Court explained:

> "Prior consistent statements used for rehabilitation of a witness whose credibility is attacked are relevant not for their truth since they are repetitions of the witness's trial testimony. They are relevant because the circumstances under which they are made rebut an attack on the witness's credibility. Thus, such statements by definition are not offered as hearsay and logically do not have to meet the same requirements as hearsay statements falling within an exception to the hearsay rule."

Thomas, 429 Md. 85, 108 (2012)(quoting *Holmes v. State*, 350 Md. 412, 427 (1998)).

Admission of E.'s Testimony

At trial, the prosecutor asked E. if N. told her "details about what happened when [appellant] raped her[.]" The court sustained defense counsel's objection and thereafter, at a bench conference, the following occurred:

> [Prosecutor]: This is a prior consistent statement. It comes in both substantively under 582.1(b) [sic] and also under 5-616(c)(2) to rehabilitate the State's witness. What she told this witness prior, what she told this witness in the interim prior to any alleged motive to fabricate means that it comes in substantively, but even without that it comes in to rehabilitate her credibility which has been attacked multiple times by the defense under 5-616.
>
> [Defense Counsel]: We just think it is –
>
> [Prosecutor]: Excuse me. (c)(2), yes.
>
> [Defense Counsel]: It is inadmissible hearsay to get into all of the details of it.
>
> THE COURT: Why wouldn't this be admissible? Are you saying to impeach her or that it is not proper rehabilitation?
>
> [Defense Counsel]: To impeach her meaning [N.].
>
> THE COURT: (Unintelligible.)
>
> [Defense Counsel]: Well, and I mean, I don't think the Court will really let us get into any motive to fabricate. So, I can't figure out where, you know, that –
>
> THE COURT: (Unintelligible.)
>
> [Defense Counsel]: Well, we tried. We obviously can't stay out on what she said. That is true. We still think it doesn't meet the criteria.
>
> THE COURT: I think you do (unintelligible). It took her years to come forward. Animosity caused her to come forward. So, under the Holmes case which says (unintelligible).

[Prosecutor]: Thank you, Your Honor.

The prosecutor again asked E. about the details N. gave her about what happened when she was raped. Before E. could answer, the trial judge asked counsel to approach, but ultimately the court did not change its ruling. Thereafter, E. gave the following testimony:

[Prosecutor]: What were the details that [N.] gave you?

A. She had told me that it was in a room and he came in and he had thought she was sleeping and yeah.

Q. Did she tell you about how their bodies were positioned?

A. I don't remember the positions.

Q. Did she tell you whether there was anybody else in the room?

A. No. It was just her and him.

Q. Did she tell you how many times he raped her?

A. No.

Q. After she told you what he had done to her did you say anything to her about whether she should tell someone?

A. I think I tried to, you know, she should tell somebody, but she was scared.

Q. And so did, to your knowledge did she tell anybody?

A. No.

Q. In the years since she told you about this in 7th grade, let's say between 7th and 9th grade did she ever talk to you about it again?

A. Yeah. She would say, she would get flashbacks from that night and then it would bother her.

Q. And when that would happen did she talk to you about it again?

A. Like maybe once or twice, but those were the only times.

Q. Did she talk to you about it in detail again or just kind of in passing about what had happened to her?

A. In passing.

Q. I can't remember if I asked you this. Do you know the defendant at all?

A. No.

Q. Have you ever met him?

A. No.

Appellant argues that E.'s testimony about the details of what N. told her did not meet the criteria for admissibility under Rule 5-802.1(b). Specifically, he asserts that E.'s testimony was not admissible because N. made the statement to E. after a motive to fabricate arose. He maintains that a motive to fabricate arose when N. was in the first grade and she disclosed the abuse to her mother, M., who then kicked appellant out of the family home. Appellant maintains that N.'s statement to E. years later "was a repetition of that fabrication." As a result, it was not "substantively admissible as a prior consistent statement[.]"

In addition, appellant maintains that N.'s statement to E. was not admissible for the purpose of rehabilitation. He argues that the State "is precluded from arguing that E.'s statement was admissible only for a limited purpose under Rule 5-616(c)(2)[,]" because the prosecutor offered and relied on N.'s prior consistent statement to E. for the purpose of bolstering and corroborating N.'s trial testimony. Further, even if the State is permitted to argue that E.'s statement was admitted for a limited purpose under Rule 5-616(c)(2), the

statement failed to meet one of the prerequisites for admission because it did not detract from the impeachment of N. Appellant argues that E.'s testimony did not explain, clarify, or put in perspective N.'s prior inconsistent statement to social worker Britney Calandreo that she had never been abused, but merely repeated N.'s trial testimony and, therefore, was not admissible for the purpose of rehabilitation.

Preservation

"[A]n appellate court ordinarily will not consider any point or question 'unless it plainly appears by the record to have been raised in or decided by the trial court.'" *Robinson v. State*, 404 Md. 208, 216 (2008)(quoting Md. Rule 8-131(a)). The Supreme Court of Maryland has explained that the primary purpose of this rule is two-fold:

> (a) to require counsel to bring the position of their client to the attention of the lower court at the trial so that the trial court can pass upon, and possibly correct any errors in the proceedings, and (b) to prevent the trial of cases in a piecemeal fashion, thus accelerating the termination of litigation.

