Circuit Court for Frederick County
Case No. C-10-CR-17-000145

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 185

September Term, 2019

DELAJHI JOYNER

v.

STATE OF MARYLAND

Berger,
Reed,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Raker, J.

Filed: May 8, 2020

Appellant Delajhi Joyner was convicted by a jury in the Circuit Court for Frederick County of voluntary manslaughter. Appellant presents four questions for our review:

> "1. Did the trial court err in failing to propound a jury instruction on hot-blooded response to legally adequate provocation for Shondre Naylor?
>
> 2. Did the trial court err in allowing the State to introduce irrelevant and prejudicial evidence?
>
> 3. Did the court abuse its discretion in refusing to ask *voir dire* questions requested by Appellant?
>
> 4. Did the trial court abuse its discretion by not allowing the defense to introduce a bank receipt that was found in the victim's car that went to the defense theory that this was a robbery and the police did not conduct a thorough investigation?"

Finding no error, we shall affirm.

I.

Appellant was indicted by the Grand Jury for Frederick County on two counts of first-degree murder. Following a nine-day trial between December 3 and December 14, 2018, a jury convicted appellant of one count of voluntary manslaughter. The court sentenced appellant to a term of incarceration of ten years and awarded credit for time served from November 2, 2017.

The following facts were presented at trial. Appellant lived at 6822 Acacia Court in Frederick. On November 1, 2017, appellant spent the day cooking and drinking alcohol before meeting a friend at a restaurant, where he continued to drink until the restaurant closed. Appellant and his friend then drove to appellant's house where they continued to

drink until deciding to drive to a local Wawa convenience store at around 4:00 a.m. Appellant's friend dropped him off at Wawa, and once inside, appellant met Jermaine Hill and accepted a ride home from him. Also in the car were Shondre Naylor, the owner of the vehicle, and Omar Campbell, who was dropped off before they arrived at Acacia Court. A neighbor observed what appeared to be this car stop along Acacia Court around 4:30 a.m.

Appellant testified at trial that once he, Mr. Hill, and Ms. Naylor arrived at Acacia Court, he let them inside his house so that Ms. Naylor could use the bathroom. Appellant then offered Ms. Naylor and Mr. Hill drinks and left them in the kitchen while he retrieved his speakers. Appellant further testified that, upon returning to the kitchen, he caught Mr. Hill putting some of appellant's belongings into his pocket. Mr. Hill then grabbed a knife and chased appellant out of the house. Once outside, appellant testified that he wrestled with Mr. Hill for the knife and eventually grabbed and swung it into Mr. Hill's neck.[1] Appellant testified that Ms. Naylor, who followed the two men out of the house, then attacked appellant from behind and that he swung the knife at her until they both fell to the ground.[2] Appellant claimed that, upon seeing what had occurred, he panicked. He took the keys to Ms. Naylor's car and tried multiple times to turn the car around to drive towards the exit of the street. He eventually exited the vehicle and returned to his house.

A neighbor who observed the altercation testified differently. He claimed that

[1] Mr. Hill's autopsy confirmed that he suffered a 5.5-inch stab wound to the neck.

[2] Ms. Naylor's autopsy revealed three stab wounds: a 4.5-inch wound to the jaw that injured her jugular vein, a 3.75-inch wound to the neck, and a 1.75-inch wound to the left shoulder.

around 5:00 a.m., he heard a woman screaming and saw from his window a man on the ground and the woman kneeling near him. The neighbor saw a "black man in his twenties wearing a jogging suit with red stripes on it" hitting and kicking the man and woman. The neighbor then saw the man enter a nearby vehicle, put the car in reverse, and run over the man and woman.[3] The car then crashed into a parked car and a nearby tree. The driver exited the car and ran into 6822 Acacia Court.

Two officers responded to the scene and found appellant walking behind the homes on Acacia Court. Appellant shouted obscene language at the officers and ran from them. The officers detained him and observed that he appeared intoxicated. Appellant's clothes were covered in blood, and he had car keys in his pockets. DNA and blood from both victims were found on the knife and in the blood on appellant's clothing.

