Circuit Court for Caroline County
Case No.: 05-K-15-10807

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2545

September Term, 2015

JOSE ANTONIO GEMEIL

v.

STATE OF MARYLAND

Arthur,
Reed,
Zarnoch, Robert A.
(Senior Judge, Specifically Assigned)

JJ.

Opinion by Reed, J.

Filed: 3November 8, 2017

Appellant, Jose Antonio Gemeil, was indicted in the Circuit Court for Caroline County, Maryland, and charged with robbery with a dangerous weapon and related counts. Following a jury trial, appellant was convicted of robbery with a dangerous weapon, theft between $1,000 and $10,000, second degree assault, and attempting to flee or elude police in a vehicle. He was sentenced to twenty-five years' imprisonment for robbery with a dangerous weapon, and a concurrent one year for fleeing and eluding police. Appellant timely appealed and presents the following questions for our review:

1. Did the trial court err in failing to strike three potential jurors for cause?

2. Did the trial court err in admitting video evidence without proper authentication?

For the following reasons, we shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On May 20, 2015, Carol Sparks, a teller for the PNC Bank branch in Denton, Maryland, was helping a customer, Rodney Dobson, with a deposit when a man pushed Dobson aside and pointed a handgun at her. The man, whose face was covered with a ski mask, placed a bag on the counter and demanded money. Sparks complied, filling the bag with approximately $4,000 in cash, while also placing a GPS tracking device inside with the money.

As this transpired, Jamie Williams, another teller, hid behind the teller line. After the robber fled the bank, Williams saw him run across the bank's drive thru lanes. The robber then got into a parked, white truck and drove off.

Tynita Fletcher, a customer who was standing outside the bank during the robbery, saw a Caucasian male wearing blue jeans, a black sweatshirt, and a mask run out of the bank carrying a gun and a bag. Fletcher testified she saw the man enter the bank, indicating that he was only inside for about five minutes. When he fled the bank, the man ran to the side of the bank, then entered the driver's side of a white pick-up truck. Fletcher took a photograph of the truck with her cellphone, and that photograph was admitted into evidence.

While on patrol in his marked police vehicle, Corporal Eric Hall, of the Denton Police Department, encountered a white Dodge truck, matching a description he heard over the police dispatch concerning this incident. Corporal Hall activated his emergency equipment and attempted to stop the truck. The truck momentarily pulled over to the side of the road, and Corporal Hall got out of his vehicle and approached on foot. At that point, the truck "took off," Hall returned to his vehicle, and a high speed chase ensued, involving the truck, Corporal Hall, and several other police vehicles.

During that chase, Corporal Hall could see inside the truck and saw the driver moving "from side to side," and then begin "projecting items out of the window." Apparently after crossing into Delaware, the driver let go a "wad of money," that flew back and hit the windshield on Hall's patrol vehicle. After this, the driver then put a handgun out the window and pointed it back directly towards Hall. The driver then slowed his vehicle and, after several seconds, dropped the gun, which was later determined to be a BB

gun. The truck then voluntarily came to a stop at a stop sign. Corporal Hall identified appellant, in court, as the driver and sole occupant of the truck.[1]

Sergeant Richard Starkey, also of the Denton Police Department, corroborated Corporal Hall's testimony about the initial stop and the police chase, including having seen "money flying past the vehicles in the air," and the final stop and arrest of appellant. Two videos from Sergeant Starkey's body camera were played for the jury. The video showed appellant's arrest, and, according to Starkey's narration of the video, "money that was laying on the floor of the truck." Another video showed the recovery of the abandoned BB gun.

Corporal Reibly, from the Caroline County Sheriff's Office, testified that at the end of the pursuit in Delaware, he and Lieutenant Donald Baker, also from the Sheriff's Office, transported appellant to the Bridgeville Troop of the Delaware State Police. After being advised of, and waiving, his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), appellant admitted that he intended to rob the PNC Bank in Denton in order to support his heroin addiction.[2] Corporal Reibly recounted appellant's statement as follows:

> He said that he parked his pickup truck in a lane behind the bank, it's an abandoned property and that he placed a black ski mask over his face, walked to bank, entered the bank, displayed a, [sic] which would have been the BB gun, to the teller, said

[1] Corporal Justin Reibly and Lieutenant Donald Baker, of the Caroline County Sheriff's Office, were part of the pursuit and confirmed that they saw money and a gun being discarded from the truck after it entered Delaware.