Fitzgerald v. State, 384 Md. 484, 505 (2004)(quoting *County Council of Prince George's County v. Offen*, 334 Md. 499, 509 (1994)).

Appellant failed to raise at trial the arguments presented here. He did not argue below that a motive to fabricate arose when N. disclosed the abuse to her mother. Nor did he argue that N.'s statement to E. post-dated a motive to fabricate. *See Horton v. State*, 226 Md. App. 382, 399-402 (2016)(appellant's argument on appeal waived because he failed to argue at trial that statement was made after a motive to fabricate arose). Similarly, appellant did not argue that the statement was inadmissible to rehabilitate N. under Rule 5-616(c)(2) because it did not detract from the impeachment of N. The trial judge specifically

asked defense counsel, "[w]hy wouldn't this be admissible? Are you saying to impeach her or that it is not proper rehabilitation?" Defense counsel responded, "[t]o impeach her meaning [N.]" As rehabilitation was not presented as a basis for his objection, appellant cannot be heard to complain about that issue on appeal.

Even if appellant's arguments had been preserved for our review he would fare no better. The record is completely devoid of any evidence to suggest that N. developed a motive to fabricate at the time the then six-year-old disclosed the abuse to her mother. The only conceivable motive to fabricate arose between N.'s first and second interviews with Colandreo when N.'s mother revealed to her that appellant had threatened the family. There is no dispute that N.'s statements to E. occurred when the girls were in the seventh grade and pre-dated N.'s interviews with Colandreo which took place when N. was in the ninth grade.

Furthermore, N.'s statements to E. were admissible under Rule 5-616(c)(2). In *Hajireen v. State*, 203 Md. App. 537 (2012), we recognized that "there are three prerequisites to admission of a prior statement as rehabilitation: (1) the witness' credibility must have been attacked; (2) the prior statement is consistent with the trial testimony; and (3) the prior statement detracts from the impeachment." *Hajireen*, 203 Md. App. at 555. Only the third prerequisite is at issue here. Under the third prerequisite, the prior consistent statement "must be more than a repetition of the trial testimony; the statement must, under the circumstances in which it was given, detract from the impeachment … or rebut logically the impeachment." *Id.* at 557 (internal quotations and citations omitted).

There is no dispute that N. was impeached, and her credibility attacked, with evidence of her first interview with Colandreo. N.'s statements to E., however, explained, clarified, and put in perspective the inconsistency between N.'s trial testimony and her first statement to Colandreo. The State elicited from N. that she did not reveal the abuse in her first interview with Colandreo because it happened "really long ago" and she "didn't think it would matter." She only revealed the abuse in her second interview with Colandreo because someone had already told the social worker about it. N. never planned to tell the police about what appellant did to her and she asked her sister, C., and E. not to reveal what she told them. E. specifically testified that N. asked her not to tell anyone because she did not want appellant "to get in trouble" and "didn't want her siblings to not have their father in their lives." N.'s prior statements to E. were not offered for their truth, but to put into perspective the reason why N. initially did not disclose her abuse to Colandreo. Accordingly, even if the issue had been preserved for our review, we would conclude that the trial court did not err in admitting E.'s testimony about what N. told her under Rule 5-616(c)(2).

II.

Appellant argues that the court erred in allowing Colandreo's testimony that N. described four separate incidents of abuse. On cross-examination, Colandreo testified that during another, unrelated investigation into a family member, she interviewed N. At that time, Colandreo did not have any information that N. might have been abused. During a visit to N.'s home, Colandreo learned from a person other than N., M, or C., that there was a possibility N. had been sexually abused by appellant. After learning that information,

Colandreo conducted a second interview of N. during which she revealed to N. that she already knew about something that happened to her.

The prosecutor examined Colandreo as follows:

> [The Prosecutor]: And when you brought [N.] in for the subsequent interview, you asked her did something come out recently at home. And flagged for her that you already knew about something that had happened to her. Is that correct?
>
> [Colandreo]: Yes.
>
> Q. And that's when she disclosed to you what the defendant had done to her?
>
> A. Yes.
>
> Q. Did she give you details about what the defendant had done to her?
>
> A. On March 31st?
>
> Q. Yes.
>
> A. Is that what you're referring – yes.
>
> Q. Okay. And so she told you that when she was in first grade –
>
> [Defense Counsel]: Objection.
>
> THE COURT: Overruled.

Defense counsel then asked to approach the bench. After hearing from counsel, the court reversed its ruling and sustained the objection thereby precluding the State from eliciting details about what N. told Colandreo. The State's cross-examination of Colandreo then continued and the following exchange occurred:

> [The Prosecutor]: So, without getting into exactly what the details were that [N.] provided to you, was she able to provide you with details about what had occurred and what the defendant had done to her?

[Colandreo]: Yes.

[The Prosecutor]: And she described four separate incidences of the abuse –

[Defense Counsel]: Objection.

[The Prosecutor]: -- correct?

[Defense Counsel]: Objection.