On November 13, 2018 at a pretrial hearing, the court considered motions related to evidence of appellant's conduct after his arrest. First, the court considered whether to suppress statements that appellant made while in a police vehicle to Deputy Randy Barrera, one of the responding officers. Defense counsel stated that there were no constitutional suppression issues but asked to reserve "evidentiary objections that may arise at trial." The court granted this motion. Second, defense counsel moved to exclude evidence that appellant was belligerent, combative, and uncooperative toward detectives while in custody on the grounds that it was prejudicial and impermissible character evidence. The

[3] Appellant testified that he was unaware that he had run over Mr. Hill and Ms. Naylor until after he was arrested. Autopsies of both victims found injuries that could have resulted from being hit by a car or being kicked.

evidence included video of appellant in the interrogation room. The court decided that the video was unfairly prejudicial but that the evidence of appellant's post-crime behavior could be admitted through witness testimony. Third, defense counsel moved to exclude three phone calls that appellant made from jail before trial to his mother. The court denied this motion.

During jury selection and *voir dire*, defense counsel requested that the court propound three sets of questions. Question 7 stated that "Maryland law recognizes Voluntary Intoxication as a defense to first-degree murder," Question 8 stated that "Maryland law recognizes Self Defense as a defense to first-degree murder," and Question 9 stated that "Maryland law recognizes Hot Blooded Response to a Legally Adequate Provocation as a partial defense to first-degree murder." Each question contained three subparts as follows:

> "a. Does anyone have strong feelings about this defense?
>
> b. Does any member of the panel believe [that the defense at issue should not mitigate the defendant's guilt]?
>
> c. Is there anyone who will have difficulty applying this principle of law?"

The State objected to these questions, and the court sustained the objection as follows:

> "[THE STATE]: Your Honor, as previously indicated . . . the State is opposed to all three of those. We don't know whether those defenses will be generated. They're more appropriate for jury instructions, not for *voir dire* purposes, and we'd ask that those be excluded from the *voir dire*.
>
> THE COURT: I will sustain the State's objection. I covered it not specifically, but said that I would instruct any specific defense that the evidence generated. . . . [W]e're not instructing

> as to the law at this point. And I don't see anything here which is going to basically find any prejudice or bias on the part of the jury."

As noted, the court declined to ask the requested questions.

At trial, Deputy Barrera testified that he drove appellant to the Law Enforcement Center. The State tried to elicit testimony about appellant's "combative" behavior toward Deputy Barrera during the ride. Defense counsel objected on the grounds that the testimony was prejudicial. The court overruled the objection as follows:

> "[DEFENSE COUNSEL]: Your Honor, I'm going to object to the statements. I know that Your Honor is fully aware of what the officer is going to testify to and what the State wants to elicit. This is the point where he's going to testify that the defendant was combative, that he was saying curse words, racial slurs, hitting the seat, spitting. That type of evidence, I believe, is too prejudicial for the jury to receive. I think it should be excluded on 5-403 grounds.
>
> ***
>
> [THE STATE]: . . . I believe that it's evidence of the defendant's conduct, that it's consciousness of guilt, that it should be . . . offered as defendant's statements, what he was saying. I would move to admit that.
>
> ***
>
> THE COURT: Just tell me what you intend to elicit that [defense counsel] is objecting to.
>
> [THE STATE]: The defendant said my n[****], my n[****], please let me out. He tried to get the deputy to . . . take his handcuffs off, that he said take this s[***] off, come on, I didn't do anything, I didn't do anything.
>
> ***
>
> [DEFENSE COUNSEL]: So I will withdraw the objection to

> the extent that I didn't do anything or whatever he said to that effect.
>
> ***
>
> THE COURT: Are you putting the spit sock in?
>
> [THE STATE]: Yes.
>
> THE COURT: What's the relevance of that?
>
> [THE STATE]: The spit sock is also evidence of guilt. Uncooperative, wants to get out, spitting on the officer . . . there's a strong inference that he doesn't want to be detained, and he's claiming he didn't do it.
>
> ***
>
> THE COURT: The objection is overruled."

