Circuit Court for Prince George's County
Case No. CT221111A

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0784

September Term, 2023

RADIE WRIGHT, JR.

V.

STATE OF MARYLAND

Arthur,
Zic,
Raker, Irma S.
(Senior Judge, Specially Assigned),

Opinion by Raker, J.

Filed: June 5, 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).

Appellant, Radie Wright, Jr., was convicted in the Circuit Court for Prince George's County of a single count of second-degree assault. Appellant presents the following questions for our review:

1. "Did the court err by denying defense counsel's *Batson* challenge after the prosecutor failed to offer race-neutral reasons for striking three young, Black prospective jurors?

2. Did the court err in admitting Detective Leedy's testimony that the photo array from which the complaining witness selected Mr. Wright's photograph included photos of previously incarcerated people and people previously stopped by the police?

3. Did the court err in failing to take any curative action after the State violated Maryland discovery rules by failing to disclose information related to the complainant's pretrial identification of the defendant?"

Finding no error, we shall affirm.

I.

Appellant was indicted by the Grand Jury of Prince George's County of armed carjacking, conspiracy to commit armed carjacking, carjacking, conspiracy to commit carjacking, armed robbery, conspiracy to commit armed robbery, robbery, conspiracy to commit robbery, use of a firearm in the commission of a crime of violence, conspiracy to commit use of a firearm in the commission of a crime of violence, first-degree assault, second-degree assault, theft of less than $100, and theft of between $100 and $25,000. He proceeded to trial before a jury and was found not guilty of all counts except second-degree

assault. The trial court sentenced appellant to a term of incarceration of ten years, all but 7 suspended, to be followed by 3 years of probation.

At around 8:00 p.m. on May 2, 2022, Oluwafifehan Telli met with a group of men to show them his guns. One of the men, Timothy Smallwood, was a long-term acquaintance of Mr. Telli with whom Mr. Telli had met earlier that day. According to Mr. Telli, at the earlier meeting, he had shown Mr. Smallwood three rifles in the trunk of his car. They agreed to meet up again later. There were some allegations at trial that this later meet-up might have been intended as a gun sale. Between the two meetings, Mr. Smallwood texted Mr. Telli that he had $100 as a "deposit." Mr. Telli never responded. Mr. Telli decided to put on a bulletproof vest before attending the second meeting.

When Mr. Telli arrived at the second meeting, he saw several other men along with Mr. Smallwood. One of them was appellant, whom Mr. Telli recognized as someone he had seen around the DuVal neighborhood. Mr. Smallwood offered to buy Mr. Telli's guns and Mr. Telli said he wasn't interested. At that point, appellant "pistol-whipped" Mr. Telli and threatened him. Mr. Telli described appellant "pistol-whipping" him on the face and the back of the head. Responding officers found injuries to the back of Mr. Telli's head.

At least one of the men then went to Mr. Telli's car and stole his guns, his phone, his wallet, his shoe, and the vehicle. There was some confusion at trial over whether the individual who did this was appellant. At first, Mr. Telli testified that it was. He later changed his testimony and claimed that appellant had still been hitting him when this happened.

After the incident, Mr. Telli identified appellant from a photo array as the man who had hit him. A significant aspect of appellant's trial strategy was to discredit this identification. Mr. Telli testified that he recognized appellant, but he told police in an interview that all of the men present at the second meeting wore masks. Mr. Telli estimated for the police that the man who hit him was about 5' 9 tall and 180-220 pounds, when appellant is 6 feet tall and 346 pounds.

At trial, three issues arose that were the subject of this appeal. First, during *voir dire*, appellant raised a *Batson* challenge to three of the State's peremptory challenges. All three contested challenges were challenges of young, black jurors, Jurors 2, 3, and 26. All three challenges resulted in the challenged juror being replaced with someone of a different race. Appellant alleged that this was a strategic move to change the racial and age makeup of the jury.