[2] Appellant also told Lieutenant Baker that he robbed the bank to pay for his heroin addiction.

> he did not point it at the teller, but he displayed it and handed them a bag, which he told them to place money in the bag.

Appellant's white truck was searched pursuant to a warrant at the Denton Police Department. Recovered from the passenger seat was a black bag containing approximately $3,211.00 in cash, $201.00 in loose currency, and a black ski mask. Police also recovered appellant's social security card, his wallet, and other identifying pieces of mail.

A week after appellant was arrested, Corporal Hall and Sergeant Starkey retrieved appellant from a detention facility in Delaware, transporting him back to the Denton Police Department. After he was read his *Miranda* rights, appellant was processed, and then taken to the Caroline County Commissioner. While Sergeant Starkey was waiting with appellant, along with other individuals in unrelated cases outside the Commissioner's office, appellant made several statements to the other individuals in the waiting area. Sergeant Starkey testified that appellant "[t]alked about how he robbed a bank." And, "[h]e just talked about how he robbed a bank and that when the police were chasing him, he was on the phone with his wife," apparently, "[t]elling her what he did." Sergeant Starkey also testified that he heard appellant state that "[h]e told his wife what he had done and that he was going to pull over and make the police shoot him."

Sergeant Starkey further testified that appellant told him that he stopped his truck at the end of the chase because he was running out of gas and did not think he could escape eight police cars. After asking appellant why he robbed the bank, Starkey testified that appellant told him that "it was a bad month. That his father was on his death bed. He was short on money for bills and his heroin addiction."

We shall include additional detail in the following discussion.

DISCUSSION

I. Jury Selection

Appellant first contends that the court erred by not excusing, for cause, potential juror numbers 25, 61, and 124 from the venire. The State primarily responds that the trial court properly exercised its discretion. We concur.[3]

After the court excused twenty prospective jurors because they knew something about the case, and denied five motions to strike other prospective jurors on that ground, the court heard from prospective juror number 25. Juror number 25 stated that she read information about the robbery in this case on Facebook around the same time it transpired. Juror number 25 indicated that she could disregard what she read and could consider "only the testimony and evidence that you hear in the courtroom today in making your decision[.]" The court denied appellant's motion to strike juror number 25 at that time.

After three more prospective jurors were excused for cause, juror number 25 again approached the bench and informed the court and the parties that she was previously convicted of reckless driving in Virginia. She confirmed that she could be fair and impartial

[3] The State also argues that appellant was not prejudiced as to juror numbers 25 and 61 because he used two of his allotted peremptory challenges to strike these individuals from the jury. This argument runs counter to the essence of appellant's complaint, *i.e.*, that he *was* prejudiced because he was forced to use those challenges after the trial court erroneously denied his motions to strike for cause. But even so, there is no dispute that appellant exercised all of his allotted peremptory challenges before juror number 124 was seated on the jury, thus, preserving the merits for our consideration. *Cf. Ware v. State*, 360 Md. 650, 665 (2000) ("If disqualification for cause is improperly denied, but the accused has not exercised all allowable peremptory challenges, there is no reversible error") (citing *White v. State*, 300 Md. 719, 729 (1984)).

despite that prior conviction, and also indicated that she banked at the PNC bank involved in this case and recognized two of the bank employees, Carol Sparks and Jamie Williams. The following then ensued:

