Circuit Court for Anne Arundel County
Case No. C-02-CV-21-001797

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1401

September Term, 2023

CHARLES COX, ET AL.

v.

ANDREW D. STALLINGS, ET AL.

Wells, C.J.,
Tang,
Eyler, Deborah, S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: December 13, 2024

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

On December 30, 2018, appellee Corporal Andrew Stallings, a police officer with the Anne Arundel County Police Department ("AACPD"), responded to a call for police assistance at the residence of appellants Charles and Annette Cox. There, Missy, the Coxes' three-year-old, 116-pound, Cane Corso Mastiff ran out of the house as Stallings approached. Stallings, who later testified he was in fear of imminent harm, shot and killed Missy. The Coxes sued Stallings, alleging four violations of their rights under the Maryland Declaration of Rights and one *Longtin*[1] claim of unconstitutional custom, pattern, or practice by a law enforcement agency. A jury found in favor of Stallings on all counts.

The Coxes subsequently appealed to this Court and present three questions for our review, which we condensed and rephrased for clarity:[2]

1. Did the trial court abuse its discretion by allowing Sergeant Gleason to testify as an expert and rely on AACPD's policies and procedures for his opinion?

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[1] *Prince George's County v. Longtin,* 419 Md. 450 (2011).

[2] The Coxes' verbatim questions are:

1. Did the trial court err in admitting Sgt. Gleason as an expert witness after he testified during voir dire that he is not an expert on the issues Appellees sought for him to opine on and evidence adduced during trial demonstrated that he was in fact not an expert in those areas?
2. Did the trial court err in permitting Sgt. Gleason to disclose otherwise inadmissible evidence under Maryland Rule 5-703 without making the required pre-requisite findings and without instructing the jury as required under the Rule despite Appellants' request?
3. Did the trial court err in excluding the individual propensity evidence about Missy's character and behavior offered by Appellants and admitting the breed propensity evidence about Cane Corsos generally offered by Appellees?

2. Did the trial court abuse its discretion by allowing Sergeant Gleason to disclose facts and data to the jury on which he relied to form his expert opinion?
3. Did the trial court err in its decisions to admit and exclude evidence of Missy's character traits?

For the reasons that follow, we answer the first two questions in the negative. On the third question, we hold that the circuit court erred in admitting some evidence of Missy's character traits, but the errors were harmless. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On December 30, 2018, while on patrol, Stallings responded to a call for police assistance at the Coxes' residence. Jimmy Khouri,[3] a guest of the Coxes, placed the call. Khouri's sister, who was dating the Coxes' son and was also a guest in the home, allegedly refused to give Khouri back his credit card. Khouri met Stallings on the back side of the house. The backyard of the Coxes' residence had a fence around it, but part of the fence was completely down, and the yard's gate was permanently open. After initially meeting with Stallings outside of the house, Khouri went back inside to get his sister. As Khouri entered the residence through a sliding door, Missy ran outside.

What happened next was intensely disputed at trial. Stallings testified that Missy stopped in the yard, became aware of him, and then charged at him. Stallings said he tried to back up, but Missy closed the distance quickly, barked at him, and tried to bite him. No

[3] Prior to trial, Mr. Khouri died for reasons unrelated to this case and was not available to testify.

one disputes that Stallings then fatally shot Missy with his firearm. But the Coxes were adamant that Missy did nothing to put Stallings in fear of bodily harm or death.

The Coxes sued Stallings and Anne Arundel County. They alleged four violations of their rights under Articles 24 and 26 of the Maryland Declaration of Rights[4] and one *Longtin*[5] claim of unconstitutional custom, pattern, or practice. They sought damages in excess of $75,000 for injuries, including emotional injuries and punitive damages.

After a six-day trial in the Circuit Court for Anne Arundel County, a jury found in favor of Stallings on all counts. The Coxes moved for a new trial, which the circuit court denied.

The Coxes made a timely appeal to this Court. They raise issues with the trial court's admission of testimony from one of Stallings's expert witnesses, Sergeant William Gleason, and evidence of Missy's character traits the court admitted and excluded. We address the evidence at trial which is relevant to each of those issues below.

STANDARD OF REVIEW

The Coxes raise three issues on appeal that require us to review the circuit court's decisions to admit or exclude evidence at trial. The standard for reviewing a trial court's ruling on the admissibility of evidence depends on whether it was "based on a discretionary

[4] The constitutional claims alleged that Stallings deprived Mr. and Mrs. Cox of their Maryland Constitutional rights by unlawfully, and without justification, entering their property and depriving them of their property, Missy.

[5] The *Longtin* claim alleged that Anne Arundel County tolerates and encourages practices of unconstitutional entry onto property and seizures of pets by shooting them.

weighing of relevance in relation to other factors or on a pure conclusion of law." *Lamalfa v. Hearn*, 457 Md. 350, 372–73 (2018) (quoting *Brown v. Daniel Realty Co.*, 409 Md. 565, 583–84 (2009)). Thus, a trial court's ruling on the admissibility of evidence, including the admissibility of expert testimony, is generally reviewed for abuse of discretion because it is based on a discretionary weighing of its probative value against the danger of unfair prejudice or other concerns in Maryland Rule 5-403. *Id.*; *State v. Simms*, 420 Md. 705, 725 (2011). "'Abuse of discretion exists where no reasonable person would take the view adopted by the trial court, or when the court acts without reference to guiding rules or principles.'" *State v. Robertson*, 463 Md. 342, 364 (2019) (cleaned up) (quoting *Alexis v. State*, 437 Md. 457, 478 (2014)).

"[W]hen a trial court's ruling involves a legal question, we review the trial court's ruling *de novo*." *Lamalfa*, 457 Md. at 372–73 (quoting *Brown,* 409 Md. at 583–84). Thus, whether evidence is "legally relevant" is reviewed *de novo*. *Simms*, 420 Md. at 724–25. Put another way, trial judges have "wide discretion" in "weighing relevancy in light of unfairness or efficiency considerations, [but] trial judges do not have discretion to admit irrelevant evidence…. The 'de novo' standard of review is applicable to the trial judge's conclusion of law that the evidence at issue is or is not 'of consequence to the determination of the action.'" *Id.* (cleaned up) (citations omitted). It is presumed the circuit court knew and properly applied the law. *Lamalfa*, 457 Md. at 389.

Even if the court erroneously admitted or excluded evidence, we will only find it to be reversible error if the complaining party is prejudiced by the ruling. Md. Rule 5-103(a). This means "we will not disturb an evidentiary ruling by a trial court if the error was

harmless." *Lamalfa*, 457 Md. at 373. The standard of review for harmless error in civil cases is as follows:

> Prejudice will be found if a showing is made that the error was likely to have affected the verdict below. It is not the possibility, but the probability, of prejudice which is the object of the appellate inquiry. Courts are reluctant to set aside verdicts for errors in the admission or exclusion of evidence unless they cause substantial injustice. Substantial prejudice must be shown. To justify the reversal, an error below must have been both manifestly wrong and substantially injurious.