The State argued that "everyone that I have stricken has shown little to no enthusiasm in regards to this procedure, these proceedings." The State argued that Juror 2 had told the court that she couldn't stay and be a part of the proceedings because of her work as a cosmetologist, but that she had filled out the jury sheet to indicate that she was a receptionist. The prosecutor alleged that he was concerned about disingenuousness. The State argued that Juror 3 was "looking spaced out," and did not seem to be paying attention to the questions asked. The prosecutor alleged that he had challenged Juror 26 because he was shaking his head and that, based on that body language, the State was not confident that he would pay attention and take the process seriously. The State concluded, "You

know, the fact of the matter is, is that when picking a jury the State wants to ensure that everything about the panel is going to pay attention and take the process seriously."

Appellant responded that being a receptionist or working at a beauty salon were not mutually exclusive and that neither type of employment was related to the case in a way that would demonstrate a bias. Appellant's counsel alleged that neither Juror 3 nor Juror 26 had appeared inattentive to her. The court found as follows:

> "THE COURT: All right. So, based on what [the prosecutor] has indicated in response to the challenge in this case, I'm satisfied that he's provided a neutral reasoning as far as strikes, not just with respect to race, but with regard to age in this case. I do remember, the one juror indicated, the young lady who you just struck previously. I believe it's –
>
> [THE STATE:] Two.
>
> THE COURT: – No. 2, she indicated that she didn't have an interest in being involved in this proceedings. So, as to Batson, that's a neutral reason. Right? She does not, she was stricken by the State.
>
> As far as No. 3, I agree that he did not answer any questions. However, I did have an opportunity to observe him. And I do believe [the prosecutor] has provided a neutral reason as to why he has concerns with him being seated on the jury.
>
> And I do believe based on other responses that [the prosecutor] has provided that he's provided racially neutral information to reasons as to why he's making selections in this case. So, your Batson challenge in this matter will be denied."

Second, during the trial, the State called the detective who had prepared the photo array from which Mr. Telli picked out appellant. The detective testified as to how he had put together that array. He explained that, in general, he places a suspect's photo into an array with "filler photos." He explained, without objection, that filler photos are photos that police officers gather from various state depositories of photos, including MVA

photos, photos taken after arrest, and photos taken during police interactions. Then, when testifying about how he put together the photo array for this case, he testified that he had generated an array with photographs "from either the MVA database, or individuals that are, have been incarcerated previously, or other officers providing photos that they've taken of individuals on the street." At this point, appellant's counsel objected, and the court overruled the objection. At no point did the officer testify that appellant's photo had been procured from any of these sources.

Finally, Mr. Telli testified that he was familiar with appellant and recognized him when he saw him with Mr. Smallwood because he had seen appellant before. He explained as follows:

> "[MR TELLI:] As soon as I parked my car, I came out. I greeted him. I said, hey, how's it going? I recognized him. And I said, how's it going? Like, it's been a long time. I've seen you before. He was like, yes.
>
> [THE STATE:] And when you say you recognized him, are you speaking on the defendant?
>
> [MR. TELLI:] That's correct."

Appellant objected and appellant's counsel represented that she had not been made aware, prior to trial, that Mr. Telli was familiar with appellant. Appellant alleged a discovery violation by the State. The next morning, appellant withdrew his objection because the State had turned over an interview between Mr. Telli and the police in which Mr. Telli stated that he had seen appellant before.

Later that day, however, Mr. Telli testified as follows:

> [THE STATE:] Yesterday in your testimony, you said you had seen the defendant before?
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> [MR. TELLI:] Yes.
>
> [THE STATE:] How have you seen him before?
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> [MR. TELLI:] We all live around this DuVal area. I've seen him crossing the basketball court maybe like around there.

Appellant, once again, objected because appellant's counsel, though she conceded she had been made aware that Mr. Telli was familiar with appellant, had not been told by the State of the circumstances of their prior encounters, even though the information was known to the State. Appellant alleged a discovery violation and requested a mistrial. The court disagreed and denied the mistrial motion.

