

Circuit Court for Baltimore County
Case No. C-03-CR-20-002914

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0396

September Term, 2023

LATEEF MAPLE

v.

STATE OF MARYLAND

Albright, A.,
Kehoe, S.,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: October 29, 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 persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Following the conclusion of a jury trial in the Circuit Court for Baltimore County, the Appellant, Lateef Maple (“Mr. Maple”), was convicted of first-degree murder and conspiracy to commit first-degree murder. Mr. Maple argues three errors on appeal. First, that the evidence was legally insufficient to sustain a conviction of first-degree murder and conspiracy to commit first-degree murder. Next, he contends that the trial court erred in its discretion when regulating closing arguments. Finally, Mr. Maple claims that the trial court erred in admitting irrelevant evidence that depicted his location in the Kelbourne Road area of Baltimore County two days after the murder. For reasons that we will outline, we affirm the judgment of the Circuit Court for Baltimore County.

I. Factual Background

We will set forth such facts as are necessary to address the issues raised on appeal.

A. The Incident

On July 28, 2020, Trevor Hamlet (“Mr. Hamlet”), his brother Trent Alexander (“Mr. Alexander”), his girlfriend Vanesia Gaskins (“Ms. Gaskins”), and Casey Pulley (“Mr. Pulley”),¹ rented a room at the Four Seasons Hotel in Baltimore City to go swimming at the hotel pool. In the late afternoon, Mr. Hamlet’s group drove to the Four Seasons in Mr. Hamlet’s Black GMC Denali. At the hotel, Mr. Hamlet’s group valeted the Denali, changed in their room, and went to drink alcohol by the pool around 4:00 or 5:00 p.m. A second group of three women and a light-skinned, tattooed man in plaid Burberry shorts,

¹ Mr. Hamlet, Mr. Alexander, Ms. Gaskins, and Mr. Pulley are referred to as “Mr. Hamlet’s group” for brevity.

later identified as Donwin Brooks (“Mr. Brooks”), also gathered by the pool. Mr. Alexander testified that around 6:00 p.m., the women in the second group began arguing with Ms. Gaskins. Shortly after, one of the women came up behind Ms. Gaskins, pulled her hair throwing Ms. Gaskins to the ground and started a physical fight between the women. Mr. Alexander punched the woman in the face causing Mr. Hamlet, Mr. Pulley, Mr. Brooks, and the two other women to join the fight. During the course of the fight, Mr. Alexander also hit Mr. Brooks in the face giving him a black eye.

Four Seasons security broke up the fight after approximately fifteen to twenty minutes, allowed the groups to gather their belongings, and escorted both groups out of the building. Mr. Hamlet and Mr. Brooks’ groups waited outside the hotel for the valet to bring their vehicles when both groups began verbally antagonizing each other. Mr. Brooks threatened to kill Mr. Hamlet’s group and said they could find him at Gilmore Homes. Around 6:30 p.m., Mr. Hamlet’s group left the Four Seasons and drove to 2019 Kelbourne Road in Baltimore County.

While Mr. Hamlet’s group departed from the Four Seasons, Mr. Brooks saw his cousin and good friend,² Mr. Maple, parked across from the hotel. Around 6:29 p.m., Mr. Maple arrived at the Four Seasons in a silver Honda Accord coupe with dealership tags. Mr. Maple said he came to the Four Seasons to pick up food. However, Mr. Maple did not pick up his food. As Mr. Brooks approached Mr. Maple, he noticed Mr. Brooks had a

² Mr. Maple and Mr. Brooks are close friends and cousins by marriage. Mr. Maple refers to Mr. Brooks as “Cuz” or “cousin.”

swollen black eye and said “well, shit, I’ll give you a ride, man, fuck that fool” and took Mr. Brooks “where he got to go.” Mr. Brooks entered Mr. Maple’s Honda to follow the Denali, leaving his vehicle at the Four Seasons. Surveillance footage from the Four Seasons then shows Mr. Maple’s Honda follow Mr. Hamlet’s Denali around the front of the hotel.

Once Mr. Hamlet’s group arrived at 2019 Kelbourne Road they decided to buy more alcohol at Charlie Brown Liquor’s Discount Liquor Store on Hazelwood Avenue. While waiting for Mr. Hamlet outside the liquor store, Mr. Alexander realized he unknowingly grabbed Mr. Brooks’ cell phone at the Four Seasons, stomped on the phone, and threw it into the woods behind the liquor store.

Mr. Alexander testified that the group returned to Kelbourne Road and exited Mr. Hamlet’s Denali. They were walking toward his brother’s house when Mr. Alexander heard gunshots ringing from behind him. Everyone other than Mr. Hamlet ran to take cover, Mr. Alexander said that Mr. Hamlet was “stuck.” Mr. Alexander testified that he saw a man in all black, wearing a ski mask, stand behind his brother with a gun pointed to Mr. Hamlet’s head, he heard a gunshot, and watched his brother drop. The man who shot Mr. Hamlet turned around and ran behind the apartment complex on Kelbourne Road. After the shooter ran, Mr. Alexander ran to Mr. Hamlet to check if his heart was beating but, instead, lost control and testified that he “started raging.”

A few hours after the shooting, Mr. Alexander and Mr. Hamlet’s mother provided statements at the police station. At the station, Mr. Alexander told the police that the person

who shot Mr. Hamlet was the man they fought at the Four Seasons pool and that Mr. Alexander knew it was him because Mr. Alexander “got him a couple of times.” However, Mr. Alexander could not recall who the shooter was or what he told the police during his testimony at trial.

On July 28, Tyrane McKeever (“Ms. McKeever”) was sitting outside near Flintshire Road.³ She watched a black Dodge Journey with tinted windows pull up through the apartment complex entrance on the corner of Flintshire Road and Kelbourne Road and make a U-turn towards the entrance it came from. Ms. McKeever watched a “white or light skinned man” of average size wearing green basketball shorts, a grey or black hoodie, and a mask covering his face get out from the passenger side of Dodge Journey and walk to the other side of the building on Kelbourne Road. Ms. McKeever then heard gun shots and watched the man run back to the Dodge Journey, jump into the passenger seat, and the vehicle peeled off. Surveillance footage from Hazelwood Body & Fender shows the Dodge Journey leaving the Kelbourne Road area at 7:12 p.m. After the Dodge Journey left, Ms. McKeever went to the area where she heard the gunshots. She saw a man lying on the ground with a crowd of people screaming around him.

