

Circuit Court for Baltimore County  
Case No. C-03-CR-20-000457

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 134

September Term, 2021

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SHERRI SIGNORIELLO

v.

STATE OF MARYLAND

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Graeff,  
Ripken,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Graeff, J.

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Filed: August 5, 2022

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

A jury in the Circuit Court for Baltimore County convicted Sherri Signoriello, appellant, of two counts of second-degree assault and one count of theft of property with a value of \$100 to \$1,500. The court sentenced appellant to imprisonment for two years, consecutive, on each of the two convictions for second-degree assault and imprisonment for six months, consecutive, on the conviction for theft, all suspended.

On appeal, appellant presents the following questions for this Court's review, which we have rephrased slightly, as follows:

1. Did the trial court err in admitting inadmissible hearsay statements?
2. Did the trial court abuse its discretion in allowing the State and its witness to describe the complaining witnesses as "victims"?
3. Did the trial court err in allowing a State witness to testify as to alleged other bad acts?

For the reasons set forth below, we agree that the court erred in admitting hearsay statements, and therefore, we shall reverse the judgments of the circuit court.<sup>1</sup>

### **FACTUAL AND PROCEDURAL BACKGROUND**

On October 3, 2019, Crystal Cason, an assistant manager of Party City, was walking through the store, and she observed a woman, who she identified at trial as appellant, placing toys and other items in a "really big purse." The toys were "little toys that you ca[n] put in treat bags for birthday parties . . . like the laugh out loud balls," which contain dolls. Ms. Cason waited for the woman at the door, and as the woman approached, Ms. Cason asked her to return the merchandise in her purse. Appellant said that she did not

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<sup>1</sup> Because the issues raised in the second two questions presented may not arise again at a retrial, we will not address them.

have any merchandise, and she walked out the door. Ms. Cason followed appellant outside, continuing to demand the items. Appellant turned around, “tried to swing at” her, and then kicked Ms. Cason in the leg. Ms. Cason grabbed appellant’s bag and pushed her back. Appellant went off the curb, dropped the bag, and the toys went all over the street. Appellant kept trying to pick up the toys, but Ms. Cason pushed them away. The store’s cashier came outside, and appellant punched the cashier in the face. Appellant kept trying to pick up the toys, saying that they were hers. Ms. Cason disagreed, but she said that if appellant had a receipt for them, she could take them. Appellant never produced a receipt for the items.

Appellant then got in her car and drove away. None of the store cameras captured what happened outside the store other than showing Ms. Cason standing at the door, and she and appellant walking out the door. Ms. Cason estimated the value of the items that were taken to be approximately \$300 to \$500.

Breeanna Sapia, the store’s cashier, testified that she saw appellant walk into the store carrying a “big black bag.” Appellant subsequently headed for the front door, and Ms. Sapia observed “LOL dolls” in appellant’s bag.<sup>2</sup> When appellant got to the front door, Ms. Cason asked for the merchandise in appellant’s bag. Appellant refused to open her bag, and she “scream[ed] and cuss[ed] and tr[ie]d to push her way out of the door.” Ms. Sapia then left the cashier’s register and followed appellant and Ms. Cason outside. Appellant was still screaming, cussing, and pushing Ms. Cason.

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<sup>2</sup> Ms. Sapia testified that “LOL dolls” are party favors.

At some point, appellant fell to the ground, causing some items in her bag to fall out. Ms. Sapia recognized the items as those sold by the store. She estimated the value of the items to be approximately \$500. Ms. Cason and Ms. Sapia began picking up the items, and appellant punched Ms. Sapia in the face. Ms. Sapia then hit appellant in the face. After their fight, appellant got in her car to leave, and as she was leaving, Ms. Sapia took pictures of her license plate. Ms. Sapia testified that, as appellant was leaving, she drove towards Ms. Sapia and “tried to hit [her].” Ms. Sapia took pictures of the bruises on her face, and the pictures were admitted as State’s exhibits.

Officer Patrick Murphy, a member of the Baltimore County Police Department, testified that, when he arrived at the scene, he found Ms. Cason, Ms. Sapia, and other bystanders outside the building. There were toys on the ground. Officer Murphy testified, over objection, regarding what Ms. Cason and Ms. Sapia told him at the scene. His testimony about what he was told was consistent with Ms. Cason’s and Ms. Sapia’s testimony.

The State then entered into evidence the video from Officer Murphy’s body-worn camera on the day of the incident. As discussed in more detail, *infra*, the video, which included Ms. Cason and Ms. Sapia telling Officer Murphy what happened, was played for the jury. Defense counsel objected, arguing that the video included inadmissible hearsay.

