Circuit Court for Baltimore City
Case No. 122220001

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1227

September Term, 2023

DARIUS WILLIAMS

v.

STATE OF MARYLAND

Arthur,
Beachley,
Ripken,

JJ.

Opinion by Beachley, J.

Filed: January 28, 2025

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

Darius Williams appeals his convictions in the Circuit Court for Baltimore City for second-degree murder and carrying a deadly weapon with intent to injure. The focus of this appeal concerns the use of text messages retrieved from a cell phone that had been confiscated from a gallery member at the direction of the trial judge. Appellant presents five questions for our review, which we reorder and rephrase for clarity:

1. Did the trial court err in allowing the prosecutor to cross-examine Mr. Williams about text messages from a phone confiscated from a gallery member?

2. Did the trial court err in instructing the State to obtain a search warrant for phones the court confiscated from a member of the gallery?

3. Was the evidence at trial sufficient to support Mr. Williams's convictions?

4. Did the trial court err in admitting the principal witness's prior statement to police as substantive evidence?

5. Did the trial court err when it failed to correct the record to reflect that Mr. Williams had invoked his *Miranda* rights?

For the reasons set forth below, we conclude that the trial court erred when it allowed the prosecution to question Mr. Williams about the text messages from the gallery member's phone. We therefore vacate Mr. Williams's convictions and remand for a new trial. Although we shall grant Mr. Williams a new trial, we reject his claim that the evidence was insufficient to support his convictions.[1]

[1] In light of our resolution of the case, we need not address Questions 2, 4, and 5.

FACTS

Around 6:30 p.m. on June 25, 2020, Eric "Cookie Man" Jones was chased by a larger man, then stabbed over twenty times and left to die on the sidewalk of a West Baltimore street. City Watch surveillance cameras mounted in the area caught only brief glimpses of the two men running and the subsequent attack. Neither man's face is visible in the video footage; only their relative statures and the color of their clothing are clear. At least two pedestrians appeared to witness the stabbing, but neither of them approached the scene or rendered any aid to Mr. Jones in the aftermath of the attack. The surveillance video shows a passing motorist, identified as Cheryl Brown, drive past Mr. Jones on Westwood Avenue, then continue around the corner and circle back, where she exited her car and went to Mr. Jones's side. Ms. Brown called 911 to report that a man had been stabbed and was on the ground, "bleeding out." Police and medics arrived quickly. The first officer on the scene, Lieutenant Kurt Yourkovik, testified that he arrived at 6:38 p.m., approximately the same time as the fire department medic. By the time emergency personnel arrived, the assailant had fled the scene. Mr. Jones was transported to Shock Trauma, where he was pronounced dead at 7:01 p.m.

Detective Ryan Diener of the Baltimore Police Department's Homicide Unit was assigned as the primary investigator, arriving on the scene at 7:02 p.m. Detective Diener viewed the surveillance camera footage and created a flyer with a cropped video still image of the assailant, which he distributed to officers within the police department. Using the same cropped image, he also released a Metro Crime Stoppers flyer on June 26, 2020,

hoping to generate tips from the public as to the identity of the assailant. The following day an anonymous caller phoned in a tip to Metro Crime Stoppers. The call was routed to Detective Diener, who later identified the caller as Valaida Hazel. There is some discrepancy as to exactly what Ms. Hazel told the detective during the initial phone call. Detective Diener testified that Ms. Hazel told him she had witnessed the murder, but the supervisor's progress report about the phone call, written by Sergeant Gauze (who did not testify at trial), indicated that Ms. Hazel did not witness the murder. Detective Diener acknowledged that he signed the supervisor's report, but reiterated during his trial testimony that he believed it to be an inaccurate account of the phone call.

On July 2, 2020, Ms. Hazel was interviewed by the police. This interview was admitted almost in its entirety at trial. In her interview, Ms. Hazel explained that the murder was over drugs. According to Ms. Hazel, a man she knew as "Flip" (who police identified as Darius Williams) ran a drug trafficking organization in the neighborhood. Two days before the murder, Flip's cousin, who was never identified in the record, approached Mr. Jones and asked him to sell drugs on Ruxton and Westwood Avenues in Baltimore, which Mr. Jones agreed to do. The day of the murder, Ms. Hazel claimed she saw Flip jump out of a car and violently assault a woman she identified as "Tea," because Flip believed that Tea had lost or stolen some of his drugs. Ms. Hazel said Flip had beaten Tea "so bad her eyes were swollen shut. He left her for dead . . . ." According to Ms. Hazel, after Flip violently assaulted Tea, he approached Mr. Jones, and proceeded to stab him "over twenty or more times." Flip then fled the scene, although Ms. Hazel could not recall

whether he did so in his silver car or black truck. Ms. Hazel claimed she ran to Mr. Jones, who asked her to tell his wife he loved her and tell his kids to be strong. While at the police station, Ms. Hazel identified Mr. Williams from a photo array as the man who killed Mr. Jones.