THE COURT: I'll allow that.

[The Prosecutor]: And she described four separate incidences of abuse, correct?

[Colandreo]: Yes.

Later, when the judge and counsel were discussing jury instructions, the judge stated:

> I am second guessing one objection you made on the Detective's last question about how many incidents. And she said four. I'm thinking about telling them to disregard it and strike it because you already got out everything else. I don't know what – how that comes in, the number of incidents.

After the prosecutor argued that the jury should be allowed to consider the number of incidents, the judge stated:

> Give me a case in the next 20 minutes that give details for 5-616(c)(2), and I'll reconsider. But my question was going to be for you, do you want me to? Because I think the answer four may have contradicted what the plaintiff said on the witness stand. I thought she described three, but you know the facts better than I do. So that's something you have to decide. All right.

No request to strike Colandreo's testimony was made thereafter and the court did not tell the jury to disregard her testimony about the number of incidents of abuse that N. reported.

Appellant argues that Colandreo's testimony that N. described four incidents of abuse should not have been admitted pursuant to Rule 5-616 because it was merely a repetition of N.'s allegations "and did not relate to why she had initially said she had never been abused." The State counters that Colandreo's testimony that N. described four separate incidents of abuse was not hearsay because Colandreo did not testify to the content of what N. told her. The State also argues that a witness's credibility is always relevant, and points to Rule 5-616(c)(4), which allows admission of "[o]ther evidence that the court finds relevant for the purpose of rehabilitation" where a witness's credibility has been attacked.

We need not reach those arguments. After its initial ruling, the trial judge indicated his willingness to strike Colandreo's testimony that N. described four separate incidents of abuse but defense counsel did not make such a request. The defense, therefore, acquiesced to the court's decision to admit Colandreo's statement. As Maryland's Supreme Court has explained, "[t]he doctrine of acquiescence – or waiver – is that 'a *voluntary* act of a party which is inconsistent with the assignment of errors on appeal normally precludes that party from obtaining appellate review.'" *Gilliam v. State*, 331 Md. 651, 691 (1993). Where a party acquiesces to a court's ruling, there is no basis for appeal from that ruling. *Grandison v. State*, 305 Md. 685, 765 (1986), *cert. denied*, 479 U.S. 873 (1986).

Even assuming that the defense had not acquiesced to the admission of Colandreo's statement, and that it was error to allow Colandreo's testimony that N. described four separate incidents of abuse, we would hold that such error was harmless beyond a reasonable doubt. An error is harmless when a reviewing court is "'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)(quoting *Dorsey v. State*, 276 Md. 638, 659 (1976)). Consideration of the cumulative nature of erroneously admitted evidence is a well-established component of the harmless error analysis. *Gross v. State*, 481 Md. 233, 237, 260-265 (2022).

The record makes clear that N. testified about four separate incidents of sexual abuse. N. acknowledged that she did not tell her mother, her older sister, or her friend everything that appellant did to her. Nevertheless, N.'s mother testified that N. told her appellant had "grabbed her hand to make her touch his parts." N.'s sister testified that N. told her appellant had tried to get her to touch his penis and that she bit him. E. testified that N. told her she had been raped by appellant. N. also told her about an incident where N. was sitting on appellant's lap and he wanted her to touch him. In addition, appellant was questioned by defense counsel about each of the four incidents alleged by N.[1] Based

[1] Appellant was questioned on direct examination as follows:

> [The Prosecutor]: You've heard testimony of different instances of claimed inappropriate behavior, did you ever lift up a blanket and ask [N.] to touch your penis?
>
> [Appellant]: No.

(continued)

on the record, it is clear that Colandreo's testimony that N. described four incidents of abuse was cumulative and harmless beyond a reasonable doubt.

III.

Appellant next argues that the court erred in allowing N.'s mother, M., to give an opinion on her daughter's credibility. On direct examination, M. testified that after N. told her that appellant had "grabbed her hand to make her touch his parts," she did not want N. and appellant "to be in the home together." Thereafter, the following occurred:

> [The Prosecutor]: And what were you fearful of –
>
> [Defense Counsel]: Objection.
>
> THE COURT: Overruled. I'll allow it.
>
> THE INTERPRETER: Can you repeat the question? I couldn't hear you well.
>
> [The Prosecutor]: Sure. What was she fearful of if they stayed?
>
> THE COURT: Who is the she?

> Q. Did you ever place your penis on [N.'s] back in the bathroom located at the main level of the [family home]?
>
> * * *
>
> A. No, I would never do that.
>
> Q. Mr. Salvador, have you ever inserted your penis into [N.'s] vagina?
>
> A. No, never.
>
> Q. Have you ever had [N.] sit on your lap and ask her to touch your penis?
>
> A. No, never.

[The Prosecutor]: The witness.

THE COURT: Talk to the witness then.

[The Prosecutor]: Yes. Thank you. What were you fearful of if your daughter [N.] and the defendant stayed together?

[M.]: That he could do something more.

Appellant argues the court erred in allowing M.'s statement that "he could do something more" because it "conveyed to the jury [M.'s] belief that her daughter was telling the truth." We do not agree.