Officer Leary, a member of the Baltimore County Police Department, testified that he responded to a report of shoplifting and assault at Party City. As he pulled up to the scene, he saw an SUV exiting the parking lot “at a high rate of speed,” and it almost hit

him. Officer Leary followed the vehicle and initiated a traffic stop. Appellant got out of the car, and Officer Leary ordered her back into the vehicle a few times before she eventually complied. Officer Leary called another officer, Harper, and they approached appellant and detained her.

Appellant told the officers that she had just been assaulted and her nose was bleeding. Officer Leary testified that appellant had no injuries, and when he examined her, “there was no blood whatsoever.” Officer Leary searched the vehicle for “LOL dolls.” He found them in the front seat, and there were other toys in the back seat and trunk. There was no receipt for the items.

Appellant testified that, on October 3, 2019, she was at Party City to purchase Halloween costumes with her 22-year-old son.<sup>3</sup> There were ladders and pallets blocking the Halloween materials, and because it was only October 3, she decided that they would return another day. Her son left the store, but appellant stayed because she was meeting someone in the Party City parking lot. She sold items on “marketplace” and met with her customers in places like Party City. As she began to walk out of the store to meet with her customer, she saw the manager holding the door. Appellant stated:

[A]s I walked past the door, I said, have a good night and . . . then she just shook her head and she said, have . . . a good day. Then there was a second set of doors, so I walked out there. I stepped down off the curb into the parking lot. Next thing you know . . . I got pushed down . . . to the ground and then I just, there was five girls. I don’t know . . . who the other girls

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<sup>3</sup> On cross-examination, in response to the prosecutor’s question about why appellant was shopping for costumes for a 22-year-old, appellant explained that she was very close with her children, and because Halloween was their favorite holiday, they always dressed up.

were. It was five, five girls. I was pushed to the . . . ground, I was kicked, I was dragged across the parking lot. My wallet came out and my credit cards and stuff fell out. People were just grabbing them. Stole my phone, stole, and, and just took, and just robbed a lot of stuff that I had.

Appellant stated that she was scared and tried to get to her car as fast as she could. When she got in her car, “they started taking pictures and laughing.” Appellant drove out of the parking lot, and as she turned down the street, Ms. Sapia jumped in front her car. She did not hit anyone. Counsel presented pictures that appellant said she took of herself the day after the incident. In the pictures, appellant’s lip was pierced. Officer Leary testified, however, that she did not have a lip piercing on October 3, 2018. In response to questions by the State about when appellant got her lip piercing, she stated that she suffered from memory loss so she could not recall. She did not recall if she had “LOL dolls” or any toys that Party City sold with her when she entered the store. All the items that she had in her bag were there before she went into Party City.

In closing argument, the prosecutor argued that the case was one of credibility. He argued that Ms. Cason’s and Ms. Sapia’s testimony was believable, noting the consistency of the statements they gave to Officer Murphy a year earlier and their in-court testimony. Counsel argued that appellant “stole, she got caught and in an attempt to get away . . . she struck” Ms. Cason and Ms. Sapia.

Defense counsel argued that appellant’s testimony that she worked at auctions, flea markets, and met with customers to sell items at Party City was believable, and none of the other witnesses to the assault were called to corroborate Ms. Cason’s and Ms. Sapia’s testimony. Counsel argued that appellant left the scene because she was scared, not

because she stole anything. He argued that appellant did not assault anyone; it was appellant who was assaulted.

## **DISCUSSION**

Appellant contends that the trial court erred in admitting two instances of inadmissible hearsay during Officer Murphy's testimony. The first instance occurred when Officer Murphy testified about what Ms. Cason and Ms. Sapia told him at the scene. The second instance occurred when video footage from Officer Murphy's body-worn camera, which included statements by those witnesses, was admitted.

The State contends that the trial court properly admitted the evidence. It asserts that the "trial court seemed to permit Officer Murphy's testimony and video evidence for its effect on the police investigation and because it believed that there is a general hearsay exception for hearsay in body camera footage." The State further contends that, if there was error, it was harmless.

### **I.**

#### **Proceedings Below**

We address first the admission of the video footage from the body-worn camera. As the State played the footage for the jury, Officer Murphy explained that it showed him arriving at the Party City. The recording continued, as follows:

OFFICER: What's going on here today? (inaudible). Okay, tell me from the start, the beginning, what happened?

VOICE: She came in and she asked (inaudible) and she had told her where it was. I happened –

[Defense]: Your Honor, I'm going to object to this part and –

THE COURT: Okay, stop it, please.