Officer James Marsh received a call for the shooting at 2019 Kelbourne Road around 7:12 or 7:13 p.m. Officer Marsh arrived at the location by 7:18 p.m. and observed a Black male, later identified as Mr. Hamlet, lying on the ground with a gunshot wound to

³ The record indicates that Mr. Hamlet lived at an apartment complex on Kelbourne Road which intersects Flintshire Road.

the head and another male victim, Mr. Pulley, walking around with a gunshot wound to the elbow. A medical examiner testified that Mr. Hamlet suffered several gunshot wounds, one to the head and two to the lower chest. Officer Marsh secured the perimeter and confirmed that the gunman left the scene. Officer Marsh's body cam footage showed Mr. Hamlet lying on the ground while a bystander administered CPR. The body cam audio and a 911 call also depict Mr. Alexander screaming in the background. Mr. Hamlet was taken to the hospital and pronounced dead at 7:57 p.m.

FBI Special Agent Michael Fowler ("Agent Fowler") analyzed Mr. Maple's⁴ cell site location information ("CSLI") to determine where he traveled between 6:00 and 7:40 p.m. on July 28. Agent Fowler found that between 6:32 and 6:41 p.m., Mr. Maple headed northbound off I-83 to 695. During the drive, Mr. Maple received an incoming FaceTime call at 6:44 p.m.⁵ Mr. Maple then drove south into the Kelbourne Road area between 6:52 and 7:06 p.m. At 6:59 p.m., surveillance footage from Hazelwood Body & Fender shows Mr. Maple's car on Hazelwood Avenue, .2 miles from Kelbourne Road, headed towards a dead-end area. At 7:05 p.m., Hazelwood Body & Fender surveillance footage shows Mr. Maple's Honda driving behind Mr. Hamlet's Denali on Hazelwood Avenue. Mr. Maple's CSLI revealed that he remained in the Kelbourne Road area between 7:06 and 7:18 p.m. and returned to Baltimore City between 7:23 and 7:37 p.m. **(T5 at 45-47)**

⁴ Mr. Maple has two cell phones ending in 4575 and 9589. Agent Fowler used Mr. Maple's cell phone ending in 4575 to map his locations on July 28.

⁵ Detective Fisher reviewed Mr. Maple's cell phone and iCloud data during the investigation. Although Detective Fisher could not recover everything, he noticed an incoming call at 6:44 p.m. on Mr. Maple's iCloud data.

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On July 30, two days after the shooting, a license plate reader recorded Mr. Brooks' vehicle driving through the Kelbourne Road area. The State also presented evidence showing that Mr. Maple's phone connected to a cell tower near Kelbourne Road at the same time Mr. Brooks' vehicle drove through the area. Although it is possible that Mr. Maple either drove in the Kelbourne Road area or down I-95, which runs near the Kelbourne Road neighborhood, defense counsel raised an objection based on the relevancy of this evidence at trial:

STATE: So, you have the Defendant, Donwin Brooks, there's a Co-Defendant, Donwin Brooks, vehicle going up Kelbourne Road and at that same time, you have Lateef Maple's phone hitting off a tower in that area [on July 30].

THE COURT: On the same day.

STATE: Same day, same time.

THE COURT: Okay.

[DEFENSE COUNSEL]: On the 30th, two days later?

STATE: On the 30th, yes.

THE COURT: Yes.

[DEFENSE COUNSEL]: The, the –

THE COURT: Because it's at Kelbourne I'm going to overrule the objection. I think it's relevant.

AGENT: That between 12:00, 12:07 is consistent with being up in the area of our red and purple pins. Again, the Hazelwood Avenue area of Baltimore County. And then by 12:12:29, 12:12:33 (inaudible).

STATE: All right. Now, you also testified you were given the latitude and longitude of a potential license plate reader, a possible license plate reader

hit for a vehicle. Are your findings consistent with a cell phone possibly being in that vehicle?

[DEFENSE COUNSEL]: Objection. Possibly, it can possibly?

THE COURT: Sustained.

STATE: Are your findings consistent with a cell phone being in that vehicle?

AGENT: It's –

[DEFENSE COUNSEL]: Objection. Same, exactly the same question.

THE COURT: Well, he said possibly before.

[DEFENSE COUNSEL]: Well, how could it be otherwise?

THE COURT: Well, –

[DEFENSE COUNSEL]: How, how could it possibly be, okay.

THE COURT: I'm going to overrule. I mean, it's a, it's a yes or no answer.

AGENT: Yeah, it's consistent with being in that general area. I cannot place a phone in a specific vehicle. I can say it's consistent with being in that general area where that vehicle is at the time that vehicle was there.

The State's Attorney opened closing arguments by saying "losing a loved one is hard" and that Mr. Hamlet's mother did not get to say goodbye to her son. Defense counsel objected to this statement arguing that it invited the jury's sympathy instead of asking it to look at the evidence. The trial judge overruled this objection but admonished the State's attorney that she was walking a fine line of prejudicial sympathy.

Additional facts will be provided as they become relevant.

II. Questions Presented

Mr. Maple noted a timely appeal and presents the following issues which we rephrase as follows:⁶

1. Are successive links of circumstantial evidence legally sufficient to support Mr. Maple's convictions for first-degree murder and conspiracy to commit first-degree murder?
2. Did the trial court abuse its discretion in regulating closing arguments and responding to defense counsel's objections to the State's remarks about the victim's mother and playing two pieces of evidence?
3. Did the trial court abuse its discretion in admitting into evidence Mr. Maple's CSLI depicting the location of his cell phone in the Kelbourne Road area two days after the victim's death?

