Circuit Court for Baltimore County
Case No. C-03-CR-21-000119

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1927

September Term, 2022

JOSEPH MWANGI WARUINGI

v.

STATE OF MARYLAND

Shaw,
Ripken,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw, J.

Filed: November 22, 2024

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

This is an appeal from the Circuit Court for Baltimore County. In 2020, Appellant and two other men were arrested and indicted on charges related to an attempted robbery in Edgemere, Maryland. Appellant was found guilty of home invasion, attempted armed robbery, first degree assault, and use of a firearm in the commission of a felony. He was sentenced to 45 years' imprisonment. Appellant filed this timely appeal and presents the following questions for our review:

I. Did the Circuit Court err when it admitted photographs purporting to depict a firearm, and lay testimony opining about that depiction and firearms in general, because the State did not authenticate the item depicted as a weapon used in the crime and it was not relevant to the issues at trial?

II. Did the Circuit Court err when it denied the defendant's Motion for Judgment of Acquittal on the charge of use of a firearm in the commission of a felony or crime of violence and first-degree assault?

III. Did the Circuit Court abuse its discretion when it denied the Defendant's Motion for Mistrial after the State introduced evidence that the Defendant had previously been incarcerated?

For the foregoing reasons, we affirm.

BACKGROUND

On March 30, 2020, three men entered a home located on Nathaniel Way in Edgemere, Maryland and demanded money and drugs from its occupants. Appellant and two other men were later arrested and charged with various counts arising out of the incident. Appellant was indicted in the Circuit Court for Baltimore County. He elected to have a jury trial.

During the State's case in chief, Kimberly Diehl, a neighbor, testified that at approximately two p.m., she heard screams coming from her neighbor's home. She ran to

her front door and began heading out the door when she observed two masked men with guns running toward her. She retreated to the upstairs of her home and called 9-1-1. Police quickly responded.

The occupants of the home, the Riedys, testified. Danielle Riedy stated that, on the date of the occurrence, she and her husband Timothy were inside their home, along with their daughter, Farrah. She was downstairs when she observed three men at her front door, who then forcibly entered the home. She testified that one of the men pointed a gun in her face, struck her with the gun, and pushed her to the ground. When asked to describe the gun, Ms. Riedy stated that it was a black handgun with a long barrel.

Ms. Riedy's daughter, Farrah Riedy, testified that she was also downstairs and observed three men enter the home with guns pointed at them. She testified that one of the men pointed a black gun at her head and told her to stop screaming. She stated that the men, each holding a gun, gathered the Riedys into one room and began questioning them about drugs. Based on their conversation, the men figured out that they had the wrong house and quickly fled. One of the men returned shortly thereafter to retrieve a cellphone that had fallen on the floor. Farrah Riedy testified that after she found the cellphone, her father, Timothy Riedy, returned it to the man and the man left the home.

Timothy Riedy testified that when the men entered the home, he was upstairs. He stated that as he ran down the stairs, he felt something hit him on the side of the head, he fell, and then saw a gun pointed at his head. Mr. Riedy described the gun as a black revolver with a circular chamber that had bullets inside. Mr. Riedy stated that the other two men were brandishing weapons as well. Mr. Reidy testified that he was able to see all

three men during the encounter as two of the men took their masks off entirely and he observed the skin type of the other man. Following the incident, Mr. Riedy was shown a photo array. He identified one of the men as being involved in the attempted robbery.

Detective Zellers, one of the investigating officers, also testified. He stated that he became aware of one of the suspects in the case, Alex Gryglik, who was later indicted as a codefendant, because of a shooting that occurred on March 30th. Zellers testified that, during the execution of a search warrant in connection with the March 30th shooting, he was given consent by Alex Gryglik to examine his phone. While doing so, he observed a photograph of a handgun that had been taken on February 11, 2020. Appellant's counsel objected:

> [DEFENSE COUNSEL]: I really don't know what the relevance of a picture – I mean, I am assuming it's a picture. He didn't see a handgun in his phone, but what the relevance of this picture.
>
> [PROSECUTOR]: Relevance is this, judge, the handgun is a revolver-style handgun black in color. Alex Gryglik's phone took a picture of that handgun in his apartment on February 11th, I believe, 2020, so about 45 days prior to the shooting.
>
> They were investigating, obviously, a shooting involving –
>
> THE COURT: I got you. Anything else?
>
> [DEFENSE COUNSEL]: I am just – I don't see the relevance of it.
>
> THE COURT: Probative value outweighs the prejudicial value. Overrule the objection.
>
> [DEFENSE COUNSEL]: Your Honor, I am going to make one more objection then. I will make my one point. There was no revolver ever recovered in this case.