At the close of trial, appellant was found guilty of second-degree assault. He was sentenced as described above. This timely appeal followed.

II.

Appellant argues, first, that the circuit court erred in denying his *Batson* challenge. In particular, appellant alleges that the court erred in finding that the State had a nondiscriminatory reason for striking Juror 2, because the court's reason for permitting the State to strike Juror 2 was that she "didn't have an interest in being involved in this proceeding." Appellant argues that the court cannot interpose a valid basis for striking the juror that the State did not allege and that the State's only argument for striking Juror 2 was that she was "disingenuous."

Appellant alleges that the court erred in finding that the State had a nondiscriminatory reason for striking Juror 3 because the prosecutor's proffer that Juror 3 did not seem to be paying attention was too vague to justify a peremptory strike and was not supported by any factual findings by the trial judge. Finally, appellant argues that the court erred in finding that the State had a nondiscriminatory reason for striking Juror 26 because the court failed to provide any individual assessment of Juror 26's demeanor. Appellant argues that the only explanation offered by the State for striking Juror 26, was that he was "shaking his head," an explanation that appellant argues is not sufficient to justify the use of a peremptory strike.

The State argues that, as to Juror 2, the prosecutor stated explicitly that all of his challenges were based on a lack of enthusiasm for the proceedings and on ensuring that the jury was going to pay attention. Therefore, the court's finding that Juror 2 had indicated that she was not interested in being a part of the proceedings was a finding that the prosecutor's alleged reason for striking Juror 2 was credible. Further, the State argues that a finding by the court that the juror was not interested in being a part of the proceedings, was not wholly unrelated to the State's specific argument that she was being disingenuous about her reasons for wanting to leave.

As to Juror 3, the State argues that the ruling of the trial judge was supported by sufficient factual findings. The State argues that the trial judge's statement "However, I did have a chance to observe him. And I do believe [the prosecutor] has provided a neutral reason as to why he has concerns with him being seated on the jury," was a finding that the State's claim that Juror 3 had appeared disengaged was credible.

As to Juror 26, the State argues that the court's general finding that "And I do believe based on other responses that [the prosecutor] has provided that he's provided racially neutral information to reasons as to why he's making selections in this case," was a finding that the State's allegations were credible as to Juror 26. Further, the State argues that the State's reason for challenging Juror 26 was acceptable under *Batson*. The State alleges that the prosecutor believed that, like Jurors 2 and 3, Juror 26 was uninterested, as supported by the prosecutor's broad claims that all strikes were the result of such reasoning.

Next, appellant argues that the trial court erred in permitting Detective Leedy to testify that he used filler photos taken from one of three sources: the MVA, booking photos, or photos taken during police encounters. Appellant argues that this evidence suggested that he might have been arrested before or might have had previous encounters with the police. This, he argues, would be suggestive of criminal activity. He argues that this suggested prior bad acts evidence was inadmissible under Md. Rule 5-404(b). Even if it was not bad acts evidence, appellant argues that the association with criminal activity was prejudicial, and that prejudice outweighed any limited probative value inherent in the evidence. Therefore, the evidence was inadmissible under Md. Rule 5-403.

The State maintains that appellant's argument is unpreserved because the State explained that filler photographs are taken from one of those three sources on two occasions and appellant only objected to one. In the alternative, the State notes that the detective did not testify that appellant's photo came from any of the above-listed sources, only that the filler photos did. Thus, insofar as the jury might be prejudiced against anyone

or believe that anyone had committed prior bad acts, it was the people in the filler photos and not appellant.

Finally, appellant argues that the State was required to turn over all relevant information regarding Mr. Telli's identification of appellant. Appellant argues that the details of Mr. Telli's prior knowledge of appellant were relevant to the credibility of his identification. Appellant notes that his primary trial strategy was to discredit this identification. But that Mr. Telli knew appellant in advance made the identification more credible. Therefore, the State's failure to disclose the nature of the prior relationship hindered appellant's counsel's ability to develop an effective trial strategy.