Surveillance footage of the incident contradicts Ms. Hazel's version of the facts in material respects. The City Watch videos do not show Mr. Williams entering or exiting a vehicle at any time. Further, there is no indication of either a silver car or black truck in the vicinity of the murder. The woman Ms. Hazel identified as Tea is clearly shown walking around, seemingly unharmed, during the altercation between Mr. Jones and the attacker. Ms. Hazel is not pictured in any of the surveillance footage of the scene, before, during, or after the murder.

On May 17, 2021, police questioned Mr. Williams at the police station and collected a DNA sample pursuant to a search warrant. At trial, the parties stipulated that Mr. Williams waived his *Miranda* rights and agreed to speak with the police. During his interview with Detective Diener, Mr. Williams admitted that the 2300 block of Westwood Avenue was his neighborhood, but he denied knowing or recognizing Mr. Jones. On advice of counsel, Mr. Williams ended the interview shortly thereafter.

The results of the DNA analysis were returned to Detective Diener in February 2022. The analysis indicated that a trace amount of DNA found under the fingernails of Mr. Jones's left hand matched the DNA of Mr. Williams and at least one other unknown

contributor. Mr. Williams was ultimately arrested and charged with the murder of Mr. Jones.

At trial, Ms. Hazel, the State's primary witness, recanted her statement to police, claiming nearly complete memory loss of her interviews with police, the phone call she made to Metro Crime Stoppers, and any of the events in the days surrounding Mr. Jones's murder. She attributed her memory loss to a combination of several serious health conditions and having been a heavy drug user at the time of the murder. Ms. Hazel testified that in the summer of 2020, she was using drugs "every day, all day." She was unable to identify herself in the video of the police interview. Over defense objection, the State admitted substantially all of Ms. Hazel's taped police interview.

While Ms. Hazel was on the witness stand and her prior statement to police was being played for the jury, the prosecution was made aware that a man seated in the gallery was using his phone, contrary to courtroom protocol and the courtroom deputy's instructions. After the jury was released for the day, the judge ordered the cellphones of two men confiscated.[2] Without any request by the State, the judge directed the prosecution to obtain a warrant for the phones. The judge proceeded to instruct the State what information needed to be included in the warrant. Although the judge was careful to state

[2] The contents of only one of the two phones belonging to Montrell Smith was ultimately at issue. The third phone was confiscated from another man, David Jones, who offered to unlock his phone and allow the court to review the contents thereof. Mr. Jones claimed that he merely took his phone out to check the time because he knew his paid parking was set to expire. His phone apparently showed no evidence of wrongdoing and was promptly returned to him.

that she would not be the judge issuing the search warrant, she nevertheless told the prosecutor and detective that they could advise the issuing judge that they were acting at the court's direction.

Two days later, Mr. Williams testified in his own defense. On cross-examination, the State questioned Mr. Williams about the contents of the text messages retrieved as a result of the search warrant for the confiscated cell phones. Mr. Williams admitted he knew the man in the gallery who owned the phone, but denied knowing anything about the text messages. We shall discuss the prosecution's use of the text messages in detail, *infra*.

Mr. Williams was acquitted of first-degree murder, but found guilty of second-degree murder and carrying a dangerous weapon with intent to injure. The court sentenced Mr. Williams to consecutive sentences of forty years for the second-degree murder and three years for carrying a dangerous weapon. Mr. Williams noted this timely appeal.

DISCUSSION

I

Mr. Williams argues that the prosecution improperly used the text messages recovered from the phone of gallery member Montrell Smith to put inadmissible hearsay before the jury. After Ms. Hazel could not identify Mr. Williams at trial as the assailant, Mr. Williams contends that the State used the text messages to "impermissibly insinuate[] that Mr. Williams, or someone acting on his behalf, had intimidated Ms. Hazel into changing her testimony." The State responds, first, that Mr. Williams's argument concerning the prosecution's use of the texts in cross-examination was not preserved.