> THE COURT: There is one that's been described by a witness. That's why I said probative value outweighs the –
>
> [DEFENSE COUNSEL]: But there was never a photograph sent, given to the witness to identify it or say that this looks like something similar. So now we have a picture of a revolver that we don't even know it was involved. And it's 45 days in advance.
>
> THE COURT: I will note that. I think it's probative. Thank you.

Detective Zellers then provided additional details about the photograph and the State offered the photograph into evidence. Appellant objected, the court overruled the objection, and the photograph was admitted.

The next day of trial, Detective Serio testified. He identified the photograph recovered from Gryglik's phone and described it as depicting a gun. He stated that the photograph showed the "barrel of a Taurus judge revolver" and that he was familiar with the weapon. The State began questioning Detective Serio about the inscriptions on the weapon, Appellant objected, and the court sustained the objection. The detective continued and testified that he was also familiar with the type of ammunition the weapon used and the specifications of that ammunition. Appellant objected, arguing that the testimony regarding the ammunition was irrelevant and the court overruled his objection. Detective Serio explained how ammunition could be loaded into a handgun like the one in the photograph; Appellant objected, and the court sustained the objection. Detective Serio then began to testify about the differences between the revolver in the photograph and other types of guns, Appellant again objected, and the following colloquy took place:

> [DEFENSE COUNSEL]: Your Honor, I am going to object to this line of questioning.
>
> ***

[DEFENSE COUNSEL]: We are getting into expert level testimony here.

THE COURT: Where are you going with this?

[PROSECUTOR]: I just want them to know the difference between the two. We have had testimony about –

THE COURT: Is there any evidence coming in that a semiautomatic was used?

[PROSECUTOR]: Well, they described a semiautomatic.

[DEFENSE COUNSEL]: No. They just described black guns is what they described.

[PROSECUTOR]: My recollection is with a slide style.

* * *

THE COURT: I think you kind of covered the difference. Let's move on.

Also, during Detective Serio's testimony, a video excerpt of Appellant's interview with him was admitted into evidence and played for the jury. At its conclusion, Appellant moved for a mistrial.

[DEFENSE COUNSEL]: Your Honor, I want to make a motion for a mistrial at this point. There was a statement made on the tape that I had asked the State to redact, which was specifically, I am going to go back in and do some more time.

I requested that to be specifically redacted. And I was told it was redacted.

[PROSECUTOR]: I thought it was redacted, judge. But I would say that –

[DEFENSE COUNSEL]: I think it's prejudicial at some point.

[PROSECUTOR]: I don't think it's grounds for a mistrial. It is stipulating that he has a record and he's disqualified that he's already mentioned going to do more time earlier in his interview.

* * *

> [THE COURT]: I am not going to declare a mistrial. I do not find it a manifest necessity to do that in light of all of the surrounding circumstances of this case especially the fact that there will be a stipulation if he has a disqualifying crime which does indicate that he has a prior record without disclosing what that record is. So –

The State rested its case-in-chief and Appellant moved for Judgment of Acquittal on all charges. Appellant argued that insufficient evidence was presented to establish that an actual firearm was used in the crimes charged and no firearm was recovered. The court denied Appellant's motion. No further witnesses were called to testify, the court instructed the jury, counsel gave closing arguments, and following deliberations, Appellant was convicted of home invasion, attempted robbery with a dangerous weapon, first degree assault, and use of a firearm in the commission of a felony. Appellant was sentenced to 50 years' incarceration. He was later resentenced to a total of 45 years' incarceration. Appellant filed this timely appeal.

DISCUSSION

I. The court did not err or abuse its discretion in admitting a photograph of a gun found in a codefendant's phone and in allowing the detective to testify generally about guns.