Flores v. Bell, 398 Md. 27, 34 (2007) (quoting *Crane v. Dunn*, 382 Md. 83, 91–92 (2004) (quotations omitted) (cleaned up)). The appellant bears the burden to prove both error and prejudice. *Lamalfa*, 457 Md. at 373.

DISCUSSION

I. The Court Did Not Err in Admitting Sgt. Gleason as an Expert Witness, or in Allowing Him to Opine Regarding AACPD Policies and Procedures.

A. Parties' Contentions

The Coxes argue the court abused its discretion when it admitted Sgt. Gleason as an expert because his opinion relied on the policies and procedures of the AACPD, in which Sgt. Gleason stated he was not specifically an expert. Stallings responds the court did not abuse its discretion and cites numerous aspects of Sgt. Gleason's voir dire answers and curriculum vitae that support him as an expert in "law enforcement practices and procedures, including the use of force," the area in which the court accepted him as an expert. Additionally, Sgt. Gleason testified he had sufficient information about AACPD's training related to dog shootings to render an expert opinion based on those facts.

B. Sgt. Gleason's Admission as an Expert Witness

As just mentioned, the court admitted Sgt. Gleason as an expert in the area of "law enforcement practices and procedures, including the use of force." In support of his expert designation, Sgt. Gleason provided testimony and a curriculum vitae describing his many years of experience as a police supervisor, instructor in use of force classes, and numerous certifications and trainings in use of force, de-escalation techniques, and the law.[6]

Sgt. Gleason also testified that he previously assisted in over 250 officer-involved shooting investigations in some capacity. He also worked for the past couple years with a task force to reduce the number of officer-involved dog shootings in Prince George's County. This involved reviewing best practices and conducting trainings for officers at other police departments. Additionally, Sgt. Gleason interviews every officer involved in a dog shooting in Prince George's County to determine whether the officer's actions were justified and reasonable.

During voir dire, the Coxes asked Sgt. Gleason if he would consider himself an

[6] Sgt. Gleason testified that he was currently a First Sergeant with the Prince George's County Police Department's Training and Education Division. He was the officer-in-charge of the specialized training unit and taught many different classes for police and civilians, including defensive tactics, batons, tasers, pepper spray, de-escalation, and crisis intervention. He also maintained numerous certifications and trainings with federal, state, and local agencies, including the Department of Justice and Federal Bureau of Investigation. He received training in constitutional law and the Fourth Amendment, although he is not a lawyer. Sgt. Gleason was previously admitted as a use of force expert in multiple jurisdictions, including Anne Arundel County, and has testified for and against police officers. Sgt. Gleason's curriculum vitae was also entered into evidence, which included details of numerous other experiences and trainings related to use of force. He also reviewed the statements from witnesses in this case and was present in the court room for Stallings's testimony.

expert in AACPD's policies and procedures. Stallings objected, and the court held a bench conference. The court ultimately allowed the Coxes to ask the question but advised that his answer did not affect his expertise in use of force, explaining:

> COURT: What that would suggest is that an expert is unable to testify about matters for which they're not licensed within a particular jurisdiction for which they may -- what you're suggesting makes no sense. An individual can be an expert in the field, can be provided information from which they can then glean an expert opinion.

When the Coxes re-asked Sgt. Gleason if he was an expert in AACPD policies and procedures, he answered: "I would not consider myself an expert in Anne Arundel County policy and procedures. I've testified with you before that policies and procedures for Prince George's County, a lot of them are similar, but I would not say that I'm an expert in their -- Anne Arundel's policy and procedure." Shortly after, the Coxes asked Sgt. Gleason if he had sufficient information of AACPD's training related to dog shootings to render an expert opinion. Sgt. Gleason replied:

> [SGT. GLEASON]: I'm familiar. I was provided with police and training, training bulletins, things like that, updated training bulletins. So I am familiar with it. I know it's similar to ours. As far as an expert, I mean, I know the policy. I would, I would consider, yes, I'm an expert in it, because I've dealt with dog shootings, specifically in Prince George's County, every officer that's involved in a dog shooting has to come to see me to do a debrief and we discuss the incident and figure out are there ways to avoid it, was the officer's actions justified and reasonable. So I would consider myself an expert in that. Yes.

The court admitted Sgt. Gleason as an expert in law enforcement practices and procedures, including the use of force. He later provided several opinions in his testimony, including that Stallings acted in accordance with AACPD's policies and procedures when he shot Missy.

B. Analysis

"We review a circuit court's decision to admit expert testimony for an abuse of discretion." *Abruquah v. State*, 483 Md. 637, 652 (2023); *see also State v. Matthews*, 479 Md. 278, 306 (2022) ("[I]t is the rare case in which a Maryland trial court's exercise of discretion to admit or deny expert testimony will be overturned."). Maryland Rule 5-702 provides the basis for admitting witnesses as experts:

> Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine
>
> (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education,
>
> (2) the appropriateness of the expert testimony on the particular subject, and
>
> (3) whether a sufficient factual basis exists to support the expert testimony.

Additionally, Maryland Rule 5-703(a) states that expert opinions may be based on "facts or data in the case that the expert has been made aware of or personally observed." S*ee Lamalfa*, 457 Md. at 374–75 (quotation omitted) ("[I]t has been the practice in this jurisdiction for some years to permit an expert to express his or her opinion upon facts in the evidence which he or she has heard or read, upon the assumption that these facts are true.").

The Coxes frame the issue as Sgt. Gleason being improperly admitted solely as an expert in AACPD policies and procedures. The Coxes point to Sgt. Gleason's statement during voir dire that he was not specifically an expert in AACPD's policies as the basis to argue that he was improperly admitted as an expert.

To further support their position, the Coxes cite *Jones v. Reichert Jung, Inc.* as an example of a case where two witnesses were not qualified as experts because they admitted they were not experts about the machine at issue. 211 F. Supp. 2d 661 (2002). *Jones* was a products liability case for alleged injuries caused by a medical machine. *Id.* at 663–64. The *Jones* court explained the witnesses could not be offered as experts because they lacked specialized knowledge of science, mechanics, engineering to give an expert opinion about the specific medical device. *Id.* at 668. Indeed, as the Coxes point out, the *Jones* witnesses also did not claim to have any specialized knowledge regarding the specific medical device. *Id.*

The situation here is different from *Jones* because, although Sgt. Gleason admitted he was not an expert in AACPD policies and procedures specifically, the court here found Sgt. Gleason was an expert in "law enforcement practices and procedures, including the use of force." The *Jones* court did not exclude the witnesses as experts just because they admitted to not having knowledge of the specific machine. Rather, the witnesses did not have any specialized knowledge in science, mechanics, or engineering—the broad areas of knowledge that would be necessary to render an expert opinion about the machine. Unlike the witnesses in *Jones*, Sgt. Gleason possessed experience, training, skills, and knowledge in a specialized area of expertise such that he could provide an expert opinion as to whether Stallings acted in accordance with AACPD policies and procedures. As such, Sgt. Gleason was able to apply his expertise in law enforcement procedures to opine on the specific AACPD policies at issue.