Next, the State argues that the texts were not admitted into evidence and that the texts were "offered more by the way of impeachment evidence." The State further argues that "assuming the texts were subject to the general hearsay rules," they "did not constitute hearsay in the first place." Finally, the State argues that any error in the use of the text messages was harmless.[3]

We first address the State's preservation argument. From the following colloquy, the State asserts that Mr. Williams's appellate argument is limited to his specific objection that the text messages exceeded the scope of direct examination.

[THE STATE]:	Are you aware that Mr. Smith sent a text message --
[APPELLANT'S COUNSEL]:	Objection.
THE COURT:	Overruled. Come on up.
(Whereupon, counsel approached the bench and the following ensued:)	
THE COURT:	What's the question?
[THE STATE]:	Are you aware that Mr. Smith sent a text message while the witness was on the stand to somebody else saying she's lying, she's doing good, she's taking it back, saying she was high.

[3] In light of our resolution of the issue, we need not resolve the parties' competing claims concerning the authenticity of the text messages. We note, however, that Mr. Williams stated that he had no personal knowledge of the text messages sent by Mr. Smith during the trial. Maryland Rule 5-602 generally provides that "a witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter." We reject the State's assertion that it was sufficient that the trial judge "knew how the phones were obtained."

THE COURT:	She's taking what?
[THE STATE]:	I'm just reading from the text message. She was taking --
THE COURT:	Okay.
[THE STATE]:	-- it back, saying she was high.
THE COURT:	Okay.
[APPELLANT'S COUNSEL]:	That's beyond the scope of my direct.
THE COURT:	Well, the -- it's within -- I'm going to allow it, but this is what -- you need to lay a little more groundwork first about the communicating in the courtroom. Okay? Thank you.

(Whereupon, counsel returned to trial tables and the following ensued:)

[THE STATE]:	You saw Mr. Smith in the courtroom the other day?
[APPELLANT]:	Yes.
[THE STATE]:	He was in the courtroom when the witness Ms. Hazel, testified; isn't that true?
[APPELLANT]:	Yes.
[THE STATE]:	Did you recognize Ms. Hazel from the neighborhood?
[APPELLANT]:	No, I had never seen this lady before.
[THE STATE]:	You had never seen Ms. Hazel before?

[APPELLANT]:	No, ma'am.
[THE STATE]:	All right. Were you aware that Mr. Smith had his cell phone out when he was in the courtroom?
[APPELLANT]:	I heard the -- I heard the -- what you all was going back and forth about, yes.
[THE STATE]:	Okay. Were you aware that he was sending text messages about the witness while she was on the stand?
[APPELLANT]:	No, ma'am.
[THE STATE]:	Were you aware that he had sent --
[APPELLANT'S COUNSEL]:	Objection.
THE COURT:	Overruled.
[THE STATE]:	Were you aware that he had sent a text message while Ms. Hazel was on the stand saying, "She's lying, she's doing good?"
APPELLANT:	No, ma'am.
[THE STATE]:	Were you aware that he sent a text message to somebody --
[APPELLANT'S COUNSEL]:	Objection.
THE COURT:	Let her finish the question.
[THE STATE]:	-- saying "She's taking it back, saying she was high?"
THE COURT:	Overruled. Answer.
[APPELLANT]:	No, I don't.

[THE STATE]:	Were you aware that somebody responded back to Mr. Smith saying --
[APPELLANT'S COUNSEL]:	Objection.
[THE STATE]:	-- "Good, good, good?"
THE COURT:	Overruled.
[APPELLANT]:	No, ma'am.

In response to defense counsel's initial objection that the inquiry concerning the text messages was beyond the scope of direct examination, the court ruled that the State needed to "lay a little more groundwork" about the communications in the courtroom. The State proceeded to ask six questions concerning Mr. Williams's knowledge of Montrell Smith being in the courtroom and potentially sending text messages, as well as whether he knew Ms. Hazel. Defense counsel did not object to any of these foundational questions. However, defense counsel repeatedly objected when the State questioned Mr. Williams about the substantive content of the text messages. There is a reasonably clear line of demarcation between the prosecution's foundational questions and questions concerning the potentially incriminating contents of the text messages. Under these circumstances, where defense counsel's "beyond the scope" objection was followed by six foundational questions to satisfy the court's ruling that the State "lay a little more groundwork," we cannot conclude that defense counsel was limited to the "beyond the scope" objection for all subsequent questions. We therefore conclude that defense counsel's general objections concerning the contents of the texts were sufficient for preservation purposes. *Cf. Hall v. State*, 119 Md. App. 377, 384-93 (1998) (holding that where prosecutor's questions

"shifted to a different topic calling for a new objection," a continuing objection would not suffice).