The State argues that the discovery disclosures were sufficient. The State disclosed that Mr. Telli had seen appellant before and was familiar with him. Clearly, he must have been familiar with appellant from somewhere. The State argues that the precise details of the prior familiarity were immaterial and not required disclosures. Thus, there was no discovery violation. In the alternative, even if there was a discovery violation, it resulted in little prejudice to appellant's case and did not warrant the mistrial appellant requested.

III.

A defendant has a constitutional right, under the Sixth and Fourteenth Amendments to the United States Constitution, to a jury drawn from a cross-section of the community and to the equal protection of the laws. *Batson v. Kentucky*, 476 U.S. 79, 83 (1986). These rights are violated when the State purposefully discriminates on the basis of race in the exercise of their peremptory challenges. *Id.* at 86. When a *Batson* challenge is made, trial

courts engage in a three-step inquiry. *Ray-Simmons v. State*, 446 Md. 429, 436 (2016). First, the challenging party must provide a prima facie case of racial discrimination—*i.e.*, the party must provide some evidence that the opposing party's strike was racially motivated. *Id.* A pattern of strikes against one particular racial group is sufficient to meet this threshold. *Id.* However, if the court proceeds to the second step and the striking party provides a reason for the challenged strike, the question of whether a *prima facie* case of racial discrimination was met becomes moot. *Id.* at 437.

The burden of production then shifts to the striking party to come forward with a neutral reason for the strike. *Id.* at 436. The State may not satisfy its burden of production "by merely denying that he had a discriminatory motive or by merely affirming his good faith." *Purkett v. Elem*, 514 U.S. 765, 769 (1995). Instead, the proponent of the strike must provide a reason that is clear, reasonably specific, and related to the particular case to be tried. *Id.* at 768-69. At this stage, the reason need not be persuasive or plausible. *Ray-Simmons*, 446 Md. at 436. Any reason offered will be deemed race-neutral provided that a discriminatory intent is not inherent in the explanation and that the explanation given is clear and reasonably specific. *Id.* at 436-37.

Finally, at step three, the court will consider whether the challenging party has met the burden of proving racial discrimination. *Id.* at 437. At this stage, the court may consider the demeanor of the striking party, the juror's demeanor, the juror's behavior during *voir dire*, and the plausibility of the reason given for striking the juror. *Id.* Because this last stage involves a largely factual question, and because it involves evaluating the

demeanor of parties present in the courtroom, we afford great deference to the trial court's decision and that decision will only be reversed if it is clearly erroneous. *Id.*

Because the State provided an explanation for its strikes, the question of whether appellant presented a *prima facie* case of racial discrimination is moot. *Id.* at 436. We need not consider it. We proceed, therefore, to the second step. The State provided a single blanket reason for all of its strikes: the State was not confident, based on the behavior of the jurors, that they were enthusiastic about the proceedings and would pay attention and take the process seriously. The State specified, as to Juror 3, that this was because he had a "spaced out" expression and, as to Juror 26, that this was because he was shaking his head as he entered the box. The State provided an additional reason for Juror 2, indicating that she might be disingenuous.

Maryland Courts have upheld strikes made on the basis of the belief that the demeanor of a juror indicates that the juror will not be attentive. *Harley v. State*, 341 Md. 395, 401-03 (1996). Demeanor is a specific, race-neutral explanation for a challenge. *Id.* The claim by the State that all of its strikes were based on demeanor resulting in concerns about attentiveness and enthusiasm to participate is enough to satisfy step 2. We need not, at this stage, evaluate the believability of the State's claims about the demeanor of the relevant jurors. *Purkett*, 514 U.S. at 768 ("But to say that a trial judge *may choose to disbelieve* a silly or superstitious reason at step three is quite different from saying that a trial judge *must terminate* the inquiry at step two when the race-neutral reason is silly or superstitious.").