Deputy Barrera then testified as to appellant's use of obscene language and appellant's attempts to spit at the officer during the ride. The court granted defense counsel's continuing objection to this testimony.

Detective Timothy Moore, Jr. testified that he interviewed appellant on November 2 after his arrest. He testified that appellant appeared intoxicated. The State asked him about appellant's conduct in the interview room and about appellant's reaction to Detective Moore's attempt to obtain a DNA swab. Defense counsel objected to the admission of this testimony to "preserve all the arguments made" at the November 13 motions hearing that evidence of appellant's conduct in custody was inadmissible character evidence. The court noted and overruled the objection. Detective Moore testified subsequently that appellant told him he "wasn't getting s[***]" for a DNA swab, flipped over furniture in the interview room, and had a "[v]iolent and uncontrollable" demeanor. Over appellant's objection,

detectives Michael Toste and Stephanie Kelley testified as to appellant's uncooperativeness and combativeness while in the interview room.

Over appellant's objection, the court also admitted into evidence one of appellant's phone calls with his mother. The call was played for the jury for the purpose of establishing appellant's consciousness of guilt. On the call, appellant told his mother that "You[] probably will never see me again outside" and that he could not tell her what occurred.

During the testimony of Corporal Daniel McDowell, defense counsel offered a photograph that the police took of a bank receipt from Ms. Naylor's car. The State objected on relevancy grounds. Defense counsel argued that the receipt was relevant to advance two defense theories, and the court denied the State's objection as follows:

> "[DEFENSE COUNSEL]: This is a bank receipt. It indicates a very low balance. This was found during the search of the car. There's not a name attached to the bank account, but I want to admit it as evidence that there was a lead that wasn't followed. This goes directly . . . to the defendant's theory that this was a robbery that took place. . . . I think a fair inference is that it belonged to the people that were inside of the car, or that who owned the car with Shondre and Jermaine, and that they didn't have any money, and, therefore, they had a reason to conduct a robbery.
>
> [THE STATE]: . . . [I]t does not have a distinguishable account number on it, a full account number. It does not have a name on it. It was Shondre's vehicle. It could be hers, it could be Jay[']s. Omar Campbell was in that vehicle, it could have been his. That could be [appellant's] receipt. There was some property in that vehicle that belonged to Jermaine Langley Hill, Sr., it could have been his.
>
> THE COURT: All right. I'll let you identify it through [Corporal McDowell] that he found it in [Ms. Naylor's car]. I agree that I don't think there's sufficient basis, at this time, for you to admit it . . . based on what you all are telling me right

now.

***

[DEFENSE COUNSEL]: It also goes to a theory that the investigation was incomplete; that there were plausible leads that weren't followed.

THE COURT: . . . [T]his is not the person to do that through. You can identify that he found it there, or saw it there, but I'd say that would be more for one of the detectives. . . . [Y]ou may lay the basis for somebody else. I understand your theory. I don't think you can do it through this [witness].

***

[DEFENSE COUNSEL]: [Y]ou're going to allow me to hand it to the [corporal] to identify that he took the picture?

THE COURT: Yes, and that it was found in [Ms. Naylor's car] is what you're saying.

[DEFENSE COUNSEL]: But you don't want me to describe, while he's identifying it?

THE COURT: Well, he can identify it as a bank receipt . . . ."

The court allowed defense counsel to show Corporal McDowell the picture of the receipt and ask Corporal McDowell to identify it as such. During cross-examination of Detective Toste, defense counsel tried to admit the photograph of the receipt into evidence. The State objected, and the court sustained the objection as follows:

"[DEFENSE COUNSEL]: Your Honor, this is relevant to our case. We have alleged during this trial that Jermaine and Shondre conducted a robbery of the defendant. We have evidence to that effect. Jermaine and Shondre's DNA [wa]s found on the knife that was at the center of this case. They're on drugs. . . . [T]heir friend Omar testified that nobody had a job. One of the motives for them to conduct this robbery is because they don't have any money.