Having found the issue preserved, we turn to consider whether the text messages constituted inadmissible hearsay. Hearsay is "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Maryland Rule 5-801(c). Hearsay must be excluded as evidence at trial, unless it falls within an exception to the hearsay rule. *Bernadyn v. State*, 390 Md. 1, 8 (2005). A trial court "has no discretion to admit hearsay in the absence of a provision providing for its admissibility." *Id.*

In the instant case, during cross-examination of Mr. Williams, the State read the texts to him under the guise of asking whether he was aware of them. Mr. Williams testified that he knew Mr. Smith, but was unaware that Mr. Smith was using his phone during the trial until the court was contemporaneously made aware of that fact. He also testified that he did not know anything about the contents of any text messages sent or received by Mr. Smith during the trial. Despite Mr. Williams's expressed lack of knowledge of the texts that were transmitted during trial, the State was able, through its cross-examination questions, to put the content of the text messages before the jury. Specifically, the State was permitted to read Mr. Smith's text messages commenting on Ms. Hazel's testimony: "She's lying, she's doing good;" and "She's taking it back, saying she was high." In addition, the State was allowed to read a response to Mr. Smith's text messages from an unknown individual that stated, "Good, good, good."

We agree with Mr. Williams that *McClurkin v. State*, 222 Md. App. 461 (2015), is instructive. In *McClurkin*, both McClurkin and his codefendant, Jackson, made separate telephone calls from the Baltimore City Detention Center to unidentified women. *Id.* at 470. "During one of those calls, Jackson told the woman, with whom he was speaking, that he needed someone to pressure the victim and to stop him from telling people that he and McClurkin were involved in the shooting." *Id.* McClurkin made three similar calls. *Id.* At their joint trial, the State played recordings of the four telephone calls for the jury. *Id.* at 471.

On appeal, McClurkin asserted that Jackson's call constituted inadmissible hearsay.[4] *Id.* at 482-83. The Court began its analysis by noting that what constitutes an "assertion" for hearsay purposes is left to "development in the case law." *Id.* at 480. "In determining what is an 'assertion,' . . . we look not only to 'the declaration's literal contents,' but also, in the words of the leading Maryland case on this subject—*Stoddard v. State*, 389 Md. 681 (2005)—to 'the implications or inferences contained within or drawn from an utterance.'" *Id*. In holding that Jackson's recorded jail call was inadmissible hearsay against McClurkin, the Court concluded:

> The State did not introduce the recording of the telephone call made by Jackson to prove the only direct assertion it contained—that Jackson had not been responsible for shooting the victim—but to encourage the jury to infer from the call that Jackson, and by implication McClurkin, were urging others to intimidate the victim into changing his story so that it no longer implicated them in the shooting at issue; that they were doing so because they had

[4] McClurkin also raised a Confrontation Clause argument, which we rejected. 222 Md. App. at 478-79.

> "guilty minds"; and that, therefore, they were guilty of the charges against them.

Id. at 482; *see also, Bell v. State*, 114 Md. App. 480, 490 (1997) (prosecutor's use of non-testifying codefendant's statement in cross-examination of defendant improper as "textbook hearsay").

Here, the State used the text messages not only to prove the direct assertion they expressed—that Ms. Hazel was actually lying when she testified that she had no recollection of the June 25, 2020 incident—but also to encourage the jury to infer from the text messages that Mr. Williams and others were intimidating Ms. Hazel to influence her testimony. In its brief, the State, in response to Mr. Williams's argument that the prosecution used the texts to insinuate a conspiracy to prevent Ms. Hazel from testifying truthfully, acknowledges that "[i]t took little exercise of common sense for a reasonable person to believe that Williams was in on any conspiracy." Thus, the State not only recognizes that the texts were used for the hearsay assertion that Mr. Williams was involved in trying to intimidate Ms. Hazel to change her testimony, thereby showing consciousness of guilt, but also to establish inadmissible "other crimes" evidence against Mr. Williams. *See* Md. Code, Crim. Law, § 9-305(a) ("A person may not, by threat, force, or corrupt means, try to influence, intimidate, or impede a juror, a witness, or an officer of a court of the State or of the United States in the performance of the person's official duties.").

