Circuit Court for Wicomico County
Case No. C-22-CR-22-000592

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 511

September Term, 2023

MARKEL LAMAR BARKLEY

v.

STATE OF MARYLAND

Arthur,
Shaw,
McDonald, Robert N.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: October 28, 2024

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

Following a two-day trial in the Circuit Court for Wicomico County, a jury found Markel Lamar Barkley guilty of first-degree assault, second-degree assault, reckless endangerment, use of a firearm in a felony or crime of violence, and related firearm charges. The court sentenced Mr. Barkley to an aggregate term of 45 years of imprisonment, but suspended all but 25 years.

Mr. Barkley filed this timely appeal. For the reasons stated herein, we shall affirm the convictions.

BACKGROUND

A. The Incident at Ms. Kellam's House

In 2020, Markel Lamar Barkley moved into the residence of his girlfriend, Sabre Kellam, and her son, who was about four years old at the time.

In early October 2022, Ms. Kellam began to suspect that Mr. Barkley was engaged in romantic relationships with other women. She attempted to discover the identities of these women, but was initially unsuccessful.

On Saturday, October 8, 2022, Mr. Barkley confirmed to Ms. Kellam that he was involved in a relationship with another woman. At that time, Mr. Barkley and Ms. Kellam discussed their shared desire to maintain a relationship together.

The following afternoon, October 9, 2022, Mr. Barkley told Ms. Kellam again about his romantic involvement with other women. At trial, Ms. Kellam testified that they had an "emotional" conversation, but remained "fine[.]"

The next day, Monday, October 10, 2022, Ms. Kellam and Mr. Barkley briefly discussed their relationship, but ended the discussion because Ms. Kellam had to leave for work. When she arrived home at around 11:00 p.m., they resumed their discussion. The conversation turned into an argument that continued into the early morning hours of Tuesday, October 11, 2022.

At around 5:00 a.m. on Tuesday, Ms. Kellam told Mr. Barkley to leave her house and to "get his stuff and go." Mr. Barkley responded that "he had nowhere to go." He pulled out a loaded handgun, pointed it at her face, and said that he "wasn't going anywhere[.]" Ms. Kellam was scared, but Mr. Barkley eventually lowered the handgun, slid out the magazine clip, and placed the two bullets from the chamber into his pocket. Ms. Kellam attempted to grab the gun from him while he was placing it in his pocket, but she was unsuccessful. The argument continued.

At 5:34 a.m., Ms. Kellam began sending text messages to 911 from her cellphone. She identified Mr. Barkley, said that he had pulled a gun on her while they were arguing, pleaded for help, and informed the operator of her address. Mr. Barkley took notice of Ms. Kellam texting on her cellphone and questioned what she was doing. Ms. Kellam avoided the question.

Shortly after 5:50 a.m., the Maryland State Police arrived at Ms. Kellam's residence. Ms. Kellam unlocked her front door and followed the State Troopers' direction to come out and move behind them. She told the Troopers that her six-year-old son was still in the house.

Mr. Barkley also came out of the house. At first, Mr. Barkley put his hands up, but then he turned around and went back inside the house, locking the door behind him.

About a minute later, Ms. Kellam and the Troopers heard a loud noise from inside the house. Ms. Kellam started to panic because her son was still in the house. The Troopers thought that the noise might have been a gunshot.

The Troopers approached the house through a neighbor's backyard. They saw the remnants of a broken window in Ms. Kellam's backyard and realized that Mr. Barkley had broken the window and escaped through it. The officers entered the house and found Ms. Kellam's son, who was unharmed.

State Troopers, Sheriff's Deputies, a helicopter, and the S.T.A.T.E. Team[1] began searching the area for Mr. Barkley. Additional law enforcement officers searched the area surrounding the backyard of the residence.

That afternoon, the Maryland State Police located a "ghost gun"[2] lying in a drainage ditch near the exterior fence of Ms. Kellam's residence. The gun was unloaded and was missing the magazine clip.