Generally, we review a circuit court's ruling on the admissibility of evidence under an abuse of discretion standard. *State v. Robertson*, 463 Md. 342, 351 (2019). "A trial court abuses its discretion when 'no reasonable person would take the view adopted by the trial court,' or when the ruling is 'clearly against the logic and effect of facts and inferences before the court.'" *Prince v. State*, 255 Md. App. 640, 652 (2022)(quoting *King v. State*, 407 Md. 682, 697 (2009)).

It is well established that "a trial court may not ordinarily permit questioning that calls for one witness to assess the credibility of testimony or statements made by another witness concerning the facts of the case." *Fallin v. State*, 460 Md. 130, 154 (2018). In support of his argument, appellant directs our attention to *Bohnert v. State*, 312 Md. 266, 277 (1988), in which Maryland's Supreme Court stated that in a jury trial in a criminal case, it is "a fundamental principle … that the credibility of a witness and the weight to be accorded the witness' testimony are solely within the province of the jury." In *Bohnert*, the defendant was convicted of second-degree sexual offense against a fourteen-year-old

girl. *Bohnert*, 312 Md. at 268. The Maryland's Supreme Court stated, "[i]t was clearly apparent that the State's case hinged solely on the testimony of" the victim and there was no physical evidence to support her version of events. *Id.* at 270. At trial, the State elicited testimony from a social worker who worked as a "Protective Service Investigator with the Department of Social Services." *Id*. at 270-71. The social worker testified as an expert in the filed of child sexual abuse. *Id.* at 271. During the course of her testimony, the social worker was asked if she had "an opinion as to whether or not this child … was sexually abused[,]" and she responded that she did. *Id.* When asked to state her opinion, the social worker said:

> It's my opinion, based on the information that [the child victim] was able to share with me, that she was, in fact, a victim of sexual abuse.

Id.

The Supreme Court held that the trial court abused its discretion in admitting the social worker's testimony because it was founded only upon the child's unsubstantiated averments and "'a certain sense about children'" that the social worker believed she possessed. *Id.* at 276. The Supreme Court also determined that the social worker's opinion was inadmissible as a matter of law because it is "error for the court to permit to go to the jury a statement, belief, or opinion of another person to the effect that a witness is telling the truth or lying." *Id.* at 277. The Court wrote:

> We have insisted that, in a jury trial, the credibility to be given a witness and the weight to be given his testimony be confined to the resolution of all of the jurors. It is the settled law of this State that a witness, expert or otherwise, may not give an opinion on whether he believes a witness is telling the truth. Testimony from a witness relating to the credibility of another witness is to be rejected as a matter of law.

Id. at 278.

The Court concluded that the social worker's opinion that the child was, in fact, sexually abused, "was tantamount to a declaration by her that the child was telling the truth and that [the defendant] was lying." *Id.* at 278-79. The Court recognized the clear import of the opinion – that the child was credible and the defendant was not. *Id.* at 279. That "opinion could only be reached by a resolution of contested facts – [the child's] allegations and Bohnert's denials." *Id.* As a result, the opinion was inadmissible as a matter of law because it encroached on the jury's function to judge the credibility of the witnesses and weigh their testimony and on the jury's function to resolve contested facts." *Id.* Accordingly the receipt in evidence of the social worker's opinion that the child "was, in fact, a victim of sexual abuse," constituted reversible error.

That is not the case here. Unlike the social worker who testified as an expert witness in *Bohnert*, M. did not directly opine or assess N.'s credibility or testify that N. was telling the truth. She merely offered an explanation for why she and N. separated from appellant following the incident in the bedroom. We hold the court did not err.

IV.

Appellant contends the court erred in allowing Detective Maines to testify about the course of her investigation and that it culminated with her obtaining an arrest warrant for him. For context, we set forth Detective Maines's full testimony on direct examination with respect to her investigative process and her investigation in the instant case:

> [The Prosecutor]: So, Detective, when you receive an allegation of child sexual abuse that occurred in the past, so we are talking something that didn't

occur in the last week or even the last month or maybe the last year what do you do to investigate a case with that set of facts?

[Detective Maines]: With that set of facts the first –

[Defense Counsel]: Objection.

THE COURT: Basis?

[Defense Counsel]: Relevance.

THE COURT: Overruled. Go ahead.

[The Prosecutor]: You can answer.

[Detective Maines]: The first step in any investigation is to have the alleged victim forensically interviewed. If the child then produces a disclosure, gives a disclosure of sexual abuse then that would initiate a criminal investigation. With historical cases there is limited evidence, physical evidence if any that you can recover. That is where collateral interviews come in, witnesses where you, witnesses that can corroborate details of the victim's disclosure.

[Defense Counsel]: Objection.

THE COURT: Same basis?

[Defense Counsel]: Yes.

THE COURT: Overruled.

[The Prosecutor]: You can continue.

[Detective Maines]: Those individuals can corroborate details of the victim's disclosure and also establish access and opportunity that the alleged maltreater would have had to the victim.

[The Prosecutor]: And what is the purpose of conducting those collateral interviews? Well, I guess you said that. I'll withdraw. Did you follow that basic process with respect to an investigation into abuse that was, that occurred, that was alleged by [N.]?