We recognize that *McClurkin* involved the admission into evidence of recorded jail calls while the text messages in the case at bar were not formally admitted. Nevertheless, our caselaw recognizes that prosecutors may run afoul of the hearsay rule by their manner

of questioning. In *Elmer v. State*, 353 Md. 1 (1999), the Court concluded that the prosecutor improperly attempted to elicit inadmissible evidence through its questioning of witnesses. *Id.* at 14-15; *see also Bell*, 114 Md. App. at 495-96 (holding that prosecution's use of non-testifying witness's statement during cross-examination of appellant was improper where the prosecution "succeeded in placing before the jury the apparent content" of the inadmissible statement); *Mouzone v. State*, 33 Md. App. 201, 210-213 (1976) (holding that prosecutor made multiple improper references in questioning witnesses that could lead jury to conclude that defendant was guilty of the crime for which he was on trial). Here, by embedding the text messages within its cross-examination questions, the State was able to put inadmissible hearsay evidence before the jury. In the parlance of *Elmer*, the prosecution in this case used the texts to "inject inadmissible matters before a jury by asking questions that suggests its own otherwise inadmissible answer, 'hoping the jury will draw the intended meaning from the question itself.'" *Elmer*, 353 Md. at 13 (quoting C. WOLFRAM, MODERN LEGAL ETHICS § 12.1.12 (1986)).

Finally, we address the State's harmless error argument. The State argues that even if the prosecutor's use of the text messages constituted error, any error was harmless. The standard for reviewing harmless error is set forth in *Dorsey v. State*:

> [W]hen an appellant, in a criminal case, establishes error, unless a reviewing court, upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict, such error cannot be deemed 'harmless' and a reversal is mandated.

Dorsey v. State, 276 Md. 638, 659 (1976).

The record here demonstrates that the jury likely relied on the text messages to reach a verdict. The only question the jury sent to the judge was, "Are the text messages that were mentioned by the State that were sent by someone in the audience supposed to be considered in our deliberations." The court responded by reading Maryland Criminal Pattern Jury Instruction 3:00, which provides, relevant to this case, that:

> In making your decision, you must consider the evidence in this case, that is testimony from the witness stand, physical evidence or exhibits admitted into evidence and stipulations. In evaluating the evidence, you should consider it in light of your own experiences. You may draw any reasonable conclusions from the evidence that you believe to be justified by common sense and your own experiences.
>
> The following things are not evidence and you should not give them any weight or consideration: Any testimony that I struck or told you to disregard and any exhibits that I struck or did not admit into evidence. Questions that the witnesses were not permitted to answer and objections of the lawyers. When I did not permit the witness to answer a question, you must not speculate as to the possible answer. If after an answer was given I ordered that the answer be stricken, you must disregard both the question and the answer.

Because the court did not strike any of the questions or answers concerning the text messages, the jury could reasonably infer that it was permitted to consider the text messages as evidence. "[A]n error is harmless only if it did not play any role in the jury's verdict." *Williams v. State*, 462 Md. 335, 352 (2019) (quoting *Porter v. State*, 455 Md. 220, 234 (2017)). Based on this record, we cannot independently declare beyond a reasonable doubt that the erroneous use of the text messages "in no way influenced the

verdict." *Dorsey*, 276 Md. at 655.[5]

II

We consider Mr. Williams's challenge as to the sufficiency of the evidence because, if the evidence were insufficient to sustain his convictions, he would be entitled to reversal without a remand for a new trial. Mr. Williams argues the State did not meet its burden of proving that Mr. Williams caused the death of Mr. Jones or that Mr. Williams engaged with Mr. Jones in such a way as to inflict such bodily harm that death would be the likely result. He supports his argument by challenging the reliability of Ms. Hazel, the State's primary identification witness, who recanted her statements in the police interview, and by questioning the adequacy of the DNA evidence on Mr. Jones's left hand.