III. Discussion

A. Sufficiency of Circumstantial Evidence for First-Degree Murder and Conspiracy to Commit First-Degree Murder

The due process clause of the Fourteenth Amendment to the U.S. Constitution prohibits criminal convictions of any person except upon sufficient evidence of every element of the offense. *Jackson v. Virginia*, 443 U.S. 307, 316 (1979). In *State v. Albrecht*, the Supreme Court of Maryland set forth the standard of review for appellate courts:

We emphasize that when an appellate court is called upon to determine whether sufficient evidence exists to sustain a criminal conviction, it is not the function or the duty of the appellate court to undertake a review of the record that would amount to a retrial of the case. Rather, we review the

⁶ In his brief, Mr. Maple framed the questions as follows:

1. Was the evidence insufficient to convict Mr. Maple of first-degree murder and conspiracy to commit first-degree murder?
2. Did the trial court err in permitting the state to make numerous improper comments appealing to the emotions of the jury during closing argument?
3. Did the trial court err in permitting the state to introduce irrelevant evidence?

evidence in the light most favorable to the State, giving due regard to the trial court's finding of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses. Fundamentally, our concern is not whether the trial court's verdict is in accord with what appears to us to be the weight of the evidence, but rather is only with whether the verdicts were supported with sufficient evidence—that is, evidence that either showed directly, or circumstantially, or supported a rational inference of facts which could fairly convince a trier of fact of the defendant's guilt of the offenses charged beyond a reasonable doubt.

336 Md. 475, 478-79 (1994) (citations and footnote omitted); *see also Morgan v. State*, 134 Md. App. 113, 120-21 (2000). Ultimately, the test for determining legal sufficiency of evidence is “whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson*, 443 U.S. at 338; *Taylor v. State*, 346 Md. 452, 457 (1997). Under this standard, the reviewing court must view the evidence and all reasonable inferences deducible from the evidence in the light most favorable to the state. *See Smith v. State*, 415 Md. 174, 185-86 (2010). We defer to the jury's inferences and determine whether they are supported by the evidence. *Id.* at 183 (citing *State v. Smith*, 374 Md. 527, 534 (2003)). We do not second-guess the jury's determination where there are competing rational inferences but give deference to all reasonable inferences that the fact finder may draw. *Smith*, 415 Md. at 183. When reviewing an issue of legal sufficiency in a jury trial, we only consider whether the prosecution has satisfied its burden of production by producing legally sufficient evidence to permit a guilty verdict. *See Chisum v. State*, 227 Md. App. 118, 125 (2016).

1. Circumstantial Evidence

“Maryland has long held that there is no difference between direct and circumstantial evidence.” *Hebron v. State*, 331 Md. 219, 226 (1993); *Jensen v. State*, 127 Md. App. 103, 117 (1999); *Morgan*, 134 Md. App. at 121. Circumstantial evidence alone may be sufficient to sustain a criminal conviction provided that the evidence supports rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused. *See Hebron*, 331 Md. at 117; *Veney v. State*, 251 Md. 182, 201 (1968). However, inferences made from circumstantial evidence must rest upon more than mere speculation or conjecture. *Taylor*, 346 Md. at 458.

The prosecution may present either a single strand or successive links of circumstantial evidence. *Morris v. State*, 192 Md. App. 1, 31 (2010); *see also Jensen*, 127 Md. App. at 118 n.6. If guilt is based on a single strand of evidence, the circumstances must be inconsistent with any reasonable hypothesis of innocence to meet the standard for legal sufficiency. *Jensen*, 127 Md. App. at 117-18 (citing *Hebron*, 331 Md. at 224). To the contrary, applying this hypothesis of innocence to multiple strands of circumstantial evidence would be improper because viewing the circumstances from the state’s perspective may be inconsistent, but not dispositive, of the defendant’s innocence. *Id.* at 118. Therefore, the circumstances must be considered collectively. *Hebron*, 331 Md. at 227 (citing *Gilmore v. State*, 263 Md. 268, 293 (1971), *vacated on other grounds* by *Gilmore v. Maryland*, 408 U.S. 940 (1972))). It is not necessary to exclude every

possibility of the defendant's innocence, produce absolute certainty in the minds of jurors, or that each circumstance, standing alone, be sufficient to establish guilt. *See id.*

2. Accomplice to First-Degree Murder and Conspiracy to Commit First-Degree Murder

First-degree murder is the intentional killing of another person with willfulness, deliberation, and premeditation. Md. Code Ann., Crim. Law § 2-201(a)(1). “To prove first-degree murder, the State must adduce evidence ‘that the defendant possessed the intent to kill (willful), that the defendant had conscious knowledge of that intent (deliberate),’” and there was time for the defendant to premeditate the murder. *Morris*, 192 Md. App. at 31 (quoting *Wiley v. State*, 328 Md. 126, 133 (1992)). Premeditation is proved by showing that the “design to kill must have preceded the killing by an appreciable length of time, that is, enough time to be deliberate.” *Wiley*, 328 Md. at 133 (quoting *Tichnell v. State*, 287 Md. 695, 717 (1980)).

Furthermore, a person may be an accomplice and held criminally responsible for crimes committed by another when participating in the “principal offense either as a principal in the first degree (perpetrator), a principal in the second degree (aider and abettor) or as an accessory before the fact (inciter).” *Diggs & Allen v. State*, 213 Md. App. 28, 85 (2013). A principal in the second degree is not the actual perpetrator but is one who, in some way, participates in the commission of a felony by aiding, commanding, counseling, or encouraging the perpetrator. *See State v. Williams*, 397 Md. 172, 194 (2007), *abrogated on other grounds by Price v. State*, 405 Md. 10, 18-23 (2008); *Morgan*, 134 Md. App. at 131-32.

On the other hand, an accomplice who is an accessory before the fact aids, commands, counsels, or encourages the commission of a felony before it occurs and is neither actually nor constructively present at the scene of the crime. *Williams*, 397 Md. at 193. Even so, an accomplice “must participate in the commission of a crime knowingly, voluntarily, and with common criminal intent with the principal offender, or must in some way advocate or encourage the commission of the crime.” *Silva v. State*, 422 Md. 17, 28 (2011).