[Detective Maines]: Yes.

[Defense Counsel]: Objection.

THE COURT: Overruled.

[The Prosecutor]: Were you present when [N.] was interview[ed] on March 31st of 2022?

[Detective Maines]: I was not in the room. I was viewing the interview live from a separate audio visual room.

[The Prosecutor]: And during the course of that interview did you receive information that the defendant may have sexually abused or that [N.] said the defendant sexually abused her?

[Detective Maines]: Yes.

[The Prosecutor]: How after that did you continue your investigation?

[Defense Counsel]: Objection.

THE COURT: Overruled.

[Detective Maines]: After the initial disclosure was made … the next step was a[n] interview of her mother, …. The next interview of her sister, … who also goes by [C.].

[The Prosecutor]: And when you conducted those interviews were you able to obtain additional details that were helpful to your analysis?

[Defense Counsel]: Objection.

THE COURT: Sustained as to that.

[The Prosecutor]: Did you conduct any other interviews?

[Defense Counsel]: Objection.

THE COURT: Overruled.

[The Prosecutor]: You can answer.

[Detective Maines]: There was one, there was an additional interview that was done at a later date and time.

[The Prosecutor]: And who was that interview subject?

[Detective Maines]: That was [E.].

[The Prosecutor]: And based on the information that you received did you ultimately make a decision to get an arrest warrant for the defendant?

[Defense Counsel]: Objection.

THE COURT: Overruled.

[Detective Maines]: Yes.

Appellant argues that Detective Maines's testimony was irrelevant because the jury had no need to know the manner in which delayed disclosure cases are investigated or the manner in which she investigated this case. Generally, "all relevant evidence is admissible." Md. Rule 5-402. 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." Md. Rule 5-401. Maryland Courts have consistently noted that "[h]aving 'any tendency' to make 'any fact' more or less probable is a very low bar to meet." *Williams v. State*, 457 Md. 551, 564 (2018)(quoting *State v. Simms*, 420 Md. 705, 725 (2011)). Evidence that fails to clear this "low bar" is inadmissible, and trial judges have no discretion to decide otherwise. *See* Md. Rule 5-402 ("Evidence that is not relevant is not admissible."). "A trial court's ruling on the admissibility of evidence is generally reviewed for abuse of discretion." *State v. Robertson*, 463 Md. 342, 351 (2019)(citing *Hopkins v. State*, 352 Md. 146, 158 (1998)). When it comes to questions of evidentiary relevancy, however, we review a circuit court's

decision *de novo* because relevancy is a question of law. *Id.* at 353 ("'[T]rial judges do not have discretion to admit irrelevant evidence.'")(internal citations omitted)).

In support of his argument that Detective Maines's testimony was irrelevant and should not have been admitted, appellant directs our attention to *Zemo v. State*, 101 Md. App. 303 (1994). In that case, the defendant was convicted of breaking and entering a gas station and related charges. *Zemo*, 101 Md. App. at 305. At trial, the court admitted the testimony of a police detective who, over objection, testified "that he received evidence about the crime from a confidential informant, that the informant's information put him on the trail of [Zemo] and other suspects, that other parts of the informant's information were corroborated and turned out to be correct, and that, acting on the informant's information, he arrested [Zemo]." *Id.* at 306. The detective's testimony on direct examination "consumed thirty-three pages in the trial transcript." *Id.* at 307. Initially, the detective testified about his observations of the crime scene. *Id.* Thereafter, he recounted the course of his investigation, including that he received information that led him to Zemo, and that after he was provided with Zemo's name, he "double-checked [his] reports and found that the information that I was getting was accurate[.]" *Id.* at 312-313. The detective also testified that he attempted to interview Zemo, who was given a *Miranda* warning, but he did not want to talk. *Id.* at 314-15

In reversing, we noted that the detective's testimony included "events as to which he had no direct knowledge and which were themselves without relevance." *Id.* at 307. We concluded that "[t]he only possible import of such testimony was to convey the message that the confidential informant 1) knew who committed the crime, 2) was credible,

and 3) implicated [Zemo]." *Id.* at 306. We clarified that the focus of our holding was on "the central thrust" of the detective's testimony which constituted "a sustained and deliberate line of inquiry that can have had no other purpose than to put before the jury an entire body of information that was none of the jury's business." *Id.*

In the case at hand, appellant asserts that reversal is required because the jury "had no need to know the manner in which delayed disclosure cases are investigated or the course of the detective's investigation in this case." We do not agree. Detective Maines testified about her investigation and that typically, in cases involving historical sexual abuse, she interviews the victim and then other collateral witnesses. The detective confirmed that she followed that basic process in N.'s case. Based on the information she gathered, she ultimately decided to get an arrest warrant for appellant. That testimony was merely explanatory background for what the investigation entailed. It did not constitute a sustained and deliberate line of inquiry designed to bolster N.'s credibility or, as appellant asserts "place the imprimatur of the State on the decision to arrest and charge" him.