We turn to the final step of our analysis and evaluate for clear error the trial court's decision to credit the reasoning the State put forward. We must decide whether the State's reasons were a mere pretext for purposeful discrimination. *Id.* The question is not whether the reason provided was *reasonable* (*i.e.*, whether it was a good reason to strike a juror), but whether it was *genuine* (*i.e.*, whether it actually motivated the State's decision to strike) and turns largely on matters of credibility. *Id.* at 769.

We will address the court's rulings as regards each juror individually. As for Juror 2, contrary to appellant's claims that the State offered only one reason, disingenuousness, for the challenge, the State offered two reasons for striking her: she appeared uninterested and there were indications that she might be disingenuous. As appellant notes, the court did not address the second reason the State put forward. But the court agreed with the State as to the first reason. The court noted that Juror 2 had stated explicitly that she didn't have an interest in being there and found that the State had offered a neutral reason for her exclusion. Thus, the court's reasoning was not clearly erroneous.

As for Juror 3, the State's proffered reason for his exclusion was that he looked "spaced out," and did not seem to be paying attention. Appellant argues that the court failed to make any specific finding that this was the case and merely pointed out that the juror in question had not answered any questions. While it is true that the court did note that Juror 3 did not answer any questions, the court's next sentence was "I did have an opportunity to observe him and I do believe [the prosecutor] has provided a neutral reason as to why he has concerns with him being seated on the jury." In short, based on the

demeanor of the juror, the court found State's argument credible. The court's decision was not clearly erroneous.

As for Juror 26, once again appellant misconstrues the State's proffered reason for striking the juror. Appellant alleges that the only reason was that the juror was shaking his head. In fact, the prosecutor's proffered reason was that he was concerned about inattentiveness and a lack of enthusiasm. He offered the juror's shaking of his head as evidence of that lack of enthusiasm. His precise wording was as follows:

> "No. 26, when he was initially called up I saw, I observed him shaking his head. You know, the fact of the matter is, is that when picking a jury the State wants to ensure that everything about the panel is going to pay attention and take the process seriously. So, all of my strikes as essentially based on that."

Appellant further alleges that the trial court did not make sufficiently specific factual findings to support a ruling that the State's proffered reasons were credible. Appellant alleges that a general statement that a witness is uninterested is not sufficient. He analogizes to *Gilchrist v. State*, 340 Md. 606, 628 (1995) in which the Maryland Supreme Court upheld a trial judge's decision to excuse the jury after a *Batson* challenge where the striking party offered reasons such as "he looked like a former school teacher whom defense counsel did not like, one did not 'relate to' anyone or anything in the courtroom, and one was dressed in a navy blazer and khaki slacks." He argues that a juror shaking his head is, like wearing a navy blazer, unrelated to a witness's ability to serve as a juror, and that, therefore, the court should have found the State's reasoning pretextual.

There is a key difference between *Gilchrist* and the present case. In *Gilchrist,* the Maryland Supreme Court found that the trial court may reject reasons like those proffered

by the parties in that case without making a clearly erroneous finding. *Id.* Here, we are tasked with determining whether any finding of credibility in an argument based on a juror shaking his head in a particular way must be clearly erroneous. In short, appellant extrapolates from a holding that the court *may* find pretext in spite of such reasons, that the court *must always* find pretext when those reasons are the only ones proffered. But the two determinations are quite different. *Purkett*, 514 U.S. at 768. It is not unreasonable to conclude that the way a juror shakes his head during the proceedings might be indicative of his enthusiasm or interest in participation. And we leave judgments about such aspects of demeanor to the discretion of the trial court, who is in the best position to make the observations.