Moreover, conspiracy is a common law crime in Maryland. *Mitchell v. State*, 363 Md. 130, 145 (2001). The offense is described as a:

Combination of two or more persons to accomplish some unlawful purpose, or to accomplish a lawful purpose by unlawful means. The essence of a criminal conspiracy is an unlawful agreement. The agreement need not be formal or spoken, provided there is a meeting of the minds reflecting a unity of purpose and design. In Maryland, the crime is complete when the unlawful agreement is reached, and no overt act in furtherance of the agreement need be shown.

Id. Circumstantial evidence may be used to show a conspiracy from which a common purpose or design may be inferred by the parties’ meeting of the minds. *Id.* at 145. To establish a meeting of the minds the parties must:

(1) have given sufficient thought to the matter, however briefly or even impulsively, to be able mentally to appreciate or articulate the object of the conspiracy—the objective to be achieved or the act to be committed, and (2) whether informed by words or gesture, understand that another person also has achieved that conceptualization and agrees to cooperate in the achievement of that objective or the commission of that act. Absent that minimum level of understanding, there cannot be the required unity of purpose and design.

Id. at 145-46. The parties must have a specific intent for both agreeing to the conspiracy and to assist, in some way, in committing the crime. *Id.* at 146. If the conspiracy is to commit murder, the intent must be to commit, or have someone commit, the acts which constitute murder. *Id.*

3. Analysis

Mr. Maple argues that his convictions of first-degree murder and conspiracy to commit first-degree murder rest entirely on circumstantial evidence that required the jury to speculate Mr. Maple's guilt. The State counters that the prosecution must only produce circumstantial or direct evidence to support its theory that Mr. Maple was an accomplice to the murder and conspired with Mr. Brooks, from which the jury could infer the essential elements of the crime beyond a reasonable doubt. We believe the evidence was sufficient to convince a rational trier of fact beyond a reasonable doubt that Mr. Maple aided, commanded, counseled, or encouraged Mr. Hamlet's murder.

The test for legal sufficiency of evidence to sustain a criminal conviction for first-degree murder and conspiracy to commit first degree murder requires us to review multiple links of circumstantial evidence and to deduce its cumulative effect, from which we may determine whether the State met its burden of proof that established Mr. Maple's guilt beyond a reasonable doubt.

We first review whether the State admitted sufficient evidence to convince a rational trier of fact to find that Mr. Brooks committed the intentional killing of Mr. Hamlet with willfulness, deliberation, and premeditation. Md. Code Ann., Crim. Law § 2-201(a)(1).

First, Mr. Alexander's testimony and surveillance footage revealed that Mr. Brooks and Mr. Hamlet's groups fought at the Four Seasons, Mr. Brooks threatened to kill Mr. Hamlet's group, Mr. Brooks and Mr. Maple drove behind Mr. Hamlet's vehicle near the Four Seasons and past Hazelwood Body & Fender—.2 miles from 2019 Kelbourne Road—and Mr. Alexander witnessed the shooter walk up behind Mr. Hamlet, with a gun pointed to his head, and shoot him on Kelbourne Road. These strands of circumstantial evidence are sufficient to convince a jury that the murder was intentional, willful, and deliberate which satisfies the essential elements of first-degree murder.

Furthermore, premeditation is proven when the "design to kill must have preceded the killing by an appreciable length of time, that is, enough time to deliberate." *Tichnell*, 287 Md. at 717. Here, the State submitted surveillance footage showing Mr. Brooks enter Mr. Maple's car outside the Four Seasons moments after Mr. Brooks threatened to kill Mr. Hamlet's group. Mr. Maple's vehicle then follows the Denali past the Four Seasons. Agent Fowler testified that Mr. Maple's CSLI revealed his location, driving to Baltimore County, between 6:32 p.m. and 6:52 p.m. Mr. Alexander was in possession of Brooks phone at this time and Mr. Maple's iCloud data shows an incoming FaceTime call at 6:44 p.m. Around 6:59 p.m., Hazelwood Body & Fender footage captured Mr. Maple's car following behind Mr. Hamlet's Denali and, moments later, the Dodge Journey passed Mr. Maple's car in the same area. The Dodge Journey then parked at the corner of Flintshire Road and Kelbourne Road where the shooter jumped out of the car, ran to Mr. Hamlet's group, committed the murder, and fled in the Dodge Journey. The evidence presented supports the inference that

Mr. Hamlet's murder was premeditated. After piecing together each link of circumstantial evidence, any rational fact finder could infer that the elements for first-degree murder and premeditation were met beyond a reasonable doubt.

We next turn to Mr. Maple's contentions that the evidence was insufficient to establish accomplice liability and conspiracy. An accomplice may be held criminally responsible for crimes committed by another when participating in the principal offense either as a principal in the second degree (aider and abettor) or as an accessory before the fact (inciter). *Diggs & Allen*, 213 Md. App. at 85. A principal in the second degree is not the actual perpetrator but is one who participates in the commission of a felony by aiding, commanding, counseling, or encouraging the perpetrator. *Morgan*, 134 Md. App. at 131. Conversely, an accessory before the fact aids, commands, counsels, or encourages the commission of a felony before it occurs and is neither actually nor constructively present at the scene of the crime. *Id.* Moreover, criminal conspiracy is an unlawful agreement which need not be formal or spoken, provided there is a meeting of the minds reflecting a unity of purpose and design. *Mitchell*, 363 Md. at 145. The crime is complete when the unlawful agreement is reached, and no overt act in furtherance of the agreement need be shown. *Id.*

The State tendered substantial links of circumstantial evidence to convince a rational fact finder to infer accomplice liability and conspiracy to commit first-degree murder. Mr. Maple admitted to Detective Fisher that he had no reason to be in Baltimore County on July 28. He also admitted that he was in Baltimore City to pick up food but after Mr.