Even if the trial court erred in admitting Detective Maines's testimony, any error would be harmless beyond a reasonable doubt. *Dorsey v. State*, 276 Md. 638, 659 (1976). The jury was clearly aware that appellant was arrested as a result of statements made by the defense in opening statements. The defense's opening statement and the testimony of various witnesses made clear that N., M., C., E., and others had been questioned as part of the police investigation. As a result, Detective Maines's testimony that she interviewed witnesses and that appellant was eventually arrested was cumulative and, therefore, harmless. *See Gross v. State*, 481 Md. 233, 237, 260-265 (2022)(consideration of the

cumulative nature of erroneously admitted evidence is a well-established component of the harmless error analysis).

V.

Appellant contends the court erred in limiting his presentation of evidence of bias. Specifically, he argues that the court abused its discretion in limiting defense counsel's ability to cross-examine witnesses about a child abuse investigation involving his daughter J.'s allegations against her step-father. That issue was raised on numerous occasions prior to and during the trial.

Background

In a pre-trial motion *in limine*, the State sought to preclude certain references to an investigation that preceded N.'s disclosure in the instant case in order "to avoid waste of time, confusion of the issues, and confusion of this jury." The prior investigation involved allegations of sexual abuse made by one of appellant's biological daughters, J., against her stepfather, E.H., who was M.'s partner at the time. As part of that investigation, N. was interviewed by Colandreo and, when questioned the first time, denied that she herself had been abused by anyone.

The defense asserted that at some point after N.'s interview in which she denied being abused by anyone, appellant telephoned M. He was upset because he had learned about J.'s allegations against E.H. from a Child Protective Services worker and complained to M. that she had failed to inform him about the situation. Based on statements made by M. to investigators, the defense theorized that after M.'s conversation with appellant, she told family members, including N., that appellant made threats against the family. Shortly

thereafter, N. had a second interview with Colandreo in which she disclosed that she had been sexually abused by appellant.

The defense argued that the fact that J. alleged abuse by her stepfather, E.H., supported its theory that N. fabricated the allegations in the instant case and was relevant to bolster N.'s initial denial of abuse "by explaining to the jury that [N.] was fully aware that … there was an allegation of sexual abuse occurring in her own home within that family[.]" The defense further argued that if the jury heard that M. told members of her family, including N., that appellant had threatened them, "then that would make it much more likely that [N.] would say something against" appellant.

The court limited the defense to referencing only that N. was initially interviewed on March 18, 2021, in reference to "a complaint of [an] abuse allegation against a family member." It precluded reference to the specific "family member" and to whether the alleged abuse of J. occurred in the family home or elsewhere. The court permitted cross-examination of N. as to whether she knew about any threats made by appellant stating, "that could give [N.] a motive if she was aware of [appellant] threatening her mother, and then days later, she comes out with an allegation of abuse against him."

Defense counsel cross-examined N. and questioned her about both of her interviews by Colandreo and other events. Defense counsel questioned N., in part, as follows:

> [Defense Counsel]: Okay. And you were asked being initially, being asked questions about an allegation of possible sexual abuse that occurred within the family, right?
>
> [N.]: Yes.
>
> Q. Not any allegation against, about you, right?

A. Yes.

Q. Okay. So you talked to the social worker about this other situation first, right?

A. Yeah. Yes.

N. acknowledged that during the course of her first interview, she denied that anyone had ever touched her on her private parts, touched her chest area, or asked her to touch their private parts. When asked whether, between her first and second interview by Colandreo, she recalled some conflict between appellant and her mother, N. responded, "I don't remember."

Evidence of that "conflict" between appellant and N.'s mother was presented through the testimony of N.'s mother, M. Before cross-examining M., defense counsel asked the court to allow him to question her about a phone conversation she had with appellant in which he "chastise[d]" M. and said "bad things" about her because she failed to tell him about the investigation involving allegations by his daughter J. against E.H. Defense counsel argued that this would show "bias for her to testify to amplify saying bad things." The court permitted questioning "about bad feelings between" M. and appellant to probe for bias. The court also permitted counsel to elicit that appellant was upset with M. "about something going on with his daughter[,]" although not what "that something" was. The court precluded defense counsel from saying anything about the alleged abuse of J., and clarified that "[t]rying to mix those two up together that is going to confuse the jury. That is what I don't want."

On cross-examination, M. was questioned about a phone call she had with appellant within a day or so of her first interview with Colandreo. M. agreed that appellant was upset with her and that the conversation involved a child that she and appellant have in common. M. agreed that appellant basically accused her of not being a good mother to that child. M. acknowledged that the call was unpleasant, that appellant seemed upset, and that he made her upset. Thereafter, M. discussed the phone conversation with other members of her family. A few days after the phone conversation, M. told Colandreo about the incident that occurred when N. was in the first grade and M. heard her scream.

On re-direct examination, M. stated that she did not go to the police at the time N. told her what appellant did because appellant "always threatens you." M. testified, without objection, that during her phone call with appellant, he threatened her, saying that if something happened to the daughter they had together "he was going to kill everyone starting with the youngest and ending with" her.