> This was a lead that was found, and this shows that there was a .58 balance as of October 26, 2017, in a bank account. Now, the detectives didn't investigate whose bank account this was or whether there were any other accounts attached to this bank account, but . . . this is evidence that this motive exists, and when we allege this as part of a self-defense case, we have a right to prove that up. We have a right to enter evidence of a motive that . . . the victims conducted a robbery.
>
> [THE STATE]: I'd oppose the introduction. I think it's a receipt that . . . has no names attached to it. There's only partial account numbers attached to it. It's from at least four days prior to the incident alleged. . . . [I]t's meant to confuse the jury. It's meant to mislead them.
>
> [DEFENSE COUNSEL]: It also shows . . . the lack of thoroughness . . .
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> ***
>
> [DEFENSE COUNSEL]: of the investigation—
>
> ***
>
> [DEFENSE COUNSEL]: —that the investigation was incomplete.
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> THE COURT: Well, that's different, but entering it doesn't show that, that they didn't particularly testify whether they . . . asked or whether they followed up. My problem is not the theory of your defense. My problem is, I don't see the connection with either victim in this case. Objection is sustained."

Appellant testified in his own defense. When asked about his altercation with Ms. Naylor, appellant testified as follows:

> "[APPELLANT]: She was behind me, she started to attack me. She hit me in the back of the head, and then . . . I put my arm up to block it . . . .

> The girl was swinging. I didn't know it, everything was happening so fast, I didn't know what she had in her hand, I don't know if she had a weapon.
>
> ***
>
> [DEFENSE COUNSEL]: What was going through your head as you were being attacked?
>
> [APPELLANT]: I mean, I was scared for my life. I . . . had to just survive."

During a discussion about jury instructions, defense counsel requested the court to instruct the jury on the defense of hot-blooded response to a legally adequate provocation. The court denied the request as follows:

> "[DEFENSE COUNSEL]: [T]he test that the Court has to apply as to whether there is some evidence as to each element of that defense, if the defendant meets the some evidence test, he is entitled, under the law, to that instruction.
>
> . . . [T]he first element[] is that the defendant reacted to something in a hot-blooded rage; that is, the defendant actually became enraged.
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> And what we have here is testimony . . . from [appellant] that he was angry during this altercation; that during the altercation, Ms. Naylor . . . attacked him from behind; that she assaulted him from behind as he was fighting over a knife with Jermaine Hill; that in reaction to that, he swung his elbow to create distance, he made contact with her, created distance, he had the knife in his hand, and then he put his head down and he swung the knife until she stopped hitting him . . .
>
> ***
>
> The State presented evidence . . . that [appellant] kicked one of the bodies after he had emerged from the car. There's evidence that the car reversed over Ms. Naylor and Jermaine Hill, not once, but twice.

There is evidence that [appellant] yelled, F[***] you, to the police when he emerged from the tree line. There's evidence that he was combative when he was first taken into custody. There's also evidence that he was combative when he was taken to the Law Enforcement Center.

. . . [T]here's also evidence that he threw a bottle or a cup in the direction of the bodies after he emerged from the car. So there's ample evidence here.

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The second element, that . . . the rage was caused by something the law recognizes as a legally adequate provocation; that is, something that would cause a reasonable person to become enraged enough to kill or inflict serious bodily harm.

The only act that you could find to be an adequate provocation under the evidence in this case is a battery.

***

So I think there's two theories that this is a legally adequate provocation, number one, Shondre Brown Naylor assaulted and battered him, essentially; and number two, that they were acting in concert, and that she was part and parcel to the attack that Jermaine Hill conducted on [appellant], and Ms. Brown Naylor was just slower to chase after him into the parking lot.

***

Number three, . . . the defendant's rage had not cooled by the time of the killing.

We have evidence of that because the death blow, according to the medical examiner, each victim suffered a rapidly fatal wound . . . to the neck areas . . . . And so after that, he allegedly runs over twice, both victims.