> [Juror]: And, yes I recognize them, yeah, through the drive-thru and whatnot.
>
> THE COURT: Okay, but you don't really know them?
>
> [Juror]: No, no.
>
> THE COURT: Any reason why you couldn't be fair and impartial despite knowing that they're tellers when you go through …
>
> [Juror]: No, ma'am.
>
> THE COURT: Okay. [Prosecutor]?
>
> [Prosecutor]: If, if the ladies you recognize got up on the stand and said A, but all the evidence you heard looked like it was B, would you just say, oh, it's probably A because I recognize these people or would you say it's B because that's what the evidence says?
>
> [Juror]: Based on the facts I would be able to.
>
> THE COURT: Okay.
>
> [Defense Counsel]: How about if the facts were close and the two people at the bank told you it was a certain way, would you be inclined to believe them because of just having acquaintance knowledge of them? Acquaintance knowledge of them? Honestly?
>
> [Juror]: Um, it'd be hard to tell. I'm not really sure how to answer that.
>
> THE COURT: Okay. Thank you.

The court denied appellant's motion to strike juror number 25. The court then excused three more prospective jurors before juror number 61 approached the bench. After informing the court and the parties that her daughter was a Maryland State Trooper, assigned to the State's Attorney's Office in Baltimore, the following ensued:

> THE COURT: Okay. And I think you had also answered the question about giving more weight or less weight to the testimony of a police officer.
>
> [Juror]: Um-hmm.
>
> THE COURT: Would the fact that your daughter's a State Trooper cause you any concern about whether you can be fair and impartial completely in this case?
>
> [Juror]: Not really.
>
> THE COURT: Okay, so then why, with respect to the testimony of a police officer?
>
> [Juror]: Just I took it to mean would I believe the police officer just because he's a police officer and not necessarily, I mean . . .
>
> THE COURT: Okay, so that's, the way I like to approach it is, if a police officer testified that it was snowing outside and you look out the window and you see it's not . . .
>
> [Juror]: Um-hmm.
>
> THE COURT: Would you disregard what you know to be true just in order to return a verdict consistent with a police officer you didn't believe? I mean that's really the . . .
>
> [Juror]: No, no.
>
> THE COURT: Okay. All right. [Prosecutor?]
>
> [Prosecutor]: That's what I was going to ask.
>
> THE COURT: [Defense counsel]?

> [Defense Counsel]: How about if the police officer testified it was snowing, you couldn't see whether it was snowing or not and somebody else said, defendant said it was not snowing? Would you tend to believe the police officer because the person's a police officer?
>
> [Juror]: I would look out the window.
>
> [Defense Counsel]: Well, assuming you couldn't look out the window.
>
> [Juror]: I don't know. I just probably believe him. I don't know.
>
> THE COURT: Thank you. You can go on back.
>
> (Juror number 61 exits the bench)
>
> [Defense Counsel]: Move to strike, Your Honor.
>
> THE COURT: Okay. I think that the issue, again the jury is getting the instruction that they are the ones that decide the credibility of the police officer and I'm looking to strike people who regardless of what the police officer's going to testify they're going to believe him 100% of the time even when they're obviously lying. So Ms., um, Number 61, she remains in the pool.

Ten more prospective jurors were then excused, three of whom pursuant to motions by appellant's defense counsel, when juror number 124 approached. Juror number 124 informed the court that he was a lieutenant with the Maryland Department of Corrections, employed at Eastern Correctional Institute. Juror number 124 stated that this employment would not prevent him from being fair and impartial. Thereafter, the court addressed this prospective juror's response to a different question, as follows:

> THE COURT: Okay. And I think you also answered the question about police officers giving more weight or less weight to the testimony of a police officer?
>
> [Juror]: To me it would carry more weight.

> THE COURT: Okay. If you didn't believe the police officer, are you capable of disbelieving a police officer?
>
> [Juror]: Yes I am.
>
> THE COURT: Okay. So if you didn't believe the police officer, would you return a verdict consistent with the fact that you didn't believe the police officer?
>
> [Juror]: Yes.
>
> THE COURT: Okay. [Prosecutor]?
>
> [Prosecutor]: I don't have any questions.
>
> THE COURT: All right. [Defense Counsel]?
>
> [Defense Counsel]: But between the police officer and somebody you don't know, you said the police officer's testimony would probably carry more weight with you?
>
> [Juror]: Yes, sir.
>
> [Defense Counsel]: Thanks.
>
> THE COURT: All right, thank you.
>
> (Juror Number 124 exits the bench)
>
> [Defense Counsel]: Move to strike, Your Honor.
>
> [Prosecutor]: I would . . .
>
> THE COURT: Okay, um, I'm not going to strike. Again he said he has the ability to determine the credibility of the witnesses, that's within the province of the jury. Okay next?