Contrary to what the Coxes argues on appeal, the record indicates Sgt. Gleason was admitted as an expert in "law enforcement practices and procedures, including the use of force," not AACPD's policies. The Coxes misplaced focus on AACPD's policies fails to raise an argument that we should revisit his expert designation in law enforcement policies and procedures. As such, we conclude the court did not abuse its discretion in admitting Sgt. Gleason as an expert witness in law enforcement practices and procedures, including the use of force.

To the extent the Coxes argue Sgt. Gleason should not have been allowed to rely on AACPD's policies and procedures in providing his expert opinion, we address that argument as well. Sgt. Gleason was found to be an expert witness by the court, so he was allowed to provide an opinion based on facts he was made aware of, including AACPD's policies and procedures. Md. Rule 5-703(a).

There is no requirement that an expert witness be an expert in every specific situation to which they apply their skills, knowledge, experience, and training. For example, in *Ingersoll v. State*, this Court held that an expert witness admitted in the broad field of "gangs found within the Maryland prison system and their operations, both inside and outside prison walls" could testify to the history, hierarchy, and practices of a specific gang. 262 Md. App. 60, 72–73, 78–79 (2024). The expert's testimony was based on his review of the defendant's intelligence file, tattoos, and the expert's training and experience with gangs. *Id.* at 74. The *Ingersoll* court acknowledged the expert's experience with the specific gang post-dated the incident by five years and much of the expert's training was

not specific to the gang at issue. *Id.* But, the court noted those facts went to the weight of his testimony, not the admissibility. *Id.*

Like the expert in *Ingersoll*, Sgt. Gleason was admitted as an expert in a broad field: law enforcement policies and procedures, including the use of force. Just as the *Ingersoll* expert applied his expertise to opine about the defendant's actions in light of the specific gang's history and practices, Sgt. Gleason applied his knowledge of police policies and procedures to opine about Stallings's actions in light of AACPD's policies and procedures. In doing so, Sgt. Gleason relied on witness statements, in-court testimony, and other pieces of evidence provided to him, including AACPD's policies and procedures. His depth of knowledge in AACPD's polices went toward the weight of his testimony, not the admissibility.

Accordingly, we hold that the circuit court did not abuse its discretion in allowing Sgt. Gleason to provide an expert opinion based on AACPD's policies and procedures.

II. The Court Did Not Err in Allowing Sgt. Gleason to Disclose Facts And Data to the Jury.

A. Parties' Contentions

The Coxes argue the court erred because it permitted Sgt. Gleason to disclose inadmissible facts and data fifteen times during his expert testimony without complying with Maryland Rule 5-703(b)–(c). They assert Maryland Rule 5-703(b) required the court to make a finding on the record that the probative value of the inadmissible facts and data substantially outweighed their prejudicial effect before allowing them to be disclosed to the jury, which the court did not do. Additionally, the Coxes contend the court erred

because it did not immediately instruct the jury to consider the inadmissible statements only to evaluate the validity and probative value of Sgt. Gleason's opinions, in accordance with Maryland Rule 5-703(c).

Stallings argues that each of the fifteen allegedly inadmissible facts or data were either not objected to at trial or were admissible, therefore the court did not need to make the findings or provide jury instructions under Maryland Rule 5-703(b)–(c). Additionally, Stallings contends the Coxes never requested the jury instructions at the close of trial, as required by Maryland Rule 5-703(c).

B. Trial Testimony at Issue

The Coxes claim the court erred by allowing Sgt. Gleason to disclose numerous facts to the jury without complying with Maryland Rule 5-703(b)–(c). Our review of the record shows the first objection was to Sgt. Gleason's description of AACPD's use of force training:

> [SGT. GLEASON]: So MPCTC is the Maryland Police Correction and Training Commission, which is the governing body of all police agencies and police officers in the State of Maryland. Every officer has to be certified through MPCTC to maintain their certifications and the departments have to maintain their certificate through them as well.
>
> [STALLINGS' COUNSEL]: So you just said every police officer in the State of Maryland has to have that?
>
> [SGT. GLEASON]: Yes, sir.
>
> [STALLINGS' COUNSEL]: Is the Anne Arundel County Police Department's police academy certified by that organization?
>
> [SGT. GLEASON]: Yes.

> [STALLINGS' COUNSEL]: Can you describe the use of force training that officers, including Corporal Stallings undergo?
>
> [SGT. GLEASON]: So use of force training starts from, you know, the very beginning --
>
> [COXES' COUNSEL]: Objection as to what -- objection.
>
> COURT: Overruled.

Sgt. Gleason then generally described the topics covered in use of force training for Maryland officers.

The Coxes' second objection came at the end of Sgt. Gleason's lengthy opinion about Stallings' use of force options at the time of the shooting. The Coxes claim they objected to many statements in Sgt. Gleason's opinion, although the record indicates they only objected at the end of his testimony on use of force:

> [STALLINGS' COUNSEL]: Okay. Could you describe your opinion as it relates to the options of lethal force at his disposal?
>
> [SGT. GLEASON]: Yes.
>
> [STALLINGS' COUNSEL]: Could you explain that to the ladies and gentlemen of the jury?
>
> [SGT. GLEASON]: Yes. So it's been discussed that other options, and it is part of the training. We train officers to avoid using deadly force, using their firearm, if they can safely do so.
>
> Being a master instructor in those other less lethal devices, I will tell you from my experience as a, as an instructor, and then also, you know, seeing the officers, so for example, the taser device is an electronic controlled device. The taser, taser device fires two prongs out of it.
>
> In order to successfully use it on a[n] animal, you actually have to turn the device sideways, lateral to fire the probes laterally as opposed to vertically. The probes have to have a probe spread in order to cause what Officer Stallings talked about earlier, neuromuscular incapacitation.

> And that's the override of the central nervous system. Dogs have the same thing. So with a dog coming at you, firing a taser at it in a normal way, you would really have to condition yourself to move to the side, turn it sideways, and try to hit the dog in the, in the, in the torso.
>
> It just -- he doesn't have time to do that. So in my opinion, the use of the taser just was not going to be effective, even if he just fired it regularly, because with the dog appearing to come at him, and that's what the evidence -- some of the evidence that I reviewed showed, that it's -- the probe maybe would hit him in the head, which is a, you know, bony surface, and it has to penetrate the skin.
>
> It'll -- if it hits like the skull or something, it'll bounce off. It has to penetrate the skin. So in my opinion, the taser would not be a viable option, and that just the probability of that working and stopping the dog would not be very, very high.
>
> OC spray, same thing. With my research when, when we were looking at this, we had to go to the postal service and talk to them about their experiences and using chemical agents. They used to use mace, now they use OC or oleoresin capsicum. It's pepper spray, basically. That, that's only successful about 50 percent of the time, that it all depends on the dog's drive, is it a prey drive or a protection drive, things like that, that the dog can overcome pepper spray depending on the drive, and a protective drive is one of the highest drives. And that's what I believe that the dog was in, in this particular circumstance was a --
>
> [COXES' COUNSEL]: Objection.
>
> COURT: Overruled.