During a separate search of the area, the Wicomico County Sheriff's Office located a shoe stuck in a small stream of run-off from an adjacent road. The law

[1] According to one of the State's witnesses, the "S.T.A.T.E. Team" is "a SWAT Team for the State Police."

[2] "'A ghost gun is put together using components purchased either as a kit or as separate pieces. It has no serial numbers and is, therefore, an untraceable firearm.'" *Sanchez-Santos v. State*, No. 1102, Sept. Term 2023, 2024 WL 3635574, at *2 (App. Ct. Md. Aug. 2, 2024) (unreported) (quoting https://en.wikipedia.org/wiki/Ghost_gun).

enforcement officers did not find Mr. Barkley during the search of the property and the surrounding area.

At trial, Ms. Kellam testified that the ghost gun belonged to Mr. Barkley and identified it as the gun that he pointed at her. Ms. Kellam also testified that she had purchased the shoe for Mr. Barkley for Christmas.

B. The Overdose at the Microtel

After fleeing from Ms. Kellam's home, Mr. Barkley went to the residence of Ms. Camisha Dennis. She and Mr. Barkley had begun a romantic relationship a month earlier, in September 2022, and had been seeing each other frequently.

According to Ms. Dennis, she and Mr. Barkley went to a Microtel in Salisbury because her bathroom was being renovated. While they were at the Microtel, she said, Mr. Barkley "[made] a plan to turn himself in."

In the early morning hours of October 12, 2022, before Mr. Barkley could turn himself in, Ms. Dennis overdosed at the Microtel. Mr. Barkley called 911 and performed chest compressions until medical assistance arrived.

Officer Daniel Derasmo of the Salisbury City Police responded to the Microtel after receiving a 911 call about a suspected overdose. When Officer Derasmo arrived, he saw Mr. Barkley with Ms. Dennis.

Officer Derasmo attempted to ascertain Mr. Barkley's identity. Mr. Barkley stated that his name was "Lamar Mike Brown" and that his date of birth was "11/21/1991." The officer checked his database, found no one with that name and date of birth, and

asked Mr. Barkley for identification. Mr. Barkley said that he had no identification. The officer asked Mr. Barkley whether he had a wallet, and Mr. Barkley responded, "No." The officer observed what appeared to be a wallet in Mr. Barkley's pocket, but Mr. Barkley claimed that it was a cell phone.

Eventually, Officer Derasmo obtained Mr. Barkley's wallet and located cards that had Mr. Barkley's full name printed on them. The officer recognized Mr. Barkley's name from a BOLO (be on the lookout) notice regarding the incident at Ms. Kellam's house. He placed Mr. Barkley under arrest and asked him to confirm his identity. Mr. Barkley responded that he didn't know his name.

C. Camisha Dennis's Testimony

At trial, Ms. Dennis testified for the defense. She said that, while she was in the hospital recovering from her overdose, Ms. Kellam sent her vulgar and threatening Facebook messages.[3] In addition, after sending the messages, Ms. Kellam went to Ms. Dennis's workplace. In response, Ms. Dennis blocked Ms. Kellam on Facebook.

Defense counsel asked Ms. Dennis whether she had seen Ms. Kellam since she received the messages. When Ms. Dennis began to respond that she had obtained a

[3] Among other things, Ms. Kellam threatened to go to Ms. Dennis's workplace and beat her. She said that she would send Ms. Dennis "back to [the] ICU." She insulted Ms. Dennis. She wrote that she "got the last laugh" because no other women could have Mr. Barkley, presumably because he was going to prison. She told Ms. Dennis, "[M]aybe you can hold him down because he ain't coming home for years." Some of Ms. Kellam's comments could be interpreted to suggest that she was lying about what Mr. Barkley had done in order to punish him for cheating and to punish Ms. Dennis for interfering with her relationship with him.

protective order against Ms. Kellam, the State objected. The court sustained the objection.

The court, however, permitted Ms. Dennis to testify that Ms. Kellam had threatened her with violence in the hallway of the courthouse on the first day of the two-day trial.