After the court struck an additional seven prospective jurors for cause, a jury was selected. During that selection process, appellant exercised all of his allotted twenty peremptory challenges, including striking juror numbers 25 and 61. Bereft of any remaining challenges, the third juror at issue, juror number 124, was seated on the jury.

The Court of Appeals has explained that "[t]he decision to excuse a potential juror for cause is left to the sound discretion of the trial judge and will not be disturbed on appeal except for an abuse of discretion." *Miles v. State*, 365 Md. 488, 568 (2001) (citing *Ware v. State*, 360 Md. 650, 666 (2000)), *cert. denied*, 534 U.S. 1163 (2002). Furthermore, "[t]he trial court is in the best position to assess potential jurors and strike them from the panel if needed by taking into consideration the potential jurors' demeanor and credibility. *Id.*; *see also McCree v. State*, 33 Md. App. 82, 98 (1976) ("A juror may be struck for cause only where he or she displays a predisposition against innocence or guilt because of some bias extrinsic to the evidence to be presented."). Ultimately, the standard is whether a juror was able to perform his or her duties in accordance with the instructions and the oath. *Evans v. State*, 333 Md. 660, 673-74, *cert. denied*, 513 U.S. 833 (1994); *see also Calhoun v. State*, 297 Md. 563, 580 (1983) (observing that, to be competent, a juror need not be free of all preconceived notions or be totally ignorant of the facts; "[i]t is sufficient if the juror can lay aside his impression or opinion and render a verdict based on the evidence presented in court.") (citation omitted), *cert. denied*, 466 U.S. 993 (1984).

Appellant asserts that the court abused its discretion because the three jurors at issue expressed some bias in favor of either police officers or the State's witnesses. It is true that a prospective juror may be struck for cause when he or she "displays a predisposition for or against a party 'because of some bias extrinsic to the evidence to be presented.'" *Wyatt v. Johnson*, 103 Md. App. 250, 264 (1995) (quoting *Miles v. State*, 88 Md. App. 360, 375, *cert. denied* 325 Md. 94 (1991)). However, it is also true that whether a prospective juror harbors any bias is a question of fact, *Dingle v. State*, 361 Md. 1, 15 (2000), and the "court

is well equipped to make such factual determinations and, in fact, is required to do so." *Id*. at 19 (citing *Wainwright v. Witt*, 469 U.S. 412, 428 (1985)).

Here, as to each of the three challenged jurors, the trial court made a reasoned inquiry, questioning each one independently about their potential biases that could impact the case. During that questioning, each of the prospective jurors indicated, at various points, that they could be fair and impartial. It fell on the trial court to assess the credibility of those responses. The court clearly engaged in a balancing of the responses offered by the juror which indicated no predisposition to innocence or guilt because of the evidence presented through the witness.

Indeed, as this Court has observed, although a trial judge might choose "to exercise discretion by bending over backwards in a defendant's favor and removing any lingering possibility of juror bias[,] [s]uch a tilt . . . would be quintessentially discretionary and not something the defendant would be entitled to as a matter of right." *Morris v. State*, 153 Md. App. 480, 499-500 (2003), *cert. denied*, 380 Md. 618 (2004). For example, a prospective juror might initially equivocate on whether he or she would be able to render an impartial decision, but in "these discretionary calls on challenges for cause, what matters most is the final position asserted by the challenged juror and the judge's conclusion as to the significance of that response." *Id*. at 502. Although different meanings may be ascribed to a prospective juror's response, on appeal, when all we have is a cold record, "[t]he judge on the scene, face to face with the juror and immediately after engaging in an extended exchange with the juror, is infinitely more able than we to make such a determination." *Id*.

We conclude that the trial court properly exercised its discretion in denying appellant's motions to strike the three jurors at issue.