C. **Analysis**

"[A] trial court's ruling on the admissibility of evidence is reviewed pursuant to the abuse of discretion standard. Such rulings, it is maintained, are left to the sound discretion of the trial court and will not be reversed on appeal absent a showing of abuse of that discretion." *Lamalfa*, 457 Md. at 372–73 (quoting *Brown*, 409 Md. at 583–84).

An expert witness can provide opinions based on facts or data that would otherwise not be admissible in court. Md. Rule 5-703(a). However, if an expert discloses to the jury

otherwise inadmissible facts or data on which they relied to form their opinions, that evidence may only be disclosed to explain how the expert reached an opinion, not for its substance. *Lamalfa*, 457 Md. at 375–76. In order to make sure the disclosure of otherwise inadmissible evidence is limited to explain the expert's opinion, Maryland Rule 5-703 provides:

> **(b) If Facts or Data Inadmissible.** If the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury over objection only if the court finds on the record that their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.
>
> **(c) Instruction to Jury.** If facts or data not admissible in evidence are disclosed to the jury under this Rule, the court, upon request, shall instruct the jury to use those facts and data only for the purpose of evaluating the validity and probative value of the expert's opinion or inference.

Md. Rule 5-703(b)–(c) (bold in original).

The Coxes point to fifteen instances where they claim Sgt. Gleason triggered Maryland Rule 5-703(b)–(c) by disclosing inadmissible evidence to the jury, a majority of which they argue was hearsay. Hearsay is defined as a "statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Md. Rule 5-801(c).

In order to trigger Maryland Rule 5-703(b)–(c), the statements must contain otherwise inadmissible evidence and be objected to at trial. The Coxes argue Sgt. Gleason disclosed inadmissible evidence through fifteen individual statements. We categorized these statements into four groups and address each one in turn.

First, the Coxes argue Sgt. Gleason disclosed inadmissible hearsay statements as to what Stallings did at the scene of the shooting, as well as statements about the threat he perceived from Missy. Indeed, the one and only time the Coxes specifically objected under Maryland Rule 5-703(b)–(c) was when Sgt. Gleason stated Stallings "was responding to a call for service." At the bench, the Coxes argued 5-703(b)–(c) applied because Sgt. Gleason disclosed inadmissible hearsay. The trial court correctly explained 5-703(b)–(c) was not yet triggered because Sgt. Gleason's testimony was based on Stallings's in-court statements during the Coxes' case in chief—statements which do not constitute inadmissible hearsay.

In their brief, the Coxes argue several other statements by Sgt. Gleason discussing what Stallings did and perceived were inadmissible hearsay. Most of the alleged inadmissible hearsay statements were not objected to at trial. When an objection was made, Sgt. Gleason's statements were based on Stallings's in-court testimony and were not hearsay, as the court explained at the trial. Therefore, the court did not err in permitting disclosure of these statements in Sgt. Gleason's expert testimony because the statements were not inadmissible hearsay triggering Maryland Rule 5-703(b)–(c).

Second, the Coxes argue Sgt. Gleason disclosed inadmissible hearsay when he testified to the use of force training officers in Maryland receive and AACPD's deadly force policy. Again, many of these statements, including the statement about the deadly force policy, were not objected to at trial. We will not review any evidentiary issues the Coxes raise on appeal that were not preserved at trial via a timely objection. *See* Rule 8-131.

An evidentiary issue may be raised at trial by a timely objection. A general objection—one that does not state the specific grounds for the objection—preserves all issues for appeal, except when the judge or a rule requires specific grounds. Md. Rule 5-103(a)(1). Additionally, if counsel provides specific grounds for the objection, then all other grounds not stated are waived. *Pitt v. State*, 152 Md. App. 442, 463 (2003). The vast majority of the errors the Coxes claim simply were not preserved because they did not make a timely objection.

Preservation aside, Sgt. Gleason's testimony about use of force training for officers in Maryland was not based upon inadmissible hearsay. He described the general topics taught to police officers based on his knowledge as an officer and instructor. He did not disclose any hearsay materials or statements made out of court by others. Therefore, Sgt. Gleason's testimony did not trigger 5-703(b)–(c).

Third, the Coxes argue Sgt. Gleason impermissibly provided an expert opinion based upon speculation and hearsay when he testified that the effectiveness of OC spray differs for a dog in a protective drive versus a dog in a prey drive. An expert's in-court opinion is not hearsay, but facts and data they relied on to form the opinion can be. From the record, it appears the Coxes objected to Sgt. Gleason's opinion that Missy was in a protective drive, not his earlier statement about the effectiveness of OC spray on dogs. The opinion about Missy's drive would not be hearsay or speculation triggering 5-703(b)–(c) because it was an in-court statement based on Sgt. Gleason's knowledge and reviewed materials.

However, just before opining on Missy's drive, Sgt. Gleason was describing research with postal service employees' experience and use of chemical agents on dogs. We agree the specifics of the research was inadmissible hearsay because it contained statements and statistics provided out of court by other people. To the extent that the Coxes properly objected to the disclosure of this information, any error in admitting it was harmless. Sgt. Gleason provided other admissible testimony which could support the jury's verdict that Stallings's use of deadly force was justified. Of importance, Sgt. Gleason stated Stallings's actions were consistent with AACPD training and policy by attempting to retreat. He also opined that Stallings did not have time to use less lethal weapons and was justified to use deadly force against an imminent threat of serious injury or death. In addition, Stallings provided other witnesses, including himself, whose testimony was sufficient for the jury to find his use of force was proper. Because any potential error the court made in admitting Sgt. Gleason's testimony was harmless, we need not reverse.

Finally, the Coxes argue Sgt. Gleason's statement that "the studies have shown it's less than 50 percent effective on dogs, using a chemical agent[,]" was hearsay. This statement was not objected to at trial. If it was, the admission of these hearsay statements were harmless error for the same reasons as the statements about the postal service's experience with chemical agents.

Overall, our review of Sgt. Gleason's statements preserved at trial shows he did not disclose otherwise inadmissible facts or data, therefore Rule 5-703(b)–(c) was not triggered, and the court did not err in admitting Sgt. Gleason's testimony. To the extent

Sgt. Gleason did base some of his testimony upon inadmissible hearsay, any error the court made in admitting this testimony without complying with Rule 5-703(b)–(c) was harmless.