D. The Verdict

Based on this and other evidence, the jury found Mr. Barkley guilty of assault in the first degree; assault in the second degree; reckless endangerment; use of a firearm in a felony or crime of violence; possession of a firearm by a person with a felony conviction; illegal possession of a regulated firearm; and wearing, carrying, or transporting a handgun on a person.

QUESTIONS PRESENTED

On appeal, Mr. Barkley poses three questions, which we have rephrased for clarity and concision:

1. Did the trial court err in admitting testimony that Mr. Barkley gave the police a false name on the ground that it showed consciousness of guilt?

2. Did the trial court err in admitting testimony about Ms. Dennis's overdose?

3. Did the trial court err in declining to admit testimony regarding a peace order that Ms. Dennis obtained against Ms. Kellam?[4]

[4] Mr. Barkley phrases his questions on appeal as follows:

1. Did the trial court err in admitting testimony that Mr. Barkley provided the police with a false name, to show "consciousness of guilt," where the evidence did not support an inference that the conduct was related to the crimes charged?

For the reasons stated below, we answer each question in the negative. We shall therefore affirm the judgments of the circuit court.

DISCUSSION

I.

In its opening statement, the State mentioned that Officer Derasmo would testify that Mr. Barkley had given a false name when the officer responded to the report of an overdose at the Microtel. In anticipation of that testimony, Mr. Barkley objected just before Officer Derasmo took the stand.

At the bench, Mr. Barkley argued that the evidence that he gave a false name did not have "any relevance to the case." The State responded that the evidence was relevant because it demonstrated consciousness of guilt. Mr. Barkley did not contest that assertion. The court overruled Mr. Barkley's objection and allowed Officer Derasmo to testify that Mr. Barkley gave a false name.

On appeal, Mr. Barkley argues that the court erred in admitting this testimony because, he says, it was not relevant, it was "unfair[ly] prejudic[ial]," and it did not connect his "consciousness of guilt to the crimes charged at trial[.]" He argues that the

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2. Did the trial court err in admitting testimony about a defense witness's drug overdose where the testimony was irrelevant to the State's case and seriously prejudiced the defense?

3. Did the trial court err when it prevented the defense from eliciting testimony about a peace order that Ms. Dennis obtained against the complaining witness, Ms. Kellam?

State did not adequately establish that he used a false name because of his consciousness of guilt of the armed assault on Ms. Kellam, as opposed to, for example, his consciousness of guilt about the drug use that led to Ms. Dennis's overdose. The State responds that Mr. Barkley did not preserve these arguments for appellate review because he objected at trial solely on the basis of relevance, and not on the basis of unfair prejudice or inadequate proof of consciousness of guilt.

"[W]hen specific grounds are given at trial for an objection, the party objecting will be held to those grounds and ordinarily waives any grounds not specified that are later raised on appeal." *Klauenberg v. State*, 355 Md. 528, 541 (1999); *see Mines v. State*, 208 Md. App. 280, 291 (2012) (holding that defendant failed to preserve contention that admission of testimony was unfairly prejudicial where defendant objected to the testimony on the ground that it was irrelevant). Mr. Barkley did not object that evidence of his use of a false name was unfairly prejudicial or that the State had not shown an adequate connection between his use of the false name and his consciousness of guilt of the crimes with which he was charged. In particular, he did not challenge the State's assertion that giving a false name was evidence of consciousness of guilt of the assault on Ms. Kellam. Nor did Mr. Barkley assert, as he does now on appeal, that his use of a false name might actually have been evidence of consciousness of guilt of another crime that he might have committed. He acquiesced in the State's assertion that his conduct was relevant to prove his consciousness of guilt of the crimes for which he was on trial.