Finally, appellant argues that, even if a determination that the State had struck the juror because his head shake lacked enthusiasm, it could be made only where the trial judge corroborates the State's assertions regarding the prospective juror's demeanor explicitly on the record. Appellant cites *Snyder v. Louisiana*, 552 U.S. 472 (2008) in which the United States Supreme Court reversed the trial court's rejection of a *Batson* challenge. There, the State struck a juror and provided two reasons for doing so, one based on credibility, and one based on a scheduling conflict. *Id.* at 478. The trial court made no finding on the record regarding which reason it credited, but simply allowed the State's challenge. *Id.* at 479. The Supreme Court found that, because the State provided two reasons and the trial court did not specify which reason it credited, it was impossible to presume that the trial judge credited the demeanor argument. *Id.* Because the second proffered reason was found to be pretextual, the Supreme Court reversed. *Id.* 485-85.

Here, however, appellant presented a single argument regarding the suitability of Juror 26, that the way he was shaking his head raised concerns for the prosecutor in his attempt to seat an attentive jury. While the court did not make findings explicitly as to the demeanor of Juror 26, the trial court made a blanket finding that the prosecutor had provided sufficient information regarding racially neutral reasons for striking each juror. Unlike in *Snyder*, the court's decision should be read as one to credit the State's argument regarding the demeanor of Juror 26. We defer to the trial court's judgment of credibility and demeanor and do not find the court's ruling clearly erroneous.

IV.

We turn, next, to the court's decision to allow Detective Leedy to testify about the source of his filler photos. As a threshold matter, the State raises a preservation issue. Rule 4-323 requires that "An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent." A party opposing the admission of evidence must object each time the evidence is offered. *Klauenberg v. State*, 355 Md. 528, 545 (1999). Failure to object to each instance in which the evidence is offered results in the waiver of any claim of error based on that evidence for the purposes of further review. *DeLeon v. State*, 407 Md. 16, 31 (2008).

Here, the State offered testimony as to the source of the filler photos two times. First, the detective testified without objection:

> [THE STATE:] And then what are filler photos?

> [DET. LEEDY:] They're photos that we gather from some, I'd normally use a depository through the State of Maryland, which will be people that had been arrested, MVA. And you could also use people who had been stopped before during police interactions. And a lot of detectives will have like beat books. So, they know there's people in that specific area that they've stopped before for criminal activity.
>
> [THE STATE:] So, you received the photos not just from those who have alleged to have been part of the crime or offense but also those not?
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> [Det. LEEDY:] Correct.

Then the detective testified:

> [THE STATE:] Can you identify this sequence of documents?
>
> [DET. LEEDY:] Yes, this is the photo array that I created and provided to Detective Galarza to show the victim.
>
> [THE STATE:] And how did you generate those photos?
>
> [DET. LEEDY:] Like, like I stated, these photos are generated, just random photos from either the MVA database or individuals that are, have been incarcerated previously, or other officers providing photos that they've taken of individuals on the street.

Only after this second introduction of the idea that the detective had generated the filler photos from the listed databases did appellant's counsel object.

We hold that the issue is preserved for our review. Appellant points out that the second discussion of the filler photos was specific to the photos used in this case, whereas the first was just a generalized description of the procedure the detective uses. Because

there is a slight difference in the two descriptions of the selection process, we shall proceed to the merits of appellant's argument.

We reject appellant's contention that the detective's testimony about the filler photos suggested that appellant had a criminal history. First, the testimony related to the source of the filler photos, not the photo of appellant. Second, the detective testified to a broad source of the photos, including the MVA records.

The detective never testified as to the source of appellant's photo. He was clear that the filler photos were different from the photos of suspects. Thus, at most, this was evidence of the criminal propensity of the unidentified people in the filler photos, not of appellant's criminal propensity. There is little reason why evidence about the potential criminal history of the people in the other photos might prejudice appellant. *Sessoms v. State*, 357 Md. 274, 284-85 (2000) (collecting cases noting that the concern under Md. Rule 404(b) is the prejudice associated with the jury knowing that *the defendant* has committed crimes in the past).