II. Video Evidence

Next, appellant asserts that the court erred in admitting the bank surveillance video recording absent proper authentication. The State responds that the court properly exercised its discretion and that any error was harmless beyond a reasonable doubt. We agree with the State that there was no error in the admission of the video, and if there was error it was harmless.

After Carol Sparks, the bank teller, described the robbery, the State sought to admit the surveillance video from the bank. Appellant's counsel objected, and the following ensued at a bench conference:

> [Prosecutor]: The video . . .
>
> THE COURT: Unless the video's authenticated.
>
> [Prosecutor]: Sure, the video I'm going to play has Ms. Sparks in it. She can say that's me, that's what happened, but I can't do that until I show her the video.
>
> THE COURT: Okay, [Defense Counsel]?
>
> [Defense Counsel]: Well, Your Honor, from what I got from the police reports, the video was actually, um, given to the State or some State agent by the security consultant for PNC, not, um, not Ms. Sparks. Somehow it was downloaded there, you know, that that was process was not described. [sic] Whether that's a complete copy of that. Also, hold on for one second if you could, Your Honor.
>
> (Pause – [Defense Counsel] away from bench)
>
> [Defense Counsel]: It's seven surveillance, different angles, so it's not clear, going to be clear from this witness who doesn't

know because she didn't have anything to do with it, the person who created it, the process which compiled the images from various cameras, um, the process that was used, the manner and operation of the cameras, the reliability and authenticity of the images, the chain of custody, etcetera. That can't be established through her is my understanding, so . . .

[Prosecutor]: That absolutely can be established by somebody. That's like saying if I take a picture of [Defense Counsel] and then die that picture can never come into evidence.

THE COURT: Let's move on. I'm going to reserve on this.

[Prosecutor]: Well, that's the last thing.

THE COURT: Okay. I will let you recall this witness if you, if you need to just take a break. I need to know foundationally how, who is the system, how is the system run, the chain of custody. Can you do that?

[Prosecutor]: Well, Your Honor, I would, I would argue that I don't have to.

[Defense Counsel]: Well, it's . . .

THE COURT: I'm telling you, we're going to take, I'm not going to let you do it now through this witness. Let's move on. Do you have any more questions of her?

[Prosecutor]: No.

THE COURT: Okay. I will reserve and let you play the video if you can answer some of those questions. Okay.

[Defense Counsel]: Thank you, Your Honor.

[Prosecutor]: Well, I can tell you I'm not going to be able to answer those questions.

THE COURT: Okay.

After hearing from several more witnesses, the matter of the surveillance video was addressed at another bench conference. The court referred the parties to *Washington v.*

State, 406 Md. 642 (2008), stating "the State's going to have to do some foundational footwork in order for the video to be played since it's surveillance." The court and the State then discussed the admissibility of the video as follows:

> [Prosecutor]: I think it can be a [sic] distinguished because in *Washington* they were talking about a surveillance video that nobody was in other than the Defendant. So there was no other way to authenticate it other than the process. Here there are three witnesses who can watch it and they were in the video and say that is exactly what happened. That is, I mean the whole point of authentication is to make sure it hasn't been changed, that is, that is what happened. And I have three witnesses with first-hand knowledge of what happened. They can all say that happened.
>
> THE COURT: Again, I, taking the five minutes I've taken to read this, I disagree. It has to do with the system. It, was the system, can the system, how does the system operate, you have various different angles of the cameras. If any of those witnesses, [Prosecutor], can testify as to the system used, how that was downloaded, I mean . . . .
>
> [Prosecutor]: And I would ask that we take a break and give me more than five minutes because this is a big issue and, it would be akin to saying if the photographer dies you can't get a photograph in because you don't know what camera he took it on and how it's digitized and how it's brought over here. And that's just not the case.
>
> THE COURT: Okay, well then I will be glad to take more than five minutes. I, the jury's going to have to . . .
>
> [Defense Counsel]: Your Honor, this is what we got in discovery here and right there, that section of it, it talks about the security people from Baltimore coming to download . . .
>
> THE COURT: Deputy Secrist was advised that securities consultant for PNC was in the Baltimore area (unintelligible) for security video download. When I look at *Washington*,
>
> [Prosecutor], it has to do with the system.