As Mr. Barkley did not contend that he used a false name because of his consciousness of guilt of some other crime, he cannot fairly complain of the court's failure to examine that contention. *See Thomas v. State*, 397 Md. 557, 578 (2007) (stating that "[s]imply because there is a possibility that there exists some innocent, or alternate, explanation for the conduct does not mean that the proffered evidence is *per se* inadmissible"). Mr. Barkley failed to preserve any objection, except for the objection to relevance. And Officer Derasmo's testimony was certainly relevant—in the sense that it had some "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"[5]—on the issue of consciousness of guilt.

Even if Mr. Barkley had preserved his objection—which he did not—we would find no error or abuse of discretion. The "assumption of a false name . . . is an admission by conduct that may demonstrate consciousness of guilt and thus be evidence of guilt itself." *Maryland Criminal Pattern Jury Instructions* 3:24; *accord Wright v. State*, 312 Md. 648, 654-55 (1988) (collecting authorities for the proposition that "evidence showing that the defendant used a false name to conceal his identity following the commission of a crime may, depending upon the circumstances, constitute relevant evidence on the issue of consciousness of guilt[]); *Garrett v. State*, 59 Md. App. 97, 110-11 (1984) (holding that the court did not err in instructing the jury that it may infer consciousness of guilt when the defendant gave a false name to a detective).

[5] Md. Rule 5-401.

On appeal, however, Mr. Barkley points out that the use of a false name is admissible only if it evidences consciousness of guilt of the crime with which the defendant is charged, and not some other crime. *See*, *e.g.*, *Thomas v. State*, 372 Md. 342, 351-56 (2002). Although Mr. Barkley did not present this argument to the circuit court, he argues now that he gave a false name because he was afraid that the authorities would charge him with supplying Ms. Dennis with the drugs on which she had overdosed, and not because he was hiding from the law enforcement officers who were pursuing him for threatening Ms. Kellam with a loaded handgun.

The trial judge could well have concluded that it was at least as likely that Mr. Barkley gave a false name because (or in part because) of his consciousness of guilt of the crimes with which he was charged. He had fled from the police only a day earlier, breaking through a window to escape and losing one of his shoes in the process. He had avoided capture despite a manhunt that employed a police helicopter and a SWAT team. And Ms. Dennis, a defense witness, testified that, while Mr. Barkley was hiding out with her, he "had made a plan to turn himself in" on the charges involving Ms. Kellam, which suggests that those charges were weighing on his mind at the time. In these circumstances, had Mr. Barkley contended that his use of a false name was relevant only to his alleged concerns about being charged with drug crimes, the circuit court would have not erred in rejecting his contention and admitting the evidence on the ground that it

was relevant (or also relevant) to his consciousness of guilt concerning the assault on Ms. Kellam.[6]

Furthermore, even if the court had erred in permitting Officer Derasmo to testify that Mr. Barkley gave a false name, the error was harmless beyond a reasonable doubt, as the record is replete with other, similar evidence of Mr. Barkley's consciousness of guilt. After initially suggesting that he might surrender peacefully, Mr. Barkley barricaded himself inside Ms. Kellam's house, broke out of a rear window, and fled from the police, discarding his weapon and losing a shoe in his haste. When the police responded to his report of an overdose at the Microtel one day later, Mr. Barkley falsely claimed that he did not have any identification, falsely claimed that he did not have a wallet, and falsely claimed that his wallet was a cell phone. When the officer finally found Mr. Barkley's wallet (and his identification cards), Mr. Barkley told the officer that he did not know his own name.

All of this evidence was admitted without objection, and all of it could support an inference that Mr. Barkley was trying to evade the police in part because he had threatened Ms. Kellam with a gun. Maryland's appellate courts "have found the

[6] In his brief, Mr. Barkley correctly observes that evidence of consciousness of guilt is admissible only if the court draws a series of inferences, including the inference that the evidence reflects consciousness of guilt of the crime with which the defendant is charged, and not some other crime. *See, e.g.*, *Thomas v. State*, 372 Md. at 351-56. At oral argument, counsel for Mr. Barkley seemed to suggest that, whenever the State asserts that evidence is relevant to consciousness of guilt, the court, on its own motion, must examine whether the evidence supports each of those inferences—and that the court must do so even if the defense itself acquiesces in the State's assertion, as Mr. Barkley did in this case. We know of no authority to support Mr. Barkley's contention.