***

Again, he threw a bottle . . . . He threw a cup . . . . He yelled F[***] you, to the police officer as the police officer tried to

> take him into custody. He was combative both at the scene and at the Law Enforcement Center. He was combative with Deputy Barrera in his police car, according to Deputy Barrera.
>
> ***
>
> Number four, there was not enough time between the provocation and the killing for a reasonable person's rage to cool.
>
> The evidence there presented is through the defendant's testimony and also through eye witnesses. Apparently, this altercation happened and the killings happened very quickly after the provocation occurred. So that's a factual question for the jury. . . .
>
> And number five, that Shondre Brown Naylor was the person who provoked the rage . . . [T]here's two theories here on this; that they were acting in concert together and they both assaulted him at the same time and/or that Shondre Brown Naylor . . . joined the attack after Jermaine had attacked him and assaulted him from behind.
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> ***
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> THE COURT: All right. Your objection's overruled or denied. I do not find there's been sufficient evidence generated to warrant that instruction as to Shondre Brown Naylor."

Appellant was convicted and sentenced as above, and this timely appeal followed.

II.

Before this Court, appellant argues first that the court erred in rejecting his proposed jury instruction on the defense of provocation. Appellant maintains that he presented more than "some evidence" at trial to generate a provocation instruction. Specifically, he argues that (1) there was adequate provocation based on his testimony that Ms. Naylor attacked

him from behind immediately after his altercation with Mr. Hill, (2) he "stabbed Ms. Naylor while in the heat of passion," (3) he did not have sufficient time to cool off between the time that Ms. Naylor attacked him and the time that he stabbed her, and (4) Ms. Naylor's attack caused the "heat of passion," which in turn caused him to stab her. In appellant's view, his testimony regarding what occurred generated enough evidence to warrant a provocation instruction.

Second, appellant argues that the court erred in admitting evidence of appellant's conduct during the ride to the Law Enforcement Center, his interrogation, and calls that he made to his mother while in jail. Appellant argues that evidence of his combative behavior and vulgar language after his arrest was inadmissible character evidence. He also argues that evidence of his call from jail alerted the jury improperly to the fact that he was detained pretrial, which "undermines the presumption of innocence." These errors, in appellant's view, were not harmless because they denied him his right to a fair trial.

Third, appellant argues that the court erred by refusing to ask appellant's *voir dire* question about certain defenses that appellant hoped to raise at trial. In appellant's view, these questions were aimed at determining if jurors were biased against these defenses and were therefore appropriate to ask during *voir dire*.

Finally, appellant argues that the court erred by refusing to admit the photograph of the bank receipt as evidence that Mr. Hill and Ms. Naylor had a motive to rob him. Appellant argues that the exclusion of this evidence deprived him of his right to present a defense to the charges against him.

In response, the State contends that appellant failed to generate enough evidence to

trigger a jury instruction on provocation. The State argues that appellant failed to show that he was in a subjective rage and consequently that his subjective rage caused him to attack Ms. Naylor. The State also argues that any error in not giving this instruction in relation to Ms. Naylor was harmless because the jury found appellant guilty of voluntary manslaughter, as opposed to murder, of Ms. Naylor despite being instructed on the provocation defense in regard to Mr. Hill only. Therefore, the State argues, appellant received the benefit of a provocation instruction—mitigation from murder to voluntary manslaughter—even though the court never gave a provocation instruction with regards to Ms. Naylor.

Second, the State argues that the court did not err in admitting evidence of appellant's post-arrest conduct and evidence of phone calls with his mother that tended to show that he was in jail pretrial. The State contends that appellant's uncooperative behavior and vulgar language were relevant consciousness-of-guilt evidence. The State also argues that evidence tending to show that appellant was in jail pretrial is not unfairly prejudicial because (1) a jury would be "unsurprised to learn that a person facing two charges of murder was in pretrial detention" and (2) evidence that is relevant for another purpose is admissible even if it also tends to show that appellant was in jail before trial. Because, in the State's view, appellant's calls to his mother from jail were relevant consciousness-of-guilt evidence, the court did not err in admitting them.

Third, the State maintains that the court did not err in refusing to ask appellant's proffered *voir dire* questions about the defenses that appellant planned to introduce at trial. The State notes that these questions are not mandatory and that the court did not know at

the time what defenses, if any, the evidence at trial would generate. Therefore, in the State's view, the court did not abuse its discretion.