III. The Court Did Not Err When it Excluded Evidence of Missy's Character Traits for Propensity, and Any Error in Admitting General Propensity Evidence of Cane Corso Breeds was Harmless Beyond a Reasonable Doubt.

A. Parties' Contentions

The Coxes first contend the circuit court erred when it did not admit all their testimony as to Missy's specific character traits. Second, they argue the court erred when it admitted testimony regarding Cane Corso breeds generally from the cross-examination of Mr. Cox and direct examination of expert witness, Robin Catlett.

Stallings responds that the court correctly excluded evidence of Missy's specific character traits on prior occasions as it is impermissible propensity evidence under Maryland Rule 5-404(a)(1). Additionally, Stallings argues the court properly allowed testimony regarding general breed characteristics of Cane Corso dogs because the Coxes opened the door to rebuttal evidence by testifying to Missy's specific character traits.

B. Relevant Testimony Regarding Missy's Character Traits

1. The Coxes' Case in Chief

During their case in chief, the Coxes' witnesses made several statements that could be classified as "character" testimony about Missy. Latoya Lawson, the daughter and next-door neighbor of the Coxes, testified that Missy was: "a fun, loving, friendly dog. Playful[]", "loved being around people[]", and "never attacked anyone . . . ." Stallings did not object to these statements.

Mr. Cox testified to his observations of Missy interacting with people and dogs at

the dog park. Stallings objected to Mr. Cox's statement that "Missy was a go-lucky puppy. Just loves to play. All she -- she just loves to play. Pulling on things, playing, running, running around the house." The court then held a bench conference. Stallings argued Mr. Cox's statements were barred by the propensity rule. However, Stallings also acknowledged some testimony about Missy's character traits was being offered for the purpose of showing the Coxes' emotional damages, which was admissible. The court explained that testimony about Missy was limited to show the dog's value to the Coxes as destroyed property, not that she had certain character traits:

> COURT: What the dog meant to them, what the chair meant to them, I think that's why I have this case, what the chair meant to them, they can testify about. It's a favorite chair, it's always there, when I come home from work, I put my feet up on it, I love it, it matches the couch, you can testify to all that, but you can't testify about its propensity to do things, and that's what we're getting into, because this is our puppy that everybody loved.
>
> . . . .
>
> The fact that they had a relationship with the dog is fine, but to go into the character, the character traits of this particular dog.
>
> . . . .
>
> The testimony -- [Mr. Cox] can testify about what he did with the dog, he can testify about, you know, what his family did with the dog, but what he's testifying to now is a very specific issue, and that is that he wants this jury to believe that this breed of dog has a particular character trait, and he can't testify to that.

Later, given this guidance, the court sustained Stallings' objections to Mr. Cox's statements that "Missy never growled, snapped at anything", and "Missy always was a calm dog. She never jumped on nobody."[7]

But our review of the record reveals that the court also admitted several of Mr. Cox's statements about Missy's character that sometimes blurred the line between evidence to show emotional damages and propensity:

> [COXES' COUNSEL]: All right, Mr. Cox, while you were at all these different parks throughout the years, how did it make you feel when you saw Missy interacting with other people?
>
> [MR.COX]: I loved to see her interact with people. Missy never got upset with any dogs or anything.
>
> [STALLINGS' COUNSEL]: Objection.
>
> [MR. COX]: She was just a happy --
>
> [STALLINGS' COUNSEL]: Objection.
>
> COURT: Overruled. He can describe what he contends to be the dog's -- go ahead and finish the sentence, counsel.
>
> [MR. COX]: Missy was just a happy dog. Missy never growled, snapped at anything.
>
> COURT: All right. I will sustain the objection as to the last part of that response.

[7] The court also sustained some of Stallings' objections to Mr. Cox's testimony because Mr. Cox testified to matters outside of his knowledge, in violation of Maryland Rule 5-602 (prohibiting a lay witness from testifying on matters which they lack personal knowledge) and 5-701 (requiring a lay witness's opinion testimony to be rationally based on the witness's own perception). These were instances where Mr. Cox stated what other people did or thought at the dog park, such as: "You go down there 7 o'clock in the morning, everybody has their dogs down there", and "people [were] praising [Missy] because she looks so good."

. . . .

[COXES' COUNSEL]: So how did it make you feel [to take Missy to the park], Mr. Cox?

[MR. COX]: It makes me feel good to walk my dog and he [sic] has fun and is happy, wagging his [sic] tail.

[COXES' COUNSEL]: And why is that?

[MR. COX]: Because that's what I like about animals, they bring love and joy into your life.

[COXES' COUNSEL]: What were your favorite activities to do with Missy?

[MR. COX]: Basically, go down to the park, go down to the pond, throw sticks, she retrieve them, and teaching her different new things that we (inaudible).

[COXES' COUNSEL]: What was your experience like when you had Missy with you around strangers?

[MR. COX]: She was just normal. She wanted to play.

[STALLINGS' COUNSEL]: Objection.

COURT: Overruled.

[COXES' COUNSEL]: I'm sorry, can you repeat --

COURT: This is, what was your experience, sir.

[MR. COX]: What was my experience?

COURT: Mm-hm.

[MR. COX]: My experience, she was just happy.

[COXES' COUNSEL]: Did you ever observe Missy jump up on anyone?

[MR. COX]: No.

[COXES' COUNSEL]: Did you ever observe Missy be aggressive towards anyone?

[MR. COX]: No.

[STALLINGS' COUNSEL]: Objection, leading.

COURT: Sustained. Don't lead the witness, please.

Mrs. Cox also testified about Missy during her direct examination. She described trips to the dog park during which Missy played with other dogs and even once struck up a friendship with a rabbit that Missy "adored" and "kept sniffing" and "wanted to lick . . . ." Mrs. Cox testified she ran a daycare out of her house and described how she and the daycare children took joy from teaching Missy tricks like rolling over. Mrs. Cox described how her grandchildren would tease Missy by going in the kitchen where Missy was not allowed, but Missy was so well trained that she would stand at the threshold of the kitchen and tap her toes. Over objection, Mrs. Cox also testified that her experience with Missy and her grandchildren was "[h]appy, lovable, excited . . . .".