(AUDIO STOPS)

THE COURT: What's the, the basis?

[DEFENSE]: Your Honor, I believe that this would constitute hearsay.

THE COURT: Well, isn't the body worn camera an exception to the hearsay rule?

[DEFENSE]: I'm sorry, Your Honor?

THE COURT: Isn't body worn camera an exception to the hearsay rule?

[DEFENSE]: Your Honor, I, I appreciate that. I just say for formality sake.

THE COURT: Overruled.

The State proceeded to play the body-worn camera footage, which included audio:

VOICE: (inaudible) run out the door. So I was like, ma'am, I can't let you leave (inaudible). She's like, you ain't getting a fucking thing. So, I followed her out. I was like, please don't leave with our merchandise and I went to grab her bag, to grab one of the things that was on the top of it and she pushed me.

OFFICER: Okay

VOICE: So, when she pushed me, my reaction was to push her back. Then she told everybody I punched her in the face. She came out and was like don't put your hands on her, she started swinging at her and started punching on her.

OFFICER: Okay.

VOICE: (inaudible).

OFFICER: Okay, okay.



VOICE: And so I took the purse, she dropped the purse. So, I took it and dumped it out and she still kept picking everything up and I (inaudible).

OFFICER: So, that's, is that all the stuff that was –

VOICE: She's got about twenty or thirty more pieces just like that still in her bag.

OFFICER: Okay. (inaudible) we're good. Yep. What else does she have (inaudible)?

VOICE: (inaudible) some more of that stuff. It's a bunch of that stuff. (inaudible).

OFFICER: Okay, okay. We have her (inaudible). You have, you have video surveillance of it? Can you make me a copy?

VOICE: The only (inaudible) walking out the door.

OFFICER: Okay.

VOICE: (inaudible).

OFFICER: So, what's the value of all this here? Let me, one step at a time here. I can't have everybody, so how about we just gather this up. Okay. So, you both were assaulted, correct?

VOICE: Yes.

Officer Murphy then recorded Ms. Sapia's contact information. The recording continued, as follows:

OFFICER: So, you, you tried to go, you tried to stop her when she was leaving and she punched you in the face, right?

VOICE: I tried to stop her (inaudible) don't put your hands on her (inaudible).

OFFICER: Okay. So you came out to help her, to (inaudible).

VOICE: And I said to the lady, do not hit her, what are you doing, like, and she just started swinging –

OFFICER: Are you the manager?

VOICE: I am.

OFFICER: Okay.

VOICE: (inaudible).

OFFICER: And you were outside right here, outside?

VOICE: Yes, (inaudible).

OFFICER: And your name, ma'am?

Officer Murphy then recorded Ms. Cason's contact information, and the recording continued, as follows:

OFFICER: Did you, did you fight her for these items back or did she just drop them?

VOICE: I tried to grab the one that was on top that I saw.

OFFICER: Um hm.

VOICE: And that's when she swung around to hit me and dropped her bag and it went everywhere.

OFFICER: Okay.

VOICE: I picked it up and I dumped it out.

OFFICER: (inaudible) when she swung her bag, tried to hit you, that's all that dropped out, okay.

VOICE: And she just started picking it all back up and I'm like stop picking up my merchandise. She's like it's mine. (inaudible).

OFFICER: You were, you said you were pushed, right?

VOICE: Yes. She pushed me and she kept punching me in my (inaudible).

OFFICER: Your left arm?

VOICE: Yes. If that's \$197, she's got at least over \$200 in her purse too.

OFFICER: This was \$197, okay. Is there any way you can print me out a receipt?

VOICE: (inaudible).

OFFICER: Okay, cool.

## II.

### Analysis

“‘Hearsay’ is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Md. Rule 5-801(c). “Except as otherwise provided by [the] rules or permitted by applicable constitutional provisions or statutes, hearsay is not admissible.” Md. Rule 5-802. “A trial court ‘has no discretion to admit hearsay in the absence of a provision providing for its admissibility. Whether evidence is hearsay is an issue of law reviewed *de novo*.’” *Paydar v. State*, 243 Md. App. 441, 452 (2019) (quoting *Bernadyn v. State*, 390 Md. 1, 8 (2005)).

The State’s argument, that the court “seemed to permit” the challenged evidence for its effect on the police investigation, as opposed to the truth of the matter asserted, has some support in the record with respect to Officer Murphy’s testimony regarding what Ms. Cason and Ms. Sapia told him at the scene. With respect to the footage of the body-worn

camera, however, the court’s ruling was that there was an exception to the hearsay rule for hearsay in body camera footage.<sup>4</sup> The State concedes that this analysis was incorrect.