Brooks approached Mr. Maple at the Four Seasons, he noticed Mr. Brooks' swollen black eye and said "well, shit, I'll give you a ride, man, fuck that fool" and took Mr. Brooks "where he got to go." Around 6:30 p.m., surveillance footage shows Mr. Brooks enter Mr. Maple's car and follow the Denali at the Four Seasons. At 6:59 p.m., Hazelwood Body & Fender surveillance captured Mr. Maple's vehicle in the Kelbourne Road area. At 7:05 p.m., the same surveillance system recorded Mr. Maple following Mr. Hamlet's Denali .2 miles from Kelbourne Road. Moreover, Officer Marsh received a 911 call for the shooting at 7:12 p.m. and arrived at the scene by 7:18 p.m. Mr. Maple's CSLI confirmed that he remained in the Kelbourne Road area between 7:06 and 7:18 p.m. Mr. Maple returned to Baltimore City between 7:23 and 7:37 p.m. Mr. Maple's efforts to drive Mr. Brooks from Baltimore City to the Kelbourne Road area in Baltimore County—in addition to remaining in the area until either shots were fired, or the police responded to the shooting—the State admitted successive links of circumstantial evidence which a jury could infer that Mr. Maple conspired with Mr. Brooks to aid, command, counsel, or encourage the commission of Mr. Hamlet's murder.

Mr. Maple offers the theory that on July 28, Mr. Maple simply gave his good friend a ride, dropped him off near Kelbourne Road, and returned to Baltimore City without knowledge of or agreeing to Mr. Brooks intentions to kill Mr. Hamlet. He cites the following deficiencies in the evidence:

Not a single witness testified that Mr. Maple shot the victim or conspired with Donwin Brooks to shoot the victim. No evidence showed that Mr. Maple had a motive to shoot the victim, knew the victim, or was involved with the fight at the pool between Brooks and the group with the victim. The

brother of the victim who witnessed the shooting testified that he had ‘never seen [Mr. Maple] ever.’

...

Not a shred of evidence shows that Brooks told Mr. Maple he had a gun, that he told Mr. Maple why he wanted to go to Kelbourne Road, or that he planned on killing the victim.

Mr. Maple’s argument essentially requires this Court to take the position that absent direct evidence, a rational trier of fact could not find Mr. Maple guilty of first-degree murder and conspiracy to commit first-degree murder. However, an unlawful agreement need not be formal or spoken, provided there is a meeting of the minds reflecting a unity of purpose and design. *Mitchell*, 363 Md. at 145. As we explained above, the State presented successive links of circumstantial evidence from which a rational trier of fact could infer that an agreement was made to commit Mr. Hamlet’s murder.

Mr. Maple further argues that his conviction rested entirely on speculation. In *Cerrato-Molina v. State*, we noted:

The jury must, indeed, speculate. In performing its broader duty of deciding whether or not to draw a permitted inference or in deciding which inference to draw out of a range of permitted inferences, the jury is by definition engaged in a speculative exercise. Informed and educated speculation, however, is not blind or haphazard speculation, which is, indeed, inappropriate.

223 Md. App. 329, 333 (2015). In this case, the jury is permitted to speculate on whether the accumulated circumstantial evidence against Mr. Maple added up to the commission of a crime. The dots the jury was asked to connect indicate that they were not asked to speculate in a blind or haphazard manner.

A single strand of circumstantial evidence appears meaningless before collectively reviewing the circumstances. Given the successive links of circumstantial evidence admitted at trial, any rational trier of fact could conclude that Mr. Hamlet was intentionally shot and murdered, and that Mr. Maple and Mr. Brooks premeditated the shooting during the drive from Baltimore City to Baltimore County. Finally, the evidence was sufficient to convince a jury that Mr. Maple aided, commanded, counseled, or encouraged Mr. Brooks in the commission of Mr. Hamlet's murder by driving Mr. Brooks to the scene of the crime and remaining in Baltimore County until shots were fired or the police arrived. After reviewing the evidence presented in the light most favorable to the State, we are persuaded that any rational trier of fact could reasonably find Mr. Maple guilty of first-degree murder and conspiracy to commit first-degree murder.

B. The State's Closing Arguments

Mr. Maple next contends that the trial court abused its discretion by overruling defense counsel's objections to the prosecution's remarks about the victim's family and replaying two pieces of evidence admitted at trial. The State counters that the trial court soundly exercised its discretion when regulating closing arguments and responding to defense counsel's objections. The State also posits that even if we determine their remarks were improper, reversal is not warranted. We agree with the State.

1. The Prosecution's Remarks and Evidence Played at Closing Arguments

First, Mr. Maple argues that the prosecutor's comments improperly constituted an appeal to the passions, prejudices, and sympathies of the jurors when the State opened its closing argument by stating:

STATE: Thank you, Your Honor. Losing a loved one is difficult, whether it be after a long-prolonged illness, natural causes (inaudible). You just hope that you're able to say goodbye, that you can tell them that you love them. The Defendant didn't care that Trevor's mom –

Defense counsel immediately objected to the State's initial remarks which the trial court sustained as to what Mr. Maple thought. Closing arguments continued as follows:

STATE: The victim's mom –

[DEFENSE COUNSEL]: Objection.

THE COURT: Over, overruled at this point.

STATE: The victim's mom did not get to say goodbye to her son. She did not get to tell him she loved him. His –

[DEFENSE COUNSEL]: May I have a standing objection to this whole, I don't, I hate to stand up and interrupt someone during closing –

THE COURT: I understand.

[DEFENSE COUNSEL]: -- or opening, but this is, I've never seen this.

THE COURT: I –

STATE: First of all, I'm not going to comment on that statement because that's not accurate, but –

THE COURT: Understood. All right. So, I, I would sustain as to the, do you want to approach?

The trial court sustained the objection, and counsel approached the bench:

THE COURT: I assume the objection is because of –

[DEFENSE COUNSEL]: It's, it's totally inappropriate and, and, and prejudicial. (inaudible) get up and tell how his mom feels, they didn't get to say goodbye (inaudible) didn't do it. Let them present, let them speak to the evidence. (inaudible) his mom and grandmom are, have been crying for the last two years. Can you imagine, are you allowing that?