2. Stallings's Cross-Examination of Mr. Cox

During the cross-examination of Mr. Cox, the court allowed Stallings to elicit two statements about the Cane Corso breed generally, over the Coxes' objections. Stallings' counsel first asked Mr. Cox, "It's your understanding that a Cane Corso is a bodyguard dog, correct?" Mr. Cox answered, "Yes." Soon after that question, Stallings asked Mr. Cox if he bought a Cane Corso for the purpose of home protection. Mr. Cox responded, "No, for love." Second, Stallings' counsel asked Mr. Cox, "Do you recall during your deposition when . . . my co-counsel, asked you about Cane Corsos being man stoppers?" Mr. Cox answered, "I agreed that Cane Corsos is a man stopper, yes." At a bench conference, the

court refused the Coxes' request to strike the "man stopper" statement.[8]

3. Stallings' Case in Chief

The court permitted Stallings to produce evidence of Missy's character on occasions prior to the shooting because the court ruled the Coxes opened the door with their testimony about Missy's behavior. The court first explained their reasoning during a bench conference at the beginning of Stallings's case in chief:

> [COXES' COUNSEL]: I thought the contention was that -- I understood their contention to be that she was consistent that the dog had never interacted with police.
>
> [STALLINGS' COUNSEL]: And this impeaches that. We did put him on the voir dire list, so they did get notification of him prior to this trial. And he does -- but I didn't know how that evidence was going to play out because we were making propensity arguments but still some evidence still got in because they were allowed to testify to it. And so in defense of my client, we should be allowed to produce evidence to the contrary.
>
> . . . .
>
> [COXES' COUNSEL]: At least as to the characteristics of the dog, how it looked, how it acted, things like that, that was always known to be at issue in the case, so that testimony --
>
> COURT: But now you're asking me to split the hairs, counsel. The issue here, as I tried to indicate to everybody before, you have now put before the jury that this is a kind, loving dog that's never jumped up, never gotten excited over anything in an inappropriate way. Has played with the children, was taught to roll on the ground with the children. It is someone, or it's a dog that was trusted to sleep in the bed, at least until Mrs. Cox kicked it out, I suspect, because it got too big. So you have portrayed, as much as I try to

[8] For context, although the court admitted these statements over the Coxes' objections, the court also sustained their objections to two questions: (1) "And you would agree that the Cane Corso, based upon your knowledge and experience with Cane Corsos, has the second strongest bite in the world?"; (2) "And you would agree -- or you had actually stated that Cane Corsos are intimidating at glance, correct?"

> prevent all of you from discussing this specific, we're talking about character traits on a day other than that day, or how it acted on that particular day. I gave you leeway at your request, so that you all can portray this child -- child -- as a, this dog as a completely docile animal. They're entitled to put forth, now that that has come in, they are entitled to put forth evidence to the contrary, so.
>
> [COXES' COUNSEL]: I don't disagree, Your Honor, but they're --
>
> COURT: The Court's going to allow Hatcher to testify.

Thereafter, Corporal Daulton Hatcher, an AACPD officer, testified to an earlier incident where he encountered Missy during a police call to the Coxes' home. Cpl. Hatcher testified that Mrs. Cox held Missy back shortly after he arrived at the home. While doing so, Missy displayed "an angry demeanor, growling, barking." Cpl. Hatcher further elaborated that he did not perceive Missy to be friendly "because it was growling, barking at us, had to be held back. It clearly wanted to come towards us, not in a friendly way."

Stallings' second and final witness to testify about Missy's character traits was Robin Catlett, an expert in animal and dog behavior. During a bench conference following the introduction of Catlett's expert qualifications, the Coxes objected to her proffered expert testimony because she would opine on traits of Cane Corso dog breeds generally. They argued general breed evidence was irrelevant to how Missy acted during the incident with Stallings, unfairly prejudicial, and exceeded the scope of previous testimony about Missy's specific traits. The Coxes also requested and received a continuing objection to Catlett's testimony. The court overruled the objection, and Catlett provided several opinions as to how Cane Corso dogs can be generally territorial, possessive, and potentially

cause serious harm to humans.[9] In particular, Catlett stated that Cane Corso dogs "can do significant, even fatal, harm to a human being," are "large, strong dogs that have the ability to overpower some individuals," and "have the propensity to cause serious bodily harm." Catlett also testified that no one should infer that an animal acted a certain way on a particular day because of the characteristics of the breed.[10]

C. Analysis

This issue raised in the Coxes' third allegation of error is related to the "opening the door" doctrine and the degree to which it expanded the relevance of rebuttal evidence to impeach evidence about Missy's character traits. In general, evidence is admissible if it is relevant, except as otherwise provided by Maryland rules, statutes, or the Maryland Constitution. Md. Rule 5-402. Evidence is relevant if it "ha[s] 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.

[9] Catlett told the jury "[m]y understanding is that in Latin, the name [Cane Corso] is similar or equivalent to protector dog or bodyguard dog"; and "[b]y nature Cane Corso dogs tend to be territorial. They tend to be possessive. They tend to not do well with strangers unless their owner had done very hard work early on in their formative time to socialize them with strangers".

[10] Catlett testified: "I have met friendly Cane Corsos. I have met scared Cane Corsos. I have met aggressive Cane Corsos." She further elaborated, "I'm a strong believer in it's both nature and nurture that comes into what makes an individual animal." She later testified on cross-examination: "So, breed discrimination . . . it is essentially generalizing how any breed of animal will act based on other cases, similar to discrimination in other areas. Each animal is an individual. So while we may have knowledge of what groups of animals may have based on their breeding and history, we do still need to examine each animal individually."

"Evidence that is not relevant is not admissible." Md. Rule 5-402. The trial court does not have discretion to admit irrelevant evidence. *State v. Heath*, 464 Md. 445, 458 (2019) (citing *Simms*, 420 Md. at 724–25).

The scope of relevance can be expanded under the "opening the door" or "open door" doctrine. *Id.* at 459; *Robertson*, 463 Md. at 352–58. In *Robertson*, the Supreme Court of Maryland explained:

> The open door doctrine is based on principles of fairness and serves to "balance any unfair prejudice one party may have suffered." It authorizes parties to "'meet fire with fire,' as they introduce otherwise inadmissible evidence . . . in response to evidence put forth by the opposing side." The doctrine manifests the claim of, "my opponent has injected an issue into the case, and I ought to be able to introduce evidence on that issue."
>
> . . . .
>
> The open door doctrine "authorizes admitting evidence which otherwise would have been irrelevant in order to respond to . . . admissible evidence which generates an issue." In short, the doctrine "makes relevant what was irrelevant." Given the doctrine's ability to enlarge the universe of relevant evidence at trial, the open door doctrine is a "rule of expanded relevancy."

Robertson, 463 Md. at 351–52 (citations omitted) (cleaned up). The open door doctrine also has limitations. It does not allow parties to introduce evidence that violates Maryland Rule 5-403, which excludes evidence if its probative value "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." *Heath*, 464 Md. at 459. Additionally, the open door doctrine cannot "inject[] collateral issues into a case or introduc[e] extrinsic evidence on collateral issues." *Id.* at 459–60. A collateral issue is one that is immaterial. *Id.*

The framework to review evidence admitted under the open door doctrine is two-fold. *First*, "[w]hether an opening the door doctrine analysis has been triggered is a matter of relevancy, which this Court reviews *de novo*." *Id.* at 457 (citing *Robertson*, 463 Md. at 352). *Second*, courts assess the proportionality of the responsive evidence, and "[w]hether responsive evidence was properly admitted into evidence is reviewed for an abuse of discretion." *Id.* at 458.