As a preliminary matter, the State argues that Appellant did not preserve the issue of the photograph's admissibility. The State asserts that Appellant did not continuously note his objections to the photograph and some of the testimony related to the photograph was admitted without an objection. Appellant argues the issue was properly preserved. He

contends that several objections were made prior to the introduction of the photograph and then, following its admission, during witness testimony.

We note that the admissibility issue concerns one photograph found in a codefendant's phone that depicted a gun. The photograph was presented to witnesses by the State in several different mediums: Exhibit 24 (photo on flash drive), Exhibit 25 (copy of photo from Celebrite extraction report[1]), Exhibit 26 (the photo), and Exhibit 33 (enlarged version of the photo). As to Exhibits 24, 25, and 26, Appellant did object, and his objections were based on relevancy. They were contemporaneous objections made during the testimony of witnesses who were shown the Exhibits. As to Exhibit 33, which was an enlargement of Exhibit 26, Appellant did not note an objection. In a footnote in his brief, Appellant states:

> Based on Defense Counsel's statements and actions, it appears that she did not realize that the photograph being shown to Serio (Exhibit 33) was a different photograph of the same "gun" that was enlarged and admitted as Ex. 26 over her objection the previous day.

Maryland Rule 4-323(c) makes clear that "[f]or purposes of review . . . on appeal . . . at the time [a] ruling or order is made . . . [a party must] make known to the [trial] court . . . [any] objection to the action of the [trial] court." A party opposing the admission of certain evidence bears the responsibility of objecting at each specific instance it is offered.

[1] During the trial, Detective Zellers testified that the photograph was recovered from Alex Gryglik's phone through digital extraction utilizing a machine called Celebrite. The machine works by plugging a phone directly into it and it later extracts the digital information of the phone to an external source. The Celebrite machine, then, copies the information from the phone and creates a mirror image of what is displayed.

Clark v. State, 97 Md. App. 381, 394–95 (1993); *DeLeon v. State*, 407 Md. 16, 31 (2008). A party opponent can also request a continuing objection which ultimately preserves the issue for appeal, in the absence of several contemporaneous objections. Md. Rule 4-323(b). A party may forfeit appellate review of evidence if they fail to comply with Rule 4-323's requirements. *See Huggins v. State*, 479 Md. 433, 447 (2022) ("[T]he failure to object to the admission of that same evidence would . . . result in a waiver of any objections."). When a party does not object to the same or similar evidence, the issue is waived, and the error cannot be reviewed. *DeLeon*, 407 Md. at 31 (quoting *Peisner v. State*, 236 Md. 137, 145–46 (1964)) ("Objections are waived if, at another point during the trial, evidence on the same point is admitted without objection.").

Here, Appellant contemporaneously objected to Exhibits 24, 25, and 26. However, he did not ask for a continuing objection, nor did he object when Exhibit 33 was offered. As a result, under Rule 4-323 the issue of the photograph's admissibility was waived. We find that Appellant's explanation about his attorney's failure to object is not supported by the record and amounts to mere speculation. Assuming *arguendo,* the issue has been preserved, we conclude that the photograph was relevant. We further conclude that if the court erred in admitting the photograph, any error, was harmless.

Generally, a trial court has broad discretion in determining the admissibility of evidence. *See Hopkins v. State*, 352 Md. 146, 158 (1998). A trial court also has broad discretion in determining whether evidence is relevant; and if so, whether it may be admitted. *See* Md. Rule 5-402. The court has discretion to exclude relevant evidence when

it is unfairly prejudicial to its opponent. *See Montague v. State*, 471 Md. 657, 674 (2020). An abuse of discretion may occur when a trial court has admitted evidence that should have been excluded. *Brethren Mut. Ins. Co. v. Suchoza*, 212 Md. App. 43, 52 (2013). A trial court's ruling as to the relevance of evidence is a matter of law that is to be reviewed *de novo*. *J.L. Matthews, Inc. v. Md.-Nat'l Cap. Park & Planning*, 358 Md. 71, 92 (2002). However, an appellate court will not reverse the erroneous admission of evidence, if the error is harmless. *See Johnson v. State*, 23 Md. App. 131, 138–39 (1974); *Dorsey v. State*, 276 Md. 638, 657 (1976); *Nixon v. State*, 140 Md. App. 170, 188–89 (2001). Harmless error occurs if beyond a reasonable doubt the error "in no way influenced the jury's verdict." *Dorsey*, 276 Md. at 657, *reaffirmed in Gross v. State*, 481 Md. 233, 238 (2022). "Where competent evidence of a matter is received, no prejudice [by the jury] is sustained where other objected to evidence of the same matter is also received." *Jones v. State*, 310 Md. 569, 588–89 (1987), *vacated on other grounds* 486 U.S. 1050. In other words, an error is harmless if the essential contents of the erroneously admitted evidence were established and presented to the jury through other testimony without objection. *Yates v. State*, 429 Md. 112, 124 (2012) (holding that the admission of relevant, but otherwise excluded, evidence was harmless because similar testimony was offered to the jury).