The standard of review for evidentiary sufficiency 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." *State v. Smith*, 374 Md. 527, 533 (2003). "Weighing the credibility of witnesses and resolving any conflicts in the evidence are tasks proper for the fact finder." *Id.* at 534 (quoting *State v. Stanley*,

[5] Although we need not reach Mr. Williams's second question concerning the propriety of the trial judge's instructions to the prosecutor to obtain a search warrant for Mr. Smith's phones, we take this opportunity to reiterate that "[n]ot only does a defendant have the right to a fair and disinterested judge but he is also entitled to a judge who has 'the appearance of being impartial and disinterested.'" *Archer v. State*, 383 Md. 329, 357 (2004) (quoting *Jefferson-El v. State*, 330 Md. 99, 105 (1993)). The trial judge here not only initiated the request for a search warrant for Mr. Smith's phones, but advised the prosecutor what information needed to be included in the affidavit. The court's role in securing evidence for the prosecution arguably "exceeded the bounds of judicial impartiality." *State v. Payton*, 461 Md. 540, 562 (2018).

351 Md. 733, 750 (1998)) (internal quotations omitted). As such, we do not re-weigh the evidence, but "we do determine whether the verdict was supported by sufficient evidence, direct or circumstantial, which could convince a rational trier of fact of the defendant's guilt of the offenses charged beyond a reasonable doubt." *Id*. (quoting *White v. State*, 363 Md. 150, 162 (1990) (internal quotations omitted)).

Mr. Williams repeatedly asserts that Ms. Hazel claimed that at the time of the murder, she was "high every day, all day" and had no recollection of even talking to the police. Detective Diener testified, however, that the Baltimore Police Department policy is not to interview someone who is "clearly intoxicated, under the influence of drugs, or just not able to comprehend what's going on." He further stated that he had no concerns about proceeding with Ms. Hazel's interview, implying that he did not find her to be under the influence of drugs or otherwise unable to comprehend the nature of the interview.

As previously noted, it is the jury's task to resolve any conflicts in the evidence and assess the credibility of witnesses. *Smiley v. State*, 138 Md. App. 709, 718 (2001). Here, the jury was asked to consider not only Ms. Hazel's testimony and prior police statements, but also her signed photo array identification of Mr. Williams. The jury also heard Detective Diener's testimony that Ms. Hazel appeared to be lucid during his interview. "A jury is free to believe part of a witness' testimony, disbelieve other parts of a witness' testimony, or to completely discount a witness' testimony." *Id.* at 719 (citing *Muir v. State*, 64 Md. App. 648, 654 (1985)). We shall not second-guess the jury's credibility determinations.

Additionally, Mr. Williams points to what he deems is "speculative" DNA evidence found in a swab taken from under the fingernails of Mr. Jones's left hand. The State's forensic expert, Dr. Holly Porter, testified that DNA matching Mr. Williams's known genetic profile was discovered under Mr. Jones's left fingernails. Dr. Porter was not able to opine how Mr. Williams's DNA got under Mr. Jones's fingernails, only that the DNA was present. Dr. Porter also testified that the DNA of at least one other unidentified "minor contributor" was found under Mr. Jones's fingernails. Mr. Williams argues that his DNA could have been innocently transferred to Mr. Jones by way of sharing tools on a job site or via a third person who happened to touch an item that both men handled. While Dr. Porter conceded that such a casual transfer was "possible," we note that the "quality and quantity of evidence required to convince a rational fact finder of the criminal responsibility of an accused cannot be considered in a vacuum." *Curtis v. State*, 68 Md. App. 509, 517 (1986). The jury was tasked with considering the presence of Mr. Williams's DNA under the fingernails of Mr. Jones, in addition to Ms. Hazel's police statement and her identification of Mr. Williams in the photo array. The jury also had Cheryl Brown's description of the assailant and the surveillance camera footage that showed a brief glimpse of the attack (including the clothing and relative statures of the two men). Based on the totality of the evidence presented at trial, including permissible inferences therefrom, we conclude that there was sufficient evidence from which the jury could have determined that Mr. Williams was guilty of second-degree murder and carrying a deadly weapon with intent to injure.

CONCLUSION

The prosecution's use of Mr. Smith's text messages during Mr. William's cross-examination allowed inadmissible hearsay to be put before the jury. We cannot conclude that this error was harmless beyond a reasonable doubt. Accordingly, we shall vacate Mr. Williams's convictions and remand this matter for a new trial.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY VACATED. CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE CITY FOR A NEW TRIAL. COSTS TO BE PAID BY THE MAYOR AND CITY COUNCIL OF BALTIMORE.