Finally, the State argues that the court did not err in refusing to admit the bank account receipt as evidence that the victims had a motive to rob appellant. The State contends that the receipt could not be authenticated and that, under Md. Rule 403, the court had discretion to exclude the evidence out of concern that it would cause confusion and undue delay. In the State's view, even if the receipt could be authenticated, the court did not abuse its discretion in finding that its prejudicial value substantially outweighed its probative value.

III.

We review for abuse of discretion the trial court's decision not to propound appellant's proposed jury instruction on provocation. *Cost v. State*, 417 Md. 360, 368 (2010). We will not reverse the trial court's decision unless "we find that the defendant's rights were not adequately protected." *Id.* at 369. Maryland Rule 4-325(c) governs jury instructions and states as follows:

> "The court may, and at the request of any party shall, instruct the jury as to the applicable law and the extent to which the instructions are binding. The court may give its instructions orally or, with the consent of the parties, in writing instead of orally. The court need not grant a requested instruction if the matter is fairly covered by instructions actually given."

The instructions that a trial court gives under Rule 4-325(c) must state correctly the applicable law and apply to the facts at issue. *Cost*, 417 Md. at 368. An instruction that

does not adequately cover the theory of the defense need not be given by the court. *Id.* at 369. A defendant's proffered jury instruction on a defense theory must be "fairly supported by the evidence." *Fleming v. State*, 373 Md. 426, 432 (2003). The trial court decides as a matter of law whether there is sufficient evidence to generate an instruction. *Id.* at 433. On reviewing the trial court's decision, we view the evidence in the light most favorable to the defendant. *Id.*

The short answer to appellant's complaint that the trial court declined improperly to instruct the jury as to provocation, *i.e.*, hot-blooded response, is that he was not prejudiced by the court's ruling. Legally adequate provocation, if accepted by the jury, mitigates a charge of first-degree murder to manslaughter; it does not result in a not-guilty verdict. *Riley v. State*, 227 Md. App. 249, 258 (2016) ("A provocation defense . . . serves only to mitigate the presence of malice and cannot absolve an individual of all criminal liability."). Appellant was convicted not of first-degree murder but voluntary manslaughter. He suffered no prejudice because the verdict could not legally have been different.

We turn next to appellant's second argument that the trial court erred in admitting evidence of his post-arrest conduct. We review a trial court's ruling on the admissibility of evidence for abuse of discretion. *Thomas v. State*, 397 Md. 557, 579 (2007). Evidence is admissible if it is relevant and if its prejudicial value does not substantially outweigh its probative value. Md. Rules 5-402, 403. Evidence of a person's post-arrest conduct is admissible to prove a defendant's consciousness of guilt provided that it is not substantially more prejudicial than probative. *See Decker v. State*, 408 Md. 631, 640–41 (2009); *Thomas*, 397 Md. at 577–78 (holding that evidence of defendant's post-arrest resistance to

submitting to blood testing is admissible to show consciousness of guilt). Evidence of consciousness of guilt is relevant if it can satisfy four inferences:

> "(1) from [appellant's behavior], a desire to conceal evidence;
> (2) from a desire to conceal evidence, a consciousness of guilt;
> (3) from a consciousness of guilt, a consciousness of guilt of the [crime charged]; and
> (4) from a consciousness of guilt of the [crime charged], actual guilt of the [crime]."

Thomas, 397 Md. at 576. Evidence of consciousness of guilt "includes flight after a crime, escape from confinement, use of a false name, and destruction or concealment of evidence." *Thomas v. State*, 372 Md. 342, 351 (2002). The use of inflammatory or insensitive language is not always inadmissible. *See Khan v. State*, 213 Md. App. 554, 576–77 (2013). A jailhouse call can also be admissible to show consciousness of guilt. *See Burris v. State*, 206 Md. App. 89, 109–11, 142–45 (2012), *rev'd and remanded on other grounds*, 435 Md. 370 (2013) (holding that jailhouse call in which defendant allegedly sought to intimidate potential witness was admissible to show consciousness of guilt).