> [Prosecutor]: Sure.
>
> THE COURT: It's not with the photograph, it's how was the surveillance system maintained and kept.
>
> [Prosecutor]: If you, and if you read all of *Washington*, that's because there was no other way to authenticate it.

After further argument concerning what foundation was required for video recordings, the court took a short recess to consider the issue further. When the court reconvened, the prosecutor maintained that there were two different methods to authenticate a video recording, as explained by *Washington, supra*. One method was when there was a witness with first-hand knowledge that could testify to the authenticity of the recording, and the second, the silent witness theory, was when there was no witness with such personal knowledge. In this case, the prosecutor maintained that, because there were witnesses with personal, first-hand knowledge of the robbery as it transpired, the State was not required to meet the foundational requirements under the alternative silent witness theory, as provided by the *Washington* case.

The trial court heard from appellant's counsel, but ultimately was persuaded by the State's argument that the video was admissible because there were eyewitnesses to the crime as it occurred**.** The court indicated, however, that it wanted the prosecutor to present "some basic information to the jury about their surveillance camera." The court also required the prosecutor to show those parts of the video that it wanted to play to appellant and his counsel outside the presence of the jury. After doing so, the jury entered the courtroom, and the prosecutor recalled the first teller, Sparks, to the witness stand.

Sparks then testified that she was aware that PNC had at least ten video surveillance cameras. She knew that the cameras covered the lobby area of the bank and that they were supposed to be recording during the day. The prosecutor then showed Sparks, but not the jury, a portion of the video surveillance tape taken from "Camera 6" at around 12:49 p.m. on the day in question. Sparks identified herself and Dobson on the video, testifying that the scene depicted "the robbery." She also testified that the video recording was a fair and accurate depiction of the events in question.

Defense counsel then engaged in a voir dire of Sparks about the video and Sparks agreed she did not make the video recording, had never seen it before, and did not know the process by which it was downloaded or copied. She testified that "Diebold" serviced the video equipment normally, that "security people" from Baltimore downloaded the video in question, but she did not know who the person was who performed that task. The court then ruled, over objection, that the jury could view the evidence, "as Ms. Sparks has basically authenticated the tape as what occurred as to what she already testified to." The video recording was then played for the jury in open court, as Sparks narrated the scene and identified herself, Dobson, and the "person that robbed me."

Sparks was excused and the State recalled the second teller, Williams. Williams viewed video from "Camera 11" at 12:51:14 p.m., testifying that that video depicted the bank's drive-thru lane and vacant lot located next door to the bank. That video showed the robber running away from the bank after the incident. Williams agreed this video fairly and accurately depicted what she personally observed. On voir dire, Williams agreed she did not know how the video surveillance system worked. She did know, however, that a

person named Frank Harper, the "head security guy," downloaded the video and emailed it to her manager. The court ruled that the video in question could be viewed by the jury. That video, narrated by Williams, was then played for the jury in open court. During Williams' testimony, she testified that, consistent with her earlier testimony, the video showed the robber getting into a white truck and then driving away from the scene. Over defense objection, the court admitted a zip drive containing the two videos that were displayed to the jury.

This Court recently explained the standard of review of a trial court's decision regarding the admission of evidence as follows:

> Determinations regarding the admissibility of evidence are generally left to the sound discretion of the trial court. *Hajireen v. Sta*te, 203 Md. App. 537, 552, cert. denied, 429 Md. 306 (2012). This Court reviews a trial court's evidentiary rulings for abuse of discretion. *State v. Simms*, 420 Md. 705, 724-25 (2011). A trial court abuses its discretion only when "no reasonable person would take the view adopted by the [trial] court," or "when the court acts 'without reference to any guiding rules or principles.'" *King v. State*, 407 Md. 682, 697 (2009) (quoting *North v. North*, 102 Md. App. 1, 13 (1994)).

Baker v. State, 223 Md. App. 750, 759 (2015) (quoting *Donati v. State*, 215 Md. App. 686, 708-09 (2014)).