Maryland Rule 5-401 defines relevant evidence as that which has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable" than it would be without such evidence. Relevancy determinations are not to be made in isolation, but instead, in tandem with all other

evidence before the trial court. *See generally Donati v. State*, 215 Md. App. 686 (2014) (finding that although one piece of evidence was not clearly linked to the others it was still relevant because it contained content consistent with other evidence presented); *Francis v. Johnson*, 219 Md. App. 531 (2014) (finding that evidence concerning an incident on another occasion was relevant considering the same parties were involved, the same location was at issue, and the overall similarity of the events); *Snyder v. State*, 361 Md. 580 (2000) (finding that where the evidence is too attenuated that it causes a jury to speculate as to certain inquiries that the evidence is not relevant). Circumstantial evidence can be relevant to charges involving the criminal use of a firearm. *See, e.g., Brown v. State*, 281 Md. App. 138 (2008); *Moulden v. State*, 212 Md. App. 331 (2013); *Couplin v. State*, 37 Md. App. 567 (1977).

In the case at bar, the three victims testified that several guns were used, and each perpetrator had a gun in his hand. One of the victims, Mr. Riedy, specifically described a gun used by one of the individuals as a "black revolver." The photograph, at issue, found in the phone of codefendant Alex Grylik depicts the image of a black revolver. It was taken a month prior to the date of the incident and it was consistent in color and style with the witness' testimony. The State's theory was that Alex Grylik, was an accomplice and the jury was instructed on accomplice liability. Based on our review of the evidence, we conclude that the court did not abuse its discretion in finding that the photograph was relevant and that the prejudicial effect did not outweigh its probative value. The photograph made it more likely than not that a real gun was used.

Appellant also contends that the photograph was not sufficiently authenticated because it was not presented to any of the witnesses for verification. We note that Appellant did not present this issue to the trial court below, and as a result, it is not properly preserved for our review. Assuming *arguendo*, it was preserved, the court did not err.

In order to authenticate a photograph, the State must produce evidence that is "sufficient to support a finding that the matter in question is what its proponent claims." Md. Rule 5-901(a). Here, the State presented the exhibit, not as the actual gun that was used during the attempted robbery, but rather, as a photograph of a gun that was recovered from one of the perpetrator's phones. Detective Serio's testimony was specific as to how the photograph was obtained, what it depicted, and that it accurately reflected what he saw in Gryglik's phone. As such, the State presented sufficient evidence that "the matter in question is what its proponent claims." The exhibit was sufficiently authenticated.

We further conclude that if the court erred in admitting the photograph, it was harmless. When evidence is properly submitted to the jury that is pertaining to the "essential contents" of other inadmissible evidence, any consideration of the inadmissible evidence is harmless as it is unlikely to influence the jury's verdict. *See Yates*, 429 Md. at 124. Both Detective Zellers and Detective Serio testified about the handgun depicted in the photograph, without objection. Their testimony was sufficiently similar to the testimony and statements of other witnesses who discussed the contents of the photograph, i.e., the gun, and as a result, we find any error was harmless. *See Gross*, 481 Md. at 265–66 (noting that because the substance of the inadmissible evidence was "materially

indistinguishable" from evidence the jury heard from other sources the jury's verdict was not influenced).

Appellant next contends that certain testimony offered by Detective Serio amounted to improper unqualified expert opinion. However, it appears that Appellant objected to his testimony regarding the ammunition but did not object to the firearm related testimony. To the extent, preserved, we hold that court did not err in allowing Detective Serio's testimony.