erroneous admission of evidence to be harmless if evidence to the same effect was introduced, without objection, at another time during the trial." *Yates v. State*, 202 Md. App. 700, 709 (2011), *aff'd*, 429 Md. 112 (2012); *accord Robeson v. State*, 285 Md. 498, 507 (1979); *Berry v. State*, 155 Md. App. 144, 170 (2004).[7] Consequently, we conclude that the admission of evidence that Mr. Barkley used a false name was harmless beyond a reasonable doubt.

II.

We turn to the issue of whether the court erred in admitting Officer Derasmo's testimony that he went to Mr. Barkley's room at the Microtel in response to a report of an overdose. Mr. Barkley argues that the testimony was irrelevant and that its probative value was substantially outweighed by its danger of unfair prejudice.

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. In general, "all relevant evidence is admissible[,]" and "[e]vidence that is not relevant is not admissible." Md. Rule 5-402. Establishing relevance "'is a very low bar to meet[,]'" *Montague v. State*, 471 Md. 657, 674 (2020) (quoting *Williams v. State*, 457 Md. 551, 564 (2018)), because evidence is relevant when it "'could reasonably show that a fact is slightly more probable than it

[7] Alternatively, a previous objection is deemed to have been waived (or, more precisely, forfeited) "if, at another point during the trial, evidence on the same point is admitted without objection." *See DeLeon v. State*, 407 Md. 16, 31 (2008). Under that analysis, Mr. Barkley's objection is both forfeited and unpreserved.

would appear without that evidence.'" *Smith v. State*, 423 Md. 573, 591 (2011) (quoting 1 *McCormick on Evidence* § 185, at 776 (4th ed. 1992)). Whether evidence is relevant is a legal question that an appellate court reviews without deference to the trial court. *See State v. Simms*, 420 Md. 705, 725 (2011).

Relevant evidence "may be excluded if its probative value is substantially outweighed by . . . the danger of unfair prejudice[.]" Md. Rule 5-403. The determination of whether relevant evidence should be excluded under Rule 5-403 is left to the discretion of the trial court. *State v. Simms*, 420 Md. at 725. In the context of Rule 5-403, "'[a]n abuse of discretion occurs where no reasonable person would take the view adopted by the circuit court.'" *Montague v. State*, 471 Md. at 674 (quoting *Williams v. State*, 457 Md. at 563).

When Officer Derasmo took the stand, the State asked why he was called to Mr. Barkley's room at the Microtel. He responded: "Got called for an overdose." Mr. Barkley objected only when the State followed up by asking, "Who was the suspected overdose?"

At the bench, Mr. Barkley argued that evidence of Ms. Dennis's overdose was "not relevant to the case at hand" and that admission of the evidence was "prejudicial." The State countered that the testimony established what led the officers to the Microtel. The Court overruled the objection and permitted Officer Derasmo to testify that Ms. Dennis had overdosed.

The trial court did not err in admitting Officer Derasmo's testimony that he went to the hotel room in response to a report of an overdose. In criminal cases, law enforcement officers "'should not be put in a false position of seeming just to have happened upon the scene[.]'" *McCray v. State*, 84 Md. App. 513, 518 (1990) (quoting E.W. Cleary, *McCormick on Evidence* § 249 (3d ed. 1984)). The officers "'should be allowed some explanation of [their] presence and conduct.'" *Id.* (quoting E.W. Cleary, *McCormick on Evidence*, *supra*, § 249). The State was entitled to explain, briefly, that Officer Derasmo had a legitimate reason to enter Mr. Barkley's hotel room.[8]

In arguing that the court erred in admitting the officer's reference to an overdose, Mr. Barkley relies on *Zemo v. State*, 101 Md. App. 303 (1994). *Zemo* does not support his position.