"Maryland Rule 5-901 addresses the requirements to authenticate evidence, including electronically stored evidence." *Donati*, 215 Md. App. at 709. It provides as follows: "The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." Md. Rule 5-901(a). By way of illustration, a method

of authentication that conforms to the rule is "[t]estimony of a witness with knowledge that the offered evidence is what it is claimed to be." Md. Rule 5-901(b)(1).

Videotapes and still photographs are both subject to the same general rules on admissibility. *Washington*, 406 Md. at 651. Because photographs and tapes are "easily manipulated," courts require authentication "as a preliminary fact determination, requiring the presentation of evidence sufficient to show that the evidence sought to be admitted is genuine." *Id.* at 651-52. In *Washington,* the Court of Appeals described the two ways to establish a foundation for photographic evidence. "[T]he pictorial testimony theory of authentication allows photographic evidence to be authenticated through the testimony of a witness with personal knowledge[.]" *Washington*, 406 Md. at 652. "[T]he silent witness method of authentication allows for authentication by the presentation of evidence describing a process or system that produces an accurate result." *Id*; *See* Md. Rule 5-901(b)(9). Specifically, a witness can "testif[y] to the type of equipment or camera used, its general reliability, the quality of the recorded product, the process by which it was focused, or the general reliability of the entire system." *Id.* at 653 (citations omitted).

In this case, both tellers, Sparks and Williams, viewed the surveillance videos and testified that they fairly and accurately depicted the events therein. Their testimony on this point was based on their personal, first-hand knowledge of being present when appellant was robbing the bank. We conclude, as did the trial court, that this was one of the two types of authentication recognized under *Washington*, and that the surveillance videos were properly authenticated.

Nevertheless, appellant argues that the court erred by admitting the videos "as probative evidence in themselves." Because they were admitted, appellant maintains that the State should have been required to prove authenticity under the silent witness theory.

Washington holds that there are at least two methods for authentication of surveillance tapes, and compliance with the personal knowledge threshold does not also require an independent showing under the silent witness theory. Appellant appears to be imposing a confined restrictive interpretation of the phrase "probative value." Evidence is probative "if it tends to prove the proposition for which it is offered." *Consol. Waste Indus., Inc. v. Standard Equip. Co*., 421 Md. 210, 220 (2011) (quoting *Johnson v. State*, 332 Md. 456, 474 (1993)). Further, "[p]robative value relates to the strength of the connection between the evidence and the issue, to the tendency of the evidence 'to establish the proposition that it is offered to prove.'" *Smith v. State*, 218 Md. App. 689, 704 (2014) (citation omitted). The videotapes were supported by the testimony of the eyewitnesses/victims of the armed robbery and tended to corroborate their evidence, *i.e*., that a masked man entered and robbed the PNC Bank in Denton at gunpoint, and then fled the scene in a white pickup truck. We hold that the trial court did not err in admitting the videos into evidence.

Furthermore, we are persuaded that any error was harmless beyond a reasonable doubt. *See Dionas v. State*, 436 Md. 97, 108 (2013) ("An error is harmless when a reviewing court is 'satisfied that there is no reasonable possibility that the evidence complained of - whether erroneously admitted or excluded - may have contributed to the rendition of the guilty verdict.'") (quoting *Dorsey v. State*, 276 Md. 638, 659 (1976)). After the masked man received approximately $4,000, which Sparks placed in a bag, he fled the scene and then was seen getting into a white pickup truck. Police found that truck in the vicinity, shortly after the bank robbery. The truck was stopped by police, but then took off as an officer approached the vehicle on foot. During the ensuing pursuit from Maryland into Delaware, the driver and sole occupant, later identified as appellant, was seen throwing money and a BB gun, thought to be a handgun, out the driver's side window. After he was

apprehended, over $3,000 was found inside a bag in the truck. Appellant repeatedly confessed to the bank robbery, both to the police and to other unidentified witnesses, while he was awaiting processing outside a commissioner's office, stating that he needed the money to support his heroin addiction. Thus, even without the surveillance video, there was overwhelming evidence of appellant's guilt beyond a reasonable doubt.

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