Maryland Rule 5-701 requires that lay witness testimony be limited to opinions that are "(1) rationally based on the perception of the witness and (2) helpful to a clear understanding of . . . the determination of a fact in issue." A lay witness may develop an opinion based on their specialized knowledge, skill, and experience, and when this occurs the trial court must determine whether to "permit admission of the [lay witness opinion], or whether the 'expert' basis of the opinion will require compliance with Rule 5-702 and admission as expert testimony." *Ragland v. State*, 385 Md. 706, 718 (2005). The professional training and rearing of law enforcement officers often justifies permitting a police officer to offer testimony in the form of a lay opinion. *See id.* at 719–20 (citing *Robinson v. State*, 348 Md. 104, 120 (1997)).

We had the opportunity to determine whether an officer's testimony was properly admitted as a lay opinion in *In re Ondrel M.*, 173 Md. App. 223 (2007). The officer there testified as a lay witness that "in his training at the police academy and in his work in the field as a police officer, he had been exposed previously to the smell of burning marijuana and therefore could recognize its smell." *Id.* at 228. The appellant argued that because the

officer's conclusion that he smelled marijuana was rooted in his training and experience in his position, that it was improperly couched as lay testimony and the officer needed to be certified as an expert. *Id.* We disagreed and affirmed the admission of that testimony, stating that:

> No specialized knowledge or experience is required in order to be familiar with the smell of marijuana. ***A witness need only to have encountered the smoking of marijuana in daily life to be able to recognize the odor.*** The testimony of such witness thus would be "rationally based on the perception of the witness." *Ragland*, 385 Md. at 717, 870 A.2d 609. Accordingly, we hold that the testimony of a police officer, who is capable of identifying marijuana by smell through past experience, that he or she smelled the odor of marijuana, is lay opinion testimony within the meaning of Maryland 5–701.

Id. at 243–44 (emphasis added). Relying on *Ragland*, we concluded that the fact that an officer's training may contribute to their conclusion does not automatically preclude them from offering lay opinion testimony of it. *Compare id.* at 244–45, *with Ragland*, 385 Md. at 726 (finding that an officer testifying that a drug transaction took place based on his prior study of the drug trade was improper lay opinion).

Similarly, here, the testimony offered by the detective did not rise to the level of an expert opinion. When asked how he was familiar with guns, Detective Serio stated that "he used one or carried one every day." Clearly, a witness does not need to be a trained detective to have familiarity with guns. Detective Serio stated that he was familiar with weapons based upon his own experiences and, he explained, based on that familiarity, how the gun functioned and the ammunition that could be used. As such, Detective Serio's testimony was a properly admitted lay opinion.

II. The court did not abuse its discretion in denying Appellant's Motion for Judgment of Acquittal.

An appellate court tasked with determining the sufficiency of the evidence, must determine if "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. Suddith*, 379 Md. 425, 429 (2004). *Accord Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *State v. Albrecht*, 336 Md. 475, 478–79 (1994). Where the court finds that evidence on the record, whether direct or circumstantial, allows the jury's determination to rest upon more than mere probability, a denial of a motion for judgment of acquittal must be affirmed. *See Smith v. State*, 415 Md. 174, 85 (2010).

Maryland Rule 4-324(a) grants a criminal defendant the right to move for judgment of acquittal at the close of all evidence and, in doing so, "the defendant [must] state with particularity all reasons why the motion should be granted." Any reason that accounts for the basis of a defendant's motion for judgment of acquittal that is omitted is not weighed by the trial court in making its decision whether the evidence is sufficient. *See Lyles v. State*, 63 Md. App. 376, 379 (1985). This Court may only review an issue that was in fact considered and decided by a circuit court. *See* Md. Rule 8-131(a).

Appellant contends that because the photograph was improperly admitted, the State did not meet its burden of production on the charges that involved a firearm. Appellant, however, did not specify in his motion for judgment of acquittal that it was based on the improper admission of the photograph. In moving for acquittal, Appellant stated two grounds: (1) that none of the victims identified him as being involved; and (2) that there

was no evidence that a firearm was used, other than testimony. Because of his failure to include an argument regarding the photograph, he has not preserved the issue for our review. We, nevertheless, hold that, given all the evidence presented at trial, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Suddith*, 379 Md. at 429. *Accord Jackson*, 443 U.S. at 319; *Albrecht*, 336 Md. at 478–79.