STATE: First of all, it came into evidence. They saw the mom on the video.

THE COURT: Um hm.

STATE: And we know she didn't get to say goodbye because of the time in the video. So, (inaudible) never came into evidence.

[DEFENSE COUNSEL]: What does that have to do with guilt or innocence?

THE COURT: Okay.

[DEFENSE COUNSEL]: What in the world does that have to do with guilt or innocence?

THE COURT: Okay

STATE: The State should be able to make their arguments.

THE COURT: You can, but I, I just think we're walking a fine line between prejudicial sympathy, you know, how would you feel if it were your family (inaudible) –

[DEFENSE COUNSEL]: We really are, Judge, we are.

STATE: Okay.

THE COURT: So, with that caution in mind.

After the bench conference, the State continued its closing argument:

STATE: (inaudible). So, I apologize. The, the victim's fifteen-year-old brother had to watch him be executed in front of his own face. Fifteen years old. The occupants of the apartments had to hear, and you got to hear the 911

call. Gunshots rang out. Had to hear screams of call 911 from his fifteen-year-old brother as he lay dying.

Now, but for the Defendant's actions, Trevor Hamlet would not have been killed. And we know that because Mr. Brooks, the Co-Defendant, had no way to find him. They didn't know each other, came from totally different areas, Baltimore City versus the County, had nowhere, way to know where to go, but for the Defendant.

And then that starts the line of events. Now, my job as the prosecutor is to take you through the law. Those are the jury instructions provided by Your Honor, the Judge. And show you how the facts that came into evidence apply to the law in this case. . . .

Heeding the trial court's warnings after the bench conference, the State only mentioned the victim's mother again for the purpose of addressing Mr. Alexander's inconsistent testimony when asked to identify the shooter:

[STATE:] When asked in the courtroom to identify the shooter, [Mr. Alexander] did not do so. In the courtroom he is asked in front of a gallery of people where it is recorded to state who killed his brother and this is the individual he watched execute his brother, must be terrifying. But when he just finds out that his brother has died, the first words out of his mouth are I lied to the police because he knew who the shooter was. He had just found out, he didn't know prior to that that his brother had died. His mom comes in and tells him. And it is then that he first says I know who did it. It's at that point that he knows he will never see his brother again. He wants justice. He wants the person who did it to be held responsible. And in this instance, and you'll see, he is beside himself, understandably. He is very close to his brother –

Defense counsel objected to this statement which the court overruled. The State then played a video admitted as evidence at trial. The video showed Mr. Alexander, in an emotional state, telling the police that he lied in their first interview about knowing the identity of the shooter. Defense counsel subsequently objected:

[DEFENSE COUNSEL]: Your Honor, I want to renew my objection. This is not appropriate. It's not (inaudible) emotional appeal to the jury is not appropriate –

STATE: Your Honor, --

THE COURT: Well, this is, it's in evidence, so objection is overruled.

(AUDIO STOPS)

THE COURT: This is in evidence.

[DEFENSE COUNSEL]: I know it's in evidence but, but this, but --

THE COURT: Okay.

[DEFENSE COUNSEL]: -- but we're not hearing --

THE COURT: It's her right to highlight the evidence.

[DEFENSE COUNSEL]: Yes, Your Honor.

THE COURT: That's the point of closing.

[DEFENSE COUNSEL]: I ask for a standing objection, Your Honor.

THE COURT: Understood, it's noted for the record. Thank you.

The prosecution continued to highlight Mr. Alexander's testimony with evidence depicting the time and scene of the crime. The prosecution played a responding officer's body cam footage from July 28:

[STATE:] In fact, there's a statement the Defendant makes, was it noticeable? And he could see that black eye as he shot his brother. And he doesn't know that he's being followed. And he has not seen the surveillance footage so doesn't know that that vehicle is outside their apartment. [Mr. Brooks] then ran back towards Flintshire, confirmed by Ms. McKeever. And what you hear on that body worn camera as he's watching his brother lay dying on the sidewalk is him screaming.

(AUDIO PLAYS -- SCREAMING)

(AUDIO STOPS)

[DEFENSE COUNSEL]: Really? Can I, I renew my objection.

THE COURT: Overruled.

Mr. Maple urges this court to find that the trial court abused its discretion by overruling defense counsel's objections and grant Mr. Maple a new trial. Mr. Maple adds that the evidence against him was extremely thin and the prosecution's closing arguments urged the jurors to convict Mr. Maple based on emotional appeals from the reactions of the victim's mother and brother. The State counters that the trial court soundly exercised its discretion in response to the prosecutor's remarks and playing two pieces of evidence that were properly admitted at trial.

2. Standards for Closing Arguments

“An appellate court should not disturb the trial court's judgment absent clear abuse of discretion of a character likely to have injured the complaining party.” *Mitchell v. State*, 408 Md. 368, 380-81 (2009) (cleaned up).⁷ What exceeds the limits of permissible comments in closing argument are determined on a case-by-case basis. *Id.* at 380. The presiding judge in a criminal trial has broad discretion to control the scope and duration of counsel's closing arguments. *Ingram v. State*, 427 Md. 717, 727 (2012) (citing *Wilhelm v. State*, 272 Md. 404, 431 (1974)). Determining whether a portion of the prosecution's

⁷ The Supreme Court of Maryland explained a recent increase in using “cleaned up” as a parenthetical. *Lopez v. State*, 458 Md. 164, 195 n.13 (2018). The parenthetical “signals that the current author has sought to improve readability by removing extraneous, non-substantive clutter (such as brackets, quotation marks, ellipses, footnote signals. Internal citations or made un-bracketed changed to capitalization) without altering the substance of the quotation.” *Id.*

argument is improper or prejudicial rests largely within the trial judge's discretion because they are in the best position to determine the propriety of the argument in relation to the evidence adduced in the case. *Mitchell*, 408 Md. at 380-81.