After M.'s re-direct examination, the defense asked to recall her to ask follow-up questions about the phone call between M. and appellant. The trial judge denied that request stating that he "kind of warned [defense counsel] about that[,]" that the defense "opened the door," and that defense counsel had "brought up the conversation." The following colloquy occurred:

> [Defense Counsel]: But then she, then she specifically she meaning the witness [M.] specifically said pulled [N.'s] name into it. It seems only appropriate that I be allowed to have the witness clarify what in the world the defendant was talking about.
>
> THE COURT: Denied.

[Defense Counsel]: You know, and so, I'll –

THE COURT: You can't not object to something and then complain about it.

Defense counsel argued that the jury did not know that J. was the subject of the investigation. The trial judge responded that that fact was irrelevant, that the "jury knows that there was some issue with a family member[,]" that the jury "might know it is [J.]," and that the jury "might be able to put two and two together, but who knows."

Subsequently, during the defense's case, before appellant testified, defense counsel again raised the issue of the limitations placed on his ability to inquire about the investigation into J.'s allegation of abuse. The following exchange occurred:

> [Defense Counsel]: Also, I might as well just raise it right now. But as far as testimony from Mr. Salvador, this has come up before with – this is with respect to possibly making reference to the investigation regarding [N.]. We believe that when Mr. Salvador testifies, that he's going to the phone call that he made to [M.] after he found out about allegations of the possible abuse of his own daughter [J.].
>
> And he called [M.], and as you recall [M.] – you let me cross-examine [M.] to – on that phone call without making reference to I just had to generically say he was accusing you, he was mad at you. He was sort of accusing you of being a bad mom without getting into the specifics. So you sort of forced, you know, Defense to sanitize that without making for this jury to understand the possible bias and possible motive of the witnesses who testified and the motive, possible motive to fabricate.
>
> That there would be – confusing to the jury if Mr. Salvador is not allowed to say, essentially, look, when I called her, it was because I had just heard that my daughter [J.] may have been abused, so I was upset about that. And frankly by, and we think it's also relevant, by the man who was living with [M.].
>
> Because that puts [M.'s] bias off the charts and her being upset. It gives her a motive to start telling other people in the family, you know, that make up this claim about Mr. Salvador threatening to kill everybody. So we the fact that when Mr. Salvador called [M.], the circumstances of what that conversation was about are important to put in.

* * *

> THE COURT: But the fact that they are having animosity and he's the one that raised it up, not her. He calls her angry. So he can't bootstrap that to get admissibility in of another sex offense between another child and another gentleman. We've already had this argument.
>
> [Defense Counsel]: I understand. So I'm just putting on the record why we think it's stiff [sic] relevant.
>
> THE COURT: But I will let you –
>
> [Defense Counsel]: Well, still –
>
> THE COURT: -- say about a serious health concern with one of my children or something of that nature.
>
> [Defense Counsel]: And [M.] mentioned the name [J.]. That the call was about [J.] already, so I thought the Court might have suggested that he would be, that Mr. Salvador would be allowed to say that it was about our child [J.].
>
> THE COURT: I think just say about a serious concern concerning a child, you can even say, was at risk.

Defense counsel asked appellant whether there was ever "a time that he called [M.] due to concerns about one of his children being at risk[,]" and he responded "Correct." Appellant testified that he called M. prior to the time he was being investigated for allegedly abusing N. Appellant denied ever threatening M., but acknowledged that he told her he would hold her responsible "for whatever would happen to one of my daughters[.]"

Analysis

Appellant argues that the court's rulings limited his ability to present the subject of the investigation involving [J.] and deprived him of sufficient latitude to attempt to establish M.'s bias or motivation to testify falsely. We are not persuaded.

"A criminal defendant's right to cross-examine a prosecution witness is guaranteed by the Confrontation Clause of the Sixth Amendment, made applicable to the States through the Fourteenth Amendment, and Article 21 of the Maryland Declaration of Rights." *Holmes v. State*, 236 Md. App. 636, 671 (2018). The fundamental right to cross-examine witnesses "includes the right to impeach credibility, to establish bias, interest or expose a motive to testify falsely." *Pantazes v. State*, 376 Md. 661, 680 (2003). "To comply with the Confrontation Clause, a trial court must allow a defendant a 'threshold level of inquiry' that expose[s] to the jury the facts from which jurors, as the sole triers of fact and credibility, could appropriately draw inferences relating to the reliability of the witnesses.'" *Peterson v. State*, 444 Md. 105, 122 (2015)(quoting *Martinez v. State*, 416 Md. 418, 428 (2010)). "An undue restriction of the fundamental right of cross-examination may violate a defendant's right to confrontation." *Pantazes*, 376 Md. at 681.

A defendant's constitutional right to confront a witness is reflected in Maryland Rule 5-616, which "permits witnesses to be impeached by proof that 'a witness is biased, prejudiced, interested in the outcome of the proceeding, or has a motive to testify falsely.'" *Montague v. State*, 244 Md. App. 24, 64 (2019)(quoting Md. Rule 5-616(a)(4)). In a jury trial, "'questions permitted by Rule 5-616(a)(4) should be prohibited only if (1) there is no factual foundation for such an inquiry in the presence of the jury, or (2) the probative value of such an inquiry is substantially outweighed by the danger of undue prejudice or confusion.'" *Calloway v. State*, 414 Md. 616, 638 (2010)(quoting *Leeks v. State*, 110 Md. App. 543, 557-58 (1996))(emphasis omitted).