Further, even if the evidence had suggested to the jury that appellant's photo, like the filler photos, might have come from one of the three listed sources, it would not necessarily be other crimes evidence under Md. Rule 5-404(b) as appellant claims it was. One sources of the photos was MVA records. There is nothing inherently criminal in having an MVA photo. In fact, quite the contrary. The trial court did not err in admitting the evidence.

V.

Finally, we address the alleged discovery violation by the State. We review a trial court's discovery determination *de novo*. *Cole v. State*, 378 Md. 42, 56 (2003). Appellant alleges that the State violated Md. Rule 4-263(d)(7), which provides that the State's Attorney shall provide "[a]ll relevant material or information regarding: . . . pretrial identification of the defendant by a State's witness." This obligation includes information provided by witnesses outside of State show-ups, line-ups, photo arrays, or other State orchestrated procedures. *Green v. State*, 456 Md. 97, 159 (2017). The State is required to disclose that a witness has identified the defendant to law enforcement at or near the scene of a crime. *Id.*

Clearly, upon this standard, that Mr. Telli could identify appellant was a fact that the State was required to disclose. And the State did disclose that fact. Appellant does not contest that the State disclosed it. Nor does appellant contest that the State disclosed that Mr. Telli told police that he recognized appellant when he saw him at the meeting with Mr. Smallwood. Appellant claims that the State should have disclosed, not only that Mr. Telli was familiar with appellant, but the location where Mr. Telli had initially become familiar with appellant. The question then becomes how broadly we must read the phrase "all relevant material or information regarding: . . . pretrial identification."

In considering whether the information at issue falls within the ambit of Rule 4-263(d)(7), we consider the purpose of the Rule— "to assist defendants in preparing their defense and to protect them from unfair surprise." *Green*, 456 Md. at 161. Maryland courts have required the State to disclose that a witness will make an identification of the

defendant, to disclose that an identifying witness has made inconsistent statements about his identification, and to disclose that the witness had indicated that the sole co-defendant was not the shooter (making the defendant the shooter by process of elimination). *Williams v. State*, 364 Md. 160, 175 (2001); *Collins v. State*, 373 Md. 130, 147 (2003); *Green*, 456 Md. at 162.

In contrast, we have rejected claims that the State violated its discovery obligations when it failed to disclose the details of a witness's prior familiarity with the defendant, provided that the State disclosed that said relationship existed. *Myers v. State*, 243 Md. App. 154, 172 (2019). In *Myers*, we considered the sufficiency of the State's disclosure where the State's witness identified the defendant based on prior knowledge of him but did not disclose the details of the relationship. *Id.* The State disclosed that the witness was familiar with the defendant and that the witness had identified the defendant, but not the precise contours of the relationship (living in the same neighborhood and having mutual friends and acquaintances). *Id.* at 161, 172. In that case, we distinguished between cases like *Williams*, cited above, and cases where the failure by the State is simply a failure to disclose all of the details of a relationship between a witness and the defendant as follows:

> The difference in *Williams* was a flat-out binary difference between identification and non-identification.
>
> ***
>
> In this case, there is no such difference. . . . The appellant, however, would read *Williams* to hold that when an individual makes a confirmatory identification based on a prior acquaintanceship in the neighborhood, the State is required to detail by chapter and verse all of the incidents that go into the history of that prior neighborhood relationship. *Williams* does not remotely deal with such a situation. The clash there was

> between identification and non-identification. The appellant cites no case that does, and we know of none.

Id. at 172. We concluded that there was no discovery violation. *Id.* at 173.

The same logic applies here. The State disclosed that Mr. Telli had identified appellant. The State disclosed that Mr. Telli was familiar with appellant. The State did not detail precisely where Mr. Telli had seen appellant before. Yet, once past familiarity was established, the precise location at which Mr. Telli had seen appellant was not close to on par with the difference between identification and non-identification. The State was not required to disclose this information. The trial court did not err in ruling that no discovery violation occurred.

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