In closing arguments, prosecutors are permitted liberal freedom of speech and may make any comment or draw any reasonable inference that is warranted by the evidence. *Lee v. State*, 405 Md. 148, 163 (2008). The purpose and importance of closing arguments:

[S]erves to sharpen and clarify the issues for resolution by the trier of fact in a criminal case. For it is only after all the evidence is in that counsel for the parties are in a position to present their respective versions of the case as a whole. Only then can they argue the inferences to be drawn from all the testimony, and point out the weaknesses of their adversaries' positions. And for the defense, closing argument is the last clear chance to persuade the trier of fact that there may be reasonable doubt of the defendant's guilt.

The very premise of our adversary system of criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free.

Id. at 161-62 (quoting *Herring v. New York*, 422 U.S. 853, 862 (1975)).

Attorneys are afforded wide latitude in presenting closing arguments because "summation provides counsel with an opportunity to creatively mesh the diverse facets of trial, meld the evidence presented with plausible theories, and expose the deficiencies in his or her opponent's argument." *Henry v. State*, 324 Md. 204, 230 (1991). Despite this freedom, closing arguments should not appeal to the passions and prejudices of a jury which "may so poison the minds of the jurors that an accused may be deprived of a fair trial." *Lawson v. State*, 389 Md. 570, 597 (2005) (quoting *Eley v. State*, 288 Md. 548, 552 (1980)). Even so, the prosecution may "discuss the facts proved or admitted in the

pleadings, assess the conduct of the parties, and attack the credibility of witnesses.” *Wilhelm*, 272 Md. at 413. The prosecution is “free to comment legitimately and speak fully, although harshly, on the accused’s actions and conduct if the evidence supports his comments, as is accused’s counsel to comment on the nature of the evidence and the character of witnesses the prosecution produces.” *Id.* at 412.

“Even when a prosecutor makes an inappropriate remark during summation, a reversal is not automatically warranted.” *Henry*, 324 Md. at 231. Unless it appears that the jury were actually misled or were likely to have been misled or influenced to the prejudice of the accused by impermissible comments from the State’s Attorney, reversal of the conviction on this ground would not be justified. *Reidy v. State*, 8 Md. App. 169, 172 (1969). To determine reversible error, the reviewing court may consider several factors including the propriety and severity of the remarks, the measures taken to cure any potential prejudice, and the weight of the evidence against the accused. *Lee*, 405 Md. at 165 (citing *Lawson*, 389 Md. at 592; *Spain v. State*, 386 Md. 145, 159 (2005)).

3. Analysis

Mr. Maple’s defense counsel first objected to the State’s reference that “losing a loved one is hard” and that Mr. Hamlet’s mother was unable to say goodbye to her son. Mr. Maple relies on *Lee* to assert that the State’s closing argument appealed to the juror’s emotions. In *Lee*, the Court determined that the prosecuting attorney’s statements throughout their rebuttal argument were improper and exceeded the permissible scope of closing arguments. 405 Md. at 170. The prosecutor stated that a victim’s testimony was

not credible because they were following “the law of the streets,” the jury should protect their community and clean up the streets, and the jury should teach Lee a lesson not to “follow the law of the streets” by settling disputes with violence. *Id.* at 160. The Court held that the prosecutor’s remarks constituted improper comments by alluding to facts not in evidence and requesting the jury to base its verdict on the juror’s personal interests rather than objectively viewing the evidence presented at trial. *Id.* at 172-74. The Court reasoned that the prosecutor’s remarks were prejudicial to the defendant because the comments were not isolated but part of persistent appeals to the jurors’ biases, passions, and prejudices. *Id.* at 175.

The prosecutor’s statements in *Lee* are distinct from the State’s remarks in the case before us. Unlike in *Lee*, the State did not draw on the emotions of the jury or request that the jury “protect their community” or “teach the defendant a lesson.” Although the State’s comments verge on prejudicial sympathy, the State argued that it relied on the timestamps from the police interview admitted at trial when concluding that Mr. Hamlet’s mother did not get to say goodbye to her son. The propriety and severity of the State’s remarks are minimal and did not poison the minds of the jurors to deprive Mr. Maple of a fair trial.

Additionally, the trial judge took steps to cure any potential prejudice when the court admonished the State’s attorney for saying that “the victim’s mom did not get to say goodbye to her son. She did not get to tell him she loved him.” Defense counsel objected to this statement and the parties approached the bench. During the bench conference, the court issued a warning to the State that the comments about the victim’s mother “walk[ed]

a fine line between prejudicial sympathy [sic].” Following the bench conference, the State resumed its closing arguments and instructed the jury that their “job as the prosecutor is to take you through the law. Those are the jury instructions provided by Your Honor, the Judge. And show you how the facts that came into evidence apply to the law in this case.” The State mentioned Mr. Hamlet’s mother once more during closing arguments to address Mr. Alexander’s witness testimony.⁸ Even so, the State adhered to the trial court’s warning and refrained from mentioning Mr. Hamlet’s mother throughout the rest of closing arguments, including rebuttal.

We next consider the weight of the evidence against the accused. Mr. Maple insists that given the paucity of the evidence against Mr. Maple, these closing arguments urged the jurors to convict Mr. Maple based on emotional appeals for the victim’s brother and mother. As we established above, the State presented significant links of circumstantial evidence from which any rational trier of fact could reasonably find Mr. Maple guilty of first-degree murder and conspiracy to commit first degree murder. The State’s closing arguments highlighted the evidence admitted at trial and drew rational inferences from the evidence. The remarks at the onset of the State’s closing argument that “losing a loved one is hard” and that “the victim’s mom did not get to say goodbye to her son” do not outweigh the surveillance footage, Mr. Maple’s CSLI, expert testimony, and witness testimony admitted at trial. We find that the State’s remarks were not improper.

⁸ We will further discuss Mr. Maple’s argument against the State replaying body cam footage from July 28, the 911 call, and Mr. Alexander and his mother’s police interview.