In *Zemo* the investigating officer's testimony consumed 33 pages of transcript, the last 15 of which concerned details of his investigation. *Id.* at 307. Those details included "events as to which he had no direct knowledge and which were themselves without relevance." *Id*. The court permitted the officer to testify about "cryptic reports from

[8] Mr. Barkley argues that Officer Derasmo could simply have said that he went to the hotel room in response to a report of a "medical emergency." Officer Derasmo certainly could have said only that he was responding to a "medical emergency" had Mr. Barkley raised the issue before the State asked the officer why he went to the hotel room. In fact, the defense had notice that an officer would mention Ms. Dennis's overdose, because the State referred to the overdose, without objection, in its opening statement. The defense, however, did not move in limine to prevent a reference to the overdose or raise the issue with the court before Officer Derasmo took the stand, as it did with the officer's testimony that Mr. Barkley gave a false name. In the absence of an objection, the State was not obligated to flag this issue for the defense and to reconfigure the officer's brief and accurate explanation about why he went to the hotel room.

unnamed sources" (*id.*) and to explain why he interviewed certain witnesses, all of whom testified at trial. *Id.* at 309. This Court characterized the officer's testimony as "prosecutorial 'overkill'" (*id.* at 305) and described it as "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.* at 306. The testimony in *Zemo* bears no resemblance to Officer Derasmo's curt, five-word explanation of why he responded to Mr. Barkley's room at the Microtel.

Mr. Barkley argues that, even if the officer's testimony was relevant, the court abused its discretion in concluding that the prejudicial effect of the testimony did not substantially outweigh its probative value. *See* Md. Rule 5-403. He argues that the testimony prejudiced both him and Ms. Dennis, a defense witness, by suggesting that they were "associated with illegal drugs." He cites the "intimate connection between guns and drugs" in support of the argument that the jurors might have assumed that he "was the kind of person who would possess a gun" and, thus, might have found him guilty of the crimes charged despite a lack of evidence.

A court could reasonably credit Mr. Barkley's argument and conclude that the probative value of the reference to the overdose was substantially outweighed by its prejudicial effect. In the circumstances of this case, however, we are unconvinced that the court abused its broad discretion in reaching the contrary conclusion.

Officer Derasmo did not testify that Mr. Barkley was using drugs, nor did he testify that Ms. Dennis's overdose was related to the use of illegal drugs.[9] He did not testify about what drugs caused Ms. Dennis's overdose. In stating that he had responded to a report of an overdose, the officer provided useful context for why he was legitimately in Mr. Barkley's hotel room.

On this record, we cannot say that "no reasonable person would take the view adopted by the circuit court." *Williams v. State*, 457 Md. at 563. Therefore, the circuit court did not abuse its discretion in concluding that the brief reference to an overdose was not unfairly prejudicial to Mr. Barkley.

III.

Finally, we consider whether the court abused its discretion in declining to admit testimony that, at some point before trial, Ms. Dennis had obtained some sort of protective order against Ms. Kellam. The trial court did not abuse its discretion in declining to admit this evidence.

On direct examination by the State, Ms. Kellam acknowledged that she sent vulgar and threatening Facebook messages to Ms. Dennis. *See supra* n.3. The State asked Ms. Kellam whether she would send similar messages to Ms. Dennis now, months after the incident. Ms. Kellam responded, "Absolutely not[.]" She claimed that she sent the

[9] Ms. Dennis testified that the first responders administered Narcan, but Narcan does not distinguish between legal and illegal opioids. It reverses the effect of overdoses of all opioids, whether legal and illegal.

messages because she was "upset," and she denied that she bore any ill will towards Mr. Barkley.

During the direct examination of Ms. Dennis, the defense asked about the messages that she had received from Ms. Kellam. Ms. Dennis testified that she had blocked Ms. Kellam from contacting her on the internet shortly after receiving the messages. When asked whether she had seen Ms. Kellam recently, Ms. Dennis began to explain that she had a protective order against Ms. Kellam. The State objected.