This Court discussed the admissibility of body-worn camera footage in *Paydar*, 243 Md. App. at 452–57. Md. Rule 5-803(b)(8), the public records exception, provides that information in a public agency record of “matters observed pursuant to a duty imposed by law, as to which matters there was a duty to report,” ordinarily is admissible. Md. Rule 5-803(b)(8)(A)(ii); *Paydar*, 243 Md. App. at 452–53. Pursuant to Md. Rule 5-803(b)(8)(C), however, “a record of matters observed by a law enforcement person is not admissible . . . when offered against an accused in a criminal action.” In December 2016, the rules were amended to permit, in some circumstances, the admission of a “recording from a body camera worn by a law enforcement person to be ‘offered against an accused.’” *Paydar*, 243 Md. App. at 454 (citing Md. Rule 5-803(b)(8)(D)). This amendment provided that a recording of a body-worn camera may be offered against an accused if it: “(1) is made contemporaneously; (2) is properly authenticated; (3) is otherwise trustworthy; and (4) any hearsay statements within the recording fall within an independent hearsay exception under Md. Rule 5-805.” *Id.*; Md. Rule 5-803(b)(8)(D)). Md. Rule 5-805 provides that, “[i]f one or more hearsay statements are contained within another hearsay statement, each must fall within an exception to the hearsay rule in order not to be excluded by that rule.” “When an officer hears and records the statement of another person, the statement

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<sup>4</sup> As indicated, when defense counsel objected to the production of the body camera footage, the court stated: “[I]sn’t body worn camera an exception to the hearsay rule?” The court then overruled counsel’s objection.

constitutes second-level hearsay that should be excluded unless offered for a non-hearsay purpose or what was said falls within an independent hearsay exception.” *Paydar*, 243 Md. App at 455.

Here, Officer Murphy’s body-worn camera footage contained Ms. Cason’s and Ms. Sapia’s hearsay statements. The State did not argue, either below or on appeal, that any hearsay exception applied. Rather, the State suggests that Ms. Cason’s and Ms. Sapia’s statements were offered for the non-hearsay purpose of showing the effect on the police investigation. As indicated, however, the court did not admit the body-worn camera footage for that purpose, and the prosecutor in closing argument did not use the statements for that purpose, but rather, he used the statements as evidence that appellant was guilty of the crimes charged.<sup>5</sup> The footage of the body-worn camera included out-of-court statements offered for the truth of the matter asserted, and the court erred in admitting them.

We thus turn to the State’s argument that the error was harmless. Harmless error exists when “there is no reasonable possibility that the evidence complained of—whether

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<sup>5</sup> The prosecutor argued, in relevant part:

You[] [jurors] [will] be able to watch the video from Officer Murphy. And one of the first things you’ll see in that video from Officer Murphy is Ms. Cason and Ms. Sapia, saying that’s [] [appellant’s] stuff, she dropped it, she left it here.

This is a matter of credibility, who to believe more. [Appellant] was there, there’s no dispute of that. . . . Folks, you heard from two people who said pretty much, given that it’s a year, over a year later, almost the same version of events. And they were right next to each other and they gave Officer Murphy the same version that day that they gave here today in [c]ourt, independently of each other.

erroneously admitted or excluded—may have contributed to the rendition of the guilty verdict.” *Dove v. State*, 415 Md. 727, 743 (2010) (quoting *Dorsey v. State*, 276 Md. 638, 659 (1976)). “[W]here credibility is an issue . . . an error affecting the jury’s ability to assess a witness’[s] credibility is not harmless error.” *Paydar*, 243 Md. App at 458 (quoting *Dionas v. State*, 436 Md. 97, 109–10 (2013)). In *Paydar*, this Court held that, “[b]ecause the State used the body camera footage to bolster [a witness’s] credibility,” the Court could not conclude that its admission was harmless. *Id.* at 463–64.

Here, as indicated, the State argued that this case was a “matter of credibility.” No other witnesses, other than appellant, Ms. Cason, and Ms. Sapia, testified about the incident. Therefore, the crux of the case was whether the jury should believe the complaining witnesses’ account of the incident or appellant’s account.

The prosecutor relied on the body camera footage to argue that Ms. Cason and Ms. Sapia, who gave prior consistent statements, were the more credible witnesses. Under these circumstances, where the prosecution used the body-worn camera footage to bolster the complaining witnesses’ testimony, we cannot conclude that the error in admitting this evidence was harmless.

**JUDGMENTS OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY REVERSED.  
COSTS TO BE PAID BY BALTIMORE  
COUNTY.**