III. The court did not abuse its discretion in denying the motion for mistrial.

The granting of a motion for a mistrial is within the province of the trial judge. *Hopkins v. Silber*, 141 Md. App. 319 (2001). Appellate review, therefore, is limited to whether there has been an abuse of discretion in denying the motion. *Id.* Granting a mistrial is a rarity and should only occur where there is manifest necessity to do so. *United States v. Perez*, 22 U.S. 579, 580 (1824). *See also Webster v. State*, 151 Md. App. 527, 556 (2003) (stating that a mistrial is "an extreme sanction" that is a last resort if "no other remedy will suffice to cure the prejudice"). The failure to declare a mistrial after improper statements have been made to the jury does not necessarily constitute an abuse of discretion. *Hopkins*, 141 Md. App. at 339–40. Rather, an abuse of discretion occurs only where the remarks that form the basis of the motion are a "direct and contributing factor" of *substantial* prejudice caused to the defendant. *See Leak v. State*, 84 Md. App. 353, 358 (1990).

Appellant argues that a mistrial should have been granted because of a statement made by him during an interview with the police that was heard by the jury in a taped

recording. He contends that the statement concerning his prior incarceration was highly prejudicial and was a different and greater prejudice than what he agreed to accept through stipulation. The State counters that while the statement may have been prejudicial, it did not cause unfair prejudice.

Both parties argue that *Rainville v. State* is instructive. 328 Md. 398 (1991). In *Rainville*, the defendant moved for a mistrial based on witness testimony concerning a prior conviction for sexual assault that was provided during his current trial for sexual assault. *Id.* at 399. Although the trial court found the statements made to be prejudicial to the defendant, it nevertheless, denied the motion and provided a curative instruction to the jury to avoid consideration of that testimony. *Id.* at 402. On appeal, this Court stated, in determining whether a mistrial was necessary, a court may consider:

> whether the reference to [the inadmissible evidence] was repeated or whether it was a single, isolated statement; whether the reference was solicited by counsel, or was an inadvertent and unresponsive statement; whether the witness making the reference is the principal witness upon whom the entire prosecution depends; whether credibility is a crucial issue; [and] whether a great deal of other evidence exists . . . .

Id. at 408 (quoting *Guesfeird v. State*, 300 Md. 653, 659 (1984)). In sum, we concluded that the only question before the Court was "whether the prejudice to the defendant . . . deprived [them] of a fair trial . . . ." *Id.* (quoting *Kosmas v. State*, 316 Md. 587, 594–95 (1989)). Applying these factors, we ultimately found error with the trial court's denial of the motion for mistrial. Our decision was based, in part, on the fact that the crux of the case involved a credibility determination. *Rainville*, 328 Md. at 409–10 (discussing that

the State's case rested "almost entirely" upon a seven-year-old girl and evidence that the defendant had already done something like what was being alleged undoubtedly impacted the jury's decision).

Appellant is unlike the defendant in *Rainville*. There, the disputed evidence was available to the jury because of improper statements made by a witness. Whereas, here, Appellant faced charges that involved his illegal possession of a regulated firearm after being convicted of a crime that disqualifies him from possessing a regulated firearm. Because of this, the State was required to prove that Appellant had a prior qualifying conviction. To minimize potential jury concerns, Appellant stipulated that he was a disqualified individual. We conclude that any prejudice that might have ensued as a result of Appellant's statement about prison was unlikely to have influenced his trial in a "substantial" way because the jury was already given evidence of his previous criminal conduct. Appellant's charges did not coincide with what he claims was a major credibility determination. Further, because of language differences, deciphering the proper interpretation of statements made by Appellant during the interview played a minor role, if any, in the jury's verdict.

Applying the factors outlined in *Rainville*, we find that the statement did not deprive Appellant of a fair trial. The remark was a very short statement in a nearly two-hour long video. The statement —"I am ready to go back in, do some more time" — was vague as to what the conviction was for, which made an unfair character inference unlikely. While the State previously agreed to redact the remark and failed to do so, there is no evidence of

any ill-will or improper behavior. It was inadvertent. There were also statements by Appellant and circumstantial evidence that supported the conviction. In sum, the trial judge did not abuse his discretion in denying the motion for mistrial.

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