At the bench, Mr. Barkley argued that the protective order provided a foundation to attack Ms. Kellam's credibility. He contended that the State had "opened [the] door" to testimony about Ms. Kellam's credibility because it elicited her testimony that she would not send the same messages today to Ms. Dennis. In addition, Mr. Barkley asked the court to permit testimony about an altercation involving Ms. Kellam, Ms. Kellam's mother, and Ms. Dennis, which occurred outside of the courtroom on the first day of the two-day trial. Mr. Barkley suggested that Ms. Kellam's behavior at the courthouse and the protective order indicated that Ms. Kellam still harbored animosity towards Ms. Dennis.

The court sustained the State's objection to testimony about the protective order but permitted Ms. Dennis to mention the altercation that had occurred outside of the courtroom one day earlier. On appeal, Mr. Barkley contends that the State "opened [the] door" to testimony about the order because Ms. Kellam testified about her relationship with Ms. Dennis and Mr. Barkley.

The opened-door doctrine "'authorizes admitting evidence which otherwise would have been irrelevant in order to respond to (1) admissible evidence which generates an issue, or (2) inadmissible evidence admitted by the court over objection.'" *State v. Heath*, 464 Md. 445, 459 (2019) (quoting *Clark v. State*, 332 Md. 77, 84-85 (1993)). Although the doctrine "expands the rule of relevancy," it does not allow a party to "'inject[] collateral issues into a case or introduce[e] extrinsic evidence on collateral issues.'" *Id.* (quoting *Clark v. State*, 332 Md. at 87). "Such evidence is also subject to exclusion where a court finds that the probative value of the otherwise inadmissible responsive evidence 'is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.'" *Clark v. State*, 332 Md. at 87 (quoting Fed. R. Evid. 403). In other words, even when one party has opened the door to the potential admissibility of evidence that would otherwise be irrelevant, that evidence is still subject to exclusion under Maryland Rule 5-403. *State v. Heath*, 464 Md. at 460.

The court did not abuse its discretion under Rule 5-403 in excluding evidence about the protective order. Unlike the evidence of the altercation that occurred on the day before Ms. Dennis testified, the court had no information about when Ms. Dennis obtained the protective order (because defense counsel made no proffer about when she obtained it). Furthermore, the protective order came about in a separate legal proceeding, involving parties other than the parties to this criminal case and a different legal standard,

which was applied by a different court (the district court). We have no idea whether the protective order was issued on an ex parte basis or after a contested hearing or whether it was even in effect at the time of trial. In these circumstances, a court could reasonably conclude that evidence of this protective order might confuse the issues, mislead the jury, and lead to a time-consuming and wasteful inquiry into the merits of an entirely separate legal proceeding.

In addition, a court could reasonably conclude that evidence of the protective order was unnecessarily cumulative of other evidence of Ms. Kellam's continuing animosity toward Ms. Dennis. The trial court had already permitted both Ms. Kellam and Ms. Dennis to testify about their feelings towards each other. The jury heard testimony about Ms. Kellam's "anger" about Mr. Barkley's infidelity (with Ms. Dennis) and the "intense" arguments that followed that discovery. Additionally, the trial court had admitted the messages from Ms. Kellam to Ms. Dennis, which included threats, taunts, name-calling, and profanity. The court also allowed Ms. Dennis to testify about the substance of the messages and about her reaction to them. And the court admitted Ms. Dennis's testimony about the altercation outside of the courtroom only one day earlier, when, Ms. Dennis testified, Ms. Kellam said that she was "going to beat on her[.]" That very recent threat was much more probative of Ms. Kellam's motivations and veracity than a protective order of unknown vintage.

In short, even without the protective order, the jury had an abundance of evidence to suggest that Ms. Kellam wanted to hurt Ms. Dennis and that her desire to hurt Ms.

Dennis might have affected the veracity of her testimony against Mr. Barkley. Accordingly, the circuit court did not abuse its discretion in prohibiting Ms. Dennis from discussing the protective order.

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