Nevertheless, the right to cross-examination is not boundless and "[t]he Confrontation Clause does not prevent a trial judge from imposing limits on cross-examination." *Pantazes*, 376 Md. at 680. As with all evidence, "the court has the discretion to limit the examination, under Rule 5-403, if the court finds that the probative value of the evidence is outweighed by unfair prejudice." *Id.* at 687. "'[T]rial courts retain wide latitude in determining what evidence is material and relevant, and to that end, may limit, in their discretion, the extent to which a witness may be cross-examined for the purpose of showing bias.'" *Parker v. State*, 185 Md. App. 399, 426 (2009)(quoting *Merzbacher v. State*, 346 Md. 391, 413 (1997)). "Moreover, trial judges are entitled to impose reasonable limits on cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues or interrogation that is only marginally relevant." *Id.* (quoting *Smallwood v. State*, 320 Md. 300, 307 (1990))(cleaned up); *see also Delaware v. Van Arsdall*, 475 U.S. 673, 679 (1986)("trial judges retain wide latitude … to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant."); *Martinez v. State*, 416 Md. 418, 428 (2010)(The trial court "'must allow a defendant wide latitude to cross-examine a witness as to bias or prejudices' *so long as the questioning does not 'obscure the trial issues and lead to the factfinder's confusion.*'" (quoting *Smallwood v. State*, 320 Md. 300, 307-08 (1990)))(emphasis added); and, *Montague*, 244 Md. App. at 65 (2019)(After the threshold level of inquiry has been met, trial courts "have wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination

based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant."). Finally, Maryland Rule 5-611 requires the court to "exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment."

Such decisions are reviewed for abuse of discretion. *Manchame-Guerra v. State*, 457 Md. 300, 311 (2018)(quoting *Peterson*, 444 Md. at 124). To constitute an abuse of discretion, "'the trial court's decision must be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *State v. Matthews*, 479 Md. 278, 305 (2022)(quoting *Devincentz v. State*, 460 Md. 518, 550 (2018)).

Against that backdrop, we hold that the trial court did not abuse its discretion in limiting evidence that J. was the subject of Colandreo's initial investigation, which involved J.'s allegation of abuse by her stepfather, E.H., and that the investigation into J.'s allegation was the subject of appellant's phone conversation with M. because detailed evidence of the investigation involving J. was irrelevant and would have needlessly confused the jurors. Appellant's assertion that the court's limitations prevented the jury from understanding the possible bias and motive of the witnesses to fabricate their testimony is not supported by the record. The record makes clear that the trial judge was concerned that exploration into the unrelated allegation of sexual abuse by J. against her

stepfather, E.H., would lead to confusion of the jurors. Although the trial court imposed limits on the defense's ability to inquire into J.'s unrelated allegation of abuse, it did so in a way that permitted the defense to probe for bias. The evidence established that N. was initially interviewed as part of an unrelated allegation of possible sexual abuse that occurred in her family but was not about her. The defense established that after N.'s initial interview with Colandreo, M. and appellant had a telephone call in which he was upset with M. and accused her of not being a good mother to a child they had in common. Appellant testified that during that telephone conversation, he was "angry" and "upset," and he told M. he would hold her responsible for the risk concerns and "for whatever would happen to one of my daughters[.]" According to appellant, M. "was very angry." Appellant denied threatening M. M. testified that she was upset by the call and she discussed the call with family members. N. acknowledged that after the first interview, M. was upset about the whole situation.

In addition, the defense elicited testimony that challenged N. and M.'s credibility. Defense counsel pointed to numerous inconsistencies between what M. initially told authorities in March 2021 and her testimony at trial. For example, M. did not tell the social worker that after the incident involving N.'s screaming and reporting that appellant tried to make her touch him, appellant continued to live in the family home, N. went to stay with her biological father during the day, and that N. and M. stopped sleeping in the bedroom with appellant and slept together on a sofa in the living room. On cross-examination, M. also acknowledged that she separated from appellant due to infidelity and not due to appellant's alleged abuse of N. M. also acknowledged that divorce papers listed

the date she and appellant separated as June 21, 2014, which was about two years after N.'s abuse was alleged to have occurred. Similarly, the defense cross-examined N. about her disclosures to M. and C. at the time of the last incident of alleged sexual abuse and how she disclosed more about what happened to C. than she had disclosed to her mother, even though C. told her she should tell their mother what happened. The defense also cross-examined N. about her first interview with Colandreo and her denial of abuse at that time, her failure to disclose her abuse to a middle school counselor, how a health class triggered her, the disclosure she made to her friend E., her testimony that she did not feel any pain on the night when appellant got in her bed and placed his penis in her vagina, and her statement that appellant left the family home immediately after the last incident of abuse. For all these reasons, we conclude that the trial court did not abuse its discretion in limiting cross-examination with respect to the unrelated and irrelevant investigation involving J.'s allegations.

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