We hold that the trial court did not err in admitting evidence of appellant's post-arrest resistance to providing a DNA sample or his jailhouse calls with his mother. On the other hand, we hold that the trial court erred in admitting evidence of appellant's conduct in the police vehicle. Appellant's unwillingness to cooperate with providing a DNA sample is a conduct that Maryland courts have held satisfies the four inferences necessary to make the evidence relevant to consciousness of guilt. *See Thomas*, 397 Md. at 578; *Stevenson v. State*, 222 Md. App. 118, 146–47 (2015); *Marshall v. State*, 85 Md. App. 320,

323–24 (1991). Similarly, a jury could reasonably infer consciousness of guilt from appellant's jailhouse call in which he told his mother that she would not see him outside for a long time. *See Burris*, 206 Md. App. at 144. We reject appellant's argument that the call was unduly prejudicial because, as the State observed, the jury would likely not be surprised to learn that a person facing murder charges would be in jail pretrial.

On the other hand, appellant's use of foul language and his belligerence in the police vehicle were not relevant. Unlike the conduct highlighted in *Thomas v. State*, 372 Md. 342, 351 (2007), this conduct does not create an inference that appellant was seeking to conceal evidence or evade capture.

Even though the trial court erred, we will not reverse if the error is harmless. Error is harmless if a court can "declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict." *Dorsey v. State*, 276 Md. 638, 659 (1976). We hold that the trial court's error was harmless because the jury was unlikely to have inferred a guilty conscience from the erroneously admitted evidence, which was irrelevant to demonstrating consciousness of guilt.

Next, we turn to the trial court's refusal to ask certain *voir dire* questions proposed by appellant. We review the trial court's decision for abuse of discretion. *See Washington v. State*, 425 Md. 306, 313 (2012). We examine "whether the questions posed and the procedures employed have created a reasonable assurance that prejudice would be discovered if present." *Id.* Maryland employs "limited *voir dire*," which allows the trial court to limit *voir dire* questions to those directed toward uncovering cause for disqualification. *Id.* Defenses "do not fall within the category of mandatory inquiry on

voir dire." *State v. Logan*, 394 Md. 378, 397 (2006), *abrogated on other grounds*, *Kazadi v. State*, 467 Md. 1 (2020).[4] We agree with the trial court's observation that pretrial, it was not clear what defenses might be generated by the evidence.

Finally, we consider appellant's claim that the trial court decided improperly to exclude the bank receipt found in the victims' car as evidence of the victims' motive to rob appellant and an inadequate police investigation. In addition to the relevancy requirements for admissibility of evidence, *see* Md. Rule 5-402, evidence must be authenticated "as a condition precedent to admissibility" with "evidence sufficient to support a finding that the matter in question is what its proponent claims." Md. Rule 5-901(a). Authentication of writings can include corroboration from a witness with personal knowledge of the nature of the document or "circumstantial evidence indicating the identity of [their] author[s]." *Sublet v. State*, 442 Md. 632, 658–59 (2015).

In this case, no one with personal knowledge of the writing could testify as to whether the bank receipt belonged to the victims because both victims were deceased.

[4] *Kazadi v. State*, 467 Md. 1, 46 (2020) appears to be inapplicable here, stating as follows:

> "*Just as we do not disturb case law* as to *voir dire* questions concerning jury instructions *other than those on the presumption of innocence, the burden of proof, and the right not to testify*, we continue to stand by the well-established principle that 'Maryland employs limited voir dire—that is, in Maryland, *voir dire*'*s* sole purpose is to elicit specific cause for disqualification, not to aid counsel in the intelligent use of peremptory strikes.'"

(Emphasis added). At this time, we read *Kazadi* to apply only to the three fundamental rights articulated in the opinion and decline to extend it to *voir dire* questions related to defenses.

There was only minimal circumstantial evidence potentially tying the bank receipt to the victims: primarily that it was found in the victims' car. Appellant appears to have made no effort to authenticate the receipt in another way. We hold that the trial court did not abuse its discretion or err in excluding this evidence.

JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.