Even if evidence is relevant, it cannot be admitted if the Maryland Rules of Evidence prohibit it. Accordingly, Maryland Rule 5-404(a)(1) expressly prohibits evidence of character traits for propensity purposes: "[E]vidence of a person's character or character trait is not admissible to prove that the person acted in accordance with the character or trait on a particular occasion." There are some exceptions to this rule, including using character evidence for non-propensity purposes like proving emotional damages. Md. Rule 5-404(b); *see also, e.g.*, Md. Rule 5-405(b) (allowing evidence showing specific instances of a person's conduct when the person's character trait is an essential element of a charge, claim, or defense).

Although the parties do not dispute whether the rules regarding character evidence apply to animals, we acknowledge that 5-404(a)(1) specifically applies to "evidence of a person's character", not an animal's character. However, we believe that an animal's character can be, in certain circumstances, just as relevant as that of a person since it

indicates the probability that the animal acted a certain way on a certain occasion.[11] Because the animal cannot speak for themselves, the character evidence is sometimes necessary to understand its behavior. *Hood v. Hagler*, 606 P.2d 548, 551-52 (1979). Therefore, we apply the limitations on admissible character evidence found in the Maryland Rules of Evidence to ensure the animal's character traits are brought into evidence without unfair prejudice, just like a human's character.

1. The Court Did Not Err in Excluding Mr. Cox's Testimony of Missy's Specific Character Traits for Propensity Purposes.

First, the Coxes argue the court erred because it did not allow Mr. Cox to testify on direct examination about Missy's specific character traits, as the court deemed such testimony impermissible propensity evidence. Stallings responds that the court properly excluded these statements pursuant to Maryland Rule 5-404(a)(1). Neither party disputes the relevancy of this evidence.

The record indicates the court admitted most of the Coxes' testimony about Missy's character traits for the purpose of showing emotional damages, even when Stallings objected to them. Through the entirety of the Coxes' case in chief, the court only excluded

[11] In some cases, like strict liability claims from torts involving animals, it must be shown that the animal's owner knew of its propensity to act in a way that caused harm. *Slack v. Villari*, 59 Md. App. 462, 473 (1984). Other jurisdictions also find character evidence of an animal "no less relevant than that of a human being, as indicating its probable conduct on a particular occasion, and . . . therefore according to Wigmore, Evidence § 68a (3d Ed.), commonly conceded to be admissible." *Hood*, 606 P.2d at 551.

Mr. Cox's testimony three times because those statements were offered purely for propensity purposes.[12]

We agree with Stallings that the court did not abuse its discretion when excluding Mr. Cox's statements about Missy's character traits that did not relate to emotional damages. The court reasonably explained to the parties at the beginning of Mr. Cox's direct examination that statements showing emotional damages would describe Missy's emotional value to the Coxes like any other piece of property. Consequently, we conclude that the Coxes could testify about what Missy meant to them, their relationship with Missy, and any activities with Missy, which created the emotional connection. However, the Coxes' statements became inadmissible propensity evidence when testifying that Missy had a particular trait.

Thus, the court properly barred Mr. Cox's statements about Missy's propensity to be a "go-lucky puppy" that "loved to play", and "Missy never growled, snapped at anything", and "Missy always was a calm dog. She never jumped on nobody." These statements discussed Missy's character traits, not her emotional value to Mr. Cox. The court was reasonable in finding that these statements constituted impermissible propensity evidence not intended for the purpose of showing emotional damage.

[12] Mr. Cox's three excluded pieces of testimony were: (1) "Missy was a go-lucky puppy. Just loves to play. All she -- she just loves to play. Pulling on things, playing, running, running around the house."; (2) "Missy never growled, snapped at anything"; (3) "Missy always was a calm dog. She never jumped on nobody."

The Coxes ask us to adopt the broad and novel principle that character trait evidence of a specific dog is always admissible. In support of their contention, they direct us to several Maryland cases where courts found traits of specific dogs in the case to be important and admissible.[13] The Coxes offer two cases, *Anne Arundel County v. Reeves*, 474 Md. 46 (2021) and *Brooks v. Jenkins*, 220 Md. App. 444 (2014), as examples of dog shootings involving police officers. Additionally, they direct us to a 1909 opinion from the Ohio Supreme Court and a more recent opinion from the United States First Circuit Court of Appeals. *Rumbaugh v. McCormick*, 80 Ohio St. 211, 88 N.E. 410 (1909); *Grossmith v. Noonan*, 607 F.3d 277 (2010).

The Coxes' proposition ignores the Maryland Rules of Evidence, which generally prohibit evidence of a person's character trait on a prior occasion unless the evidence is admissible under another rule, statute, or used for a non-propensity purpose. The case law they provide offers no reason for us to depart from the rules. In *Reeves* and *Brooks*, the admission of propensity evidence was not an issue for the reviewing court. Neither case indicates whether evidence of the dog's traits were preserved at trial, admitted under exceptions to the propensity rule, or admitted for non-propensity purposes. The Coxes cite *Rumbaugh* for the proposition that character evidence of animals is as admissible as that of

[13] The majority of the cases are not relevant because, as Stallings points out, they were all strict liability tort cases. Strict liability requires showing that "the owner knew . . . or should have known, of the inclination or propensity of the animal to do the particular mischief that was the cause of the harm." *Slack*, 59 Md. App. at 473. Maryland Rule 5-405(b) provides an express exemption from the propensity rule when a relevant character trait is part of a charge, claim, or defense, as is the case with strict liability torts from animal injuries.

a human. But that proposition fails to explain why character evidence of animals would be immune from the limitations of human character evidence. *Grossmith* also does not support the Coxes' proposition because evidence of the dog's character traits in that case was admitted for impeachment, not propensity.

Accordingly, we hold the circuit court did not abuse its discretion in excluding the Coxes' individual testimony of Missy's specific character traits for propensity purposes.

2. The Court Erred in Admitting General Breed Evidence Through the Cross-Examination of Mr. Cox and Direct Examination of Catlett.

The Coxes next argue the court erred when it allowed two witnesses to testify to general characteristics of Cane Corso breeds because the testimony exceeded the scope of the evidence presented in their case in chief about Missy's individual character traits. Stallings argues the Coxes' testimony about Missy's character traits "opened the door" for him to provide rebuttal evidence of Missy's character traits, including evidence of Cane Corso dog breeds generally.