Mr. Maple also asserts that the State improperly constituted an appeal to the passions, prejudices, and sympathies of the jurors when it argued that “the victim’s fifteen-year-old brother had to watch Mr. Hamlet be executed in front of his own face,” played the 911 call, and showed the video recording of Mr. Alexander and his mother being interviewed by the police. We do not agree. The State may discuss facts proved or admitted in the pleadings, assess the conduct of the parties, and attack the credibility of witnesses. *Wilhelm*, 272 Md. at 413. First, Mr. Maple was charged as an accomplice to Mr. Hamlet’s murder. The State admitted the responding officer’s body cam footage from July 28, and Mr. Alexander testified to witnessing the shooter stand behind his brother with a gun pointed to his head, heard a gunshot, and watched his brother drop. Here, the State’s closing arguments summated evidence admitted at trial.

Next, the State’s closing argument addressed the credibility of Mr. Alexander’s testimony when asked to identify the shooter at trial. In doing so, the State commented on Mr. Alexander witnessing the death of his brother, recounted evidence of the responding officer’s body cam footage from July 28, and replayed Mr. Alexander’s interview with the police. The evidence that the State relied upon in closing arguments was properly admitted at trial without objection. Despite the emotional state of Mr. Alexander and his mother in the recordings, the trial court explained that defense counsel’s objection was overruled because the recordings were in evidence, and the State had the right to highlight the evidence. The State’s comments were not improper but a prelude to explaining Mr. Alexander’s inconsistent statements.

Giving deference to the trial court's determinations, we find that the prosecutor made reasonable and legitimate inferences from the facts admitted in evidence. We do not find that the jury was misled, likely to have been misled or influenced by prejudice in the State's closing argument. The State's remarks were proper and do not warrant reversal. Furthermore, the trial court soundly exercised its discretion in regulating closing arguments and responding to defense counsel's objections. Absent a clear abuse of discretion, we affirm the trial court.

C. Relevancy of Evidence

We now turn to the relevancy of Agent Fowler's testimony concerning Mr. Maple's CSLI in the Kelbourne Road area on July 30, two days after the murder. Mr. Maple argues that Agent Fowler's testimony was irrelevant evidence admitted at trial because the object of the alleged conspiracy to murder Mr. Hamlet had already been accomplished. The State contends that there is a low threshold for admitting relevant evidence at trial, explaining that Agent Fowler's testimony was admitted as circumstantial evidence to support the State's theory of continued action between Mr. Maple and Mr. Brooks as co-conspirators. Our decision is narrowed to whether the trial court admitted relevant evidence under Rule 5-402.

While trial judges generally have wide discretion when weighing the relevancy of evidence in light of unfairness or efficiency considerations, Maryland Rule 5-402 prohibits trial judges from admitting irrelevant evidence. *See State v. Simms*, 420 Md. 705, 724 (2011). "The issue of whether a particular item of evidence should be admitted or excluded

is committed to the considerable and sound discretion of the trial court, and the abuse of discretion standard of review is applicable to the ‘trial court’s determination of relevancy.’”

Id. (quoting *Ruffin Hotel Corp. of Md. v. Gasper*, 418 Md. 594, 619 (2011)).

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. Rule 5-401 provides that the threshold that must be met only requires that the evidence have *any tendency* to make the existence of a fact of consequence to the cause of action. *Snyder v. State*, 361 Md. 580, 591 (2000) (emphasis added). Potential evidence meets this threshold when it is logically related to the matter at issue in the case. *Id.* A party seeking to establish the relevancy of evidence does not have to demonstrate that the evidence is weighty enough to carry the party’s burden of persuasion. *Id.* The trial court “must be satisfied that the proffered evidence is what the party claims the item to be, and, if so, that its admission increases or decreases the probability of the existence of a material fact.” *Id.*

In accordance with statutory law, the test for relevance is whether the evidence, viewed in a light with all other evidence, tends to make the proposition asserted more or less probable. *Id.* at 592. Additionally, circumstantial evidence regarding a defendant’s conduct may be admissible as a circumstance showing a consciousness of guilt. *Id.* at 593. Evidence of the defendant’s behavior after the commission of a crime may be admissible, not as conclusive evidence of guilt, but as circumstantial evidence from which guilt may be inferred. *Thomas v. State*, 397 Md. 557, 575 (2007).

In the case before us, the State relied purely on circumstantial evidence and introduced Agent Fowler's testimony in support of its theory that Mr. Maple and Mr. Brooks conspired to murder Mr. Hamlet. Agent Fowler's testimony explained that Mr. Maple's CSLI was detected in the Kelbourne Road area on July 30, two days after Mr. Hamlet was murdered. The trial court determined that Agent Fowler's testimony was relevant because Mr. Maple's CSLI depicts him returning to the scene of the crime on the same day Mr. Brooks' vehicle was recorded on a license plate reader in the area. Moreover, Agent Fowler's underlying report showing Mr. Maple's CSLI in the Kelbourne Road area and the license plate reader recording Mr. Brooks' vehicle in the area were both admitted into evidence without objection.

Upon reviewing additional evidence presented at trial, Agent Fowler's testimony reasonably made it more probable, although not conclusive, that Mr. Maple agreed to aid, command, counsel, or encourage Mr. Brooks in the commission of Mr. Hamlet's murder. Therefore, we hold that the trial court properly admitted Agent Fowler's testimony.

IV. Conclusion

We find that legally sufficient evidence supported the jury's verdict because the State produced significant links of circumstantial evidence which a rational trier of fact could reasonably find Mr. Maple guilty of first-degree murder and conspiracy to commit first-degree murder. Furthermore, the trial court soundly exercised its discretion in regulating closing arguments and admitting relevant evidence. Finally, we hold that the trial court properly admitted relevant evidence supporting the State's theory that Mr. Maple

and Mr. Brooks acted as co-conspirators. For those reasons, we affirm the decision of the Circuit Court of Baltimore County.

**JUDGMENT OF THE CIRCUIT COURT FOR
BALTIMORE COUNTY IS AFFIRMED.
APPELLANT TO PAY COSTS.**