The court allowed Stallings to ask Mr. Cox whether Cane Corso breeds were "bodyguard dogs" and "man stoppers," to which he agreed they were. Additionally, Catlett testified as an expert that Cane Corso breeds are often not allowed in certain residential buildings because they do not do well with strangers due to their possessive and territorial nature. Catlett also testified that Cane Corso breeds can "do significant, even fatal, harm to a human being" and "have the propensity to cause serious bodily harm." The court allowed the testimony because the Coxes injected specific character trait evidence of Missy into trial that opened the door for Stallings to impeach with rebuttal evidence:

> COURT: [The Coxes] have now put before the jury that this is a kind, loving dog that's never jumped up, never gotten excited over anything in an inappropriate way. Has played with the children, was taught to roll on the ground with the children. It is someone, or it's a dog that was trusted to sleep in the bed, at least until Mrs. Cox kicked it out, I suspect, because it got too big. So you have portrayed, as much as I try to prevent all of you from discussing this specific, we're talking about character traits on a day other than that day, or how it acted on that particular day. I gave you leeway at your request, so that you all can portray this child -- child -- as a, this dog as a completely docile animal. They're entitled to put forth, now that that has come in, they are entitled to put forth evidence to the contrary, so.

First, we agree with the court, and all the parties, that the open door analysis was triggered. The court properly explained at different points in the trial that the Coxes opened the door to rebuttal testimony about Missy's specific character traits by providing evidence that Missy was well-trained, never hurt anyone, and played well with people. The testimony of Lawson and both Coxes portrayed Missy as a docile animal, which did not have the requisite nature to put Stallings in fear of being attacked, albeit for the purpose of showing emotional damage. Thus, the court correctly allowed Cpl. Hatcher to provide rebuttal testimony about an incident before Missy's shooting when she displayed more aggressive characteristics. Cpl. Hatcher's testimony was a fair response to impeach specific character evidence of Missy injected into trial by the Coxes, as is contemplated under the open door doctrine.

However, we conclude the court abused its discretion when it found that general Cane Corso breed testimony was admissible under the open door doctrine. During Catlett's testimony, the Coxes' counsel argued general breed evidence was irrelevant, outside the scope of the opened door to discuss Missy's specific traits, and far more prejudicial than probative. The court disagreed, stating:

> It's obviously prejudicial to your case but it's not totally prejudicial. And whether or not the use of an expert in rendering his particular opinion is relevant to this case is that the testimony, whatever the testimony the expert is providing, will be helpful to the jury to understand the type of dog, if they're unfamiliar with the type of dog, what this dog is capable of or not capable of and to utilize that in rendering its own opinion as to whether or not the actions of the officer were reasonable in light of his perception of the dog's behavior and characteristics that he saw.

Although trial judges are afforded wide discretion to weigh evidence for its probative and prejudicial value, the Maryland Rules of Evidence and case law make it clear that trial courts do not have discretion to admit irrelevant evidence. *Heath*, 464 Md. at 459–60. It is abuse of discretion to admit evidence of collateral issues under the open door doctrine. *Id.* The jury already heard testimony from Stallings and other witnesses regarding the way Missy specifically acted prior to and during the shooting. The general characteristics of Cane Corso breeds were not relevant as to how Missy acted on the day of the shooting, or any other day. Further, the general characteristics did not become relevant after the Coxes introduced evidence of Missy's specific traits.

3. The Court's Error in Admitting General Breed Evidence Was Harmless.

Reviewing courts will not reverse a lower court judgment if the error is harmless. *Flores*, 398 Md. at 33. In civil cases, "'[c]ourts are reluctant to set aside verdicts for errors in the admission or exclusion of evidence unless they cause substantial injustice. To justify the reversal, an error below must have been [] both manifestly wrong and substantially injurious.'" *Id.* at 33 (quoting *Crane*, 382 Md. at 92). The appellant has the burden to prove both error and prejudice likely affected the trial court's verdict. *Lamalfa*, 457 Md. at 373.

Although the Coxes have the burden to prove the court's mistake likely affected the verdict, they offer no argument in their briefs on this point. In absence of an argument to the contrary, we do not believe the testimony about general breed characteristics were "substantially injurious."

For one, the prejudicial effect of the erroneous evidence was mitigated by comments from each witness. Although Mr. Cox agreed that Cane Corso dogs were "bodyguard dogs" and "man stoppers," he also told the jury that he did not buy Missy for protection purposes, but instead "for love." Likewise, Catlett told the jury at the beginning of her testimony that she met Cane Corso dogs of all temperaments: "I have met friendly Cane Corsos. I have met scared Cane Corsos. I have met aggressive Cane Corsos." Further, she told the jury she was "a strong believer in it's both nature and nurture that comes into what makes an individual animal." Catlett also stated on cross-examination that "[e]ach animal is an individual. So[,] while we may have knowledge of what groups of animals may have based on their breeding and history, we do still need to examine each animal individually." These statements greatly diluted the prejudicial effect of the general breed evidence.

Additionally, the court provided the following jury instructions as it relates to expert testimony:

> In this case, we did have expert testimony. An expert is a witness who has specialized training or expertise in a particular field. You should give expertise testimony the weight and the value that you believe it should have. You're not required to accept an expert simply because they were qualified as an expert. You're not required to accept their opinions. You consider their opinions together with all of the other evidence.
>
> Experts are provided to give you additional information or to help understand a particular point that needs to be made. But they are, in fact, witnesses just

> like the other witnesses that testified in this case. So the rule for witnesses where you can decide to accept all, part, or none of the testimony of an individual is regardless of whether they were lay individuals testifying or experts.

The court properly instructed the jury that experts are meant to help them understand the issues and they should apply their own weight and value to the expert's opinions. This instruction further mitigates Catlett's testimony by advising the jury that Catlett's expert opinion as to general characteristics of Cane Corsos does not supersede the evidence of Missy's individual character traits presented by lay witnesses.

Finally, Stallings presented sufficient evidence for the jury to find in his favor without the general breed propensity evidence. In *Gross v. Estate of Jennings*, this Court held that a trial court's erroneous admission of hearsay evidence and proof of the appellant's violation of a statute in a civil case were not reversible error. 207 Md. App. 151, 167–68 (2012). In *Gross*, our Supreme Court explained that the jury had sufficient additional evidence to support their verdict such that the improperly admitted evidence could not have reasonably tipped the outcome the other way. *Id.* Here, Stallings produced a significant amount of admissible evidence from which the jury could find in his favor without the general dog breed evidence. Stallings' own testimony provided a detailed description of the incident explaining why he believed his actions were proper. Additionally, he supported his account of the shooting with a use of force expert, multiple officer-witnesses to the post-shooting investigation, and an officer who observed Missy acting aggressively on a previous occasion. Therefore, we hold that any error in admitting the general dog breed evidence in this case was harmless.

CONCLUSION

In sum, the Coxes advance several arguments regarding the inadmissibility of testimony at trial. Most of the evidence was admissible, not preserved for review, or both. The few statements the court improperly admitted at trial were harmless because the jury had more than sufficient evidence to support its verdict in favor of Stallings. Therefore, we affirm the circuit court's judgment.

THE JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IS AFFIRMED. APPELLANT TO PAY THE COSTS.