

Circuit Court for Baltimore County
Case No. C-03-CR-21-001662

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0191

September Term, 2023

DAMON TYLER

v.

STATE OF MARYLAND

Nazarian,
Reed,
Shaw,

JJ.

Opinion by Nazarian, J.

Filed: May 31, 2024

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

In 2021, Moeed Asif offered via Snapchat to sell Damon Tyler marijuana gummies. The two agreed to the sale and planned to meet at an apartment complex in the evening. After meeting up, Mr. Tyler shot Mr. Asif and stole his belongings. Police investigated the incident and Mr. Tyler was arrested and charged for various crimes. Officers also seized evidence, including surveillance footage from Mr. Tyler’s home.

At trial, over Mr. Tyler’s objections, the State asked a detective to identify the individual who appeared in the seized surveillance videos. The detective identified the person as Mr. Tyler. Ultimately, Mr. Tyler was convicted and sentenced for multiple crimes. On appeal, Mr. Tyler argues that the circuit court abused its discretion in allowing the detective to testify. We affirm.

I. BACKGROUND

A. The Shooting And Investigation.

On March 31, 2021, Shamgar Gaskin was walking towards his apartment’s porch when he heard loud sounds coming from outside. Initially, he believed the sound came from fireworks. But after listening to the sound again, Mr. Gaskin realized he was hearing gunshots. After hearing the final shot, Mr. Gaskin noticed two people running away from a Nissan Altima. Because Mr. Gaskin’s motorcycle sat near the Altima, he walked over to it to ensure it was not damaged. As he checked on his motorcycle, Mr. Gaskin noticed that the person “in the [Altima] in the driver’s side was shot, and he was bleeding and he took his last breath when he was looking at [Mr. Gaskin].” Mr. Gaskin called the police immediately.

Detective Craig Schrott was one of the first officers on the scene and he led the investigation. While first responders attempted to revive the victim, who would later be identified as Mr. Asif, police collected evidence from the Altima. One key piece of evidence they recovered was Mr. Asif's phone. After Mr. Asif's family member told police the phone's passcode, police discovered relevant Snapchat messages between Mr. Asif and another user. On the night of his murder, Mr. Asif was supposed to sell the other Snapchat user marijuana gummies. Police learned that the buyer's username was "devodondada." Police then executed a search warrant to obtain all Snapchat records related to the "devodondada" account. In addition to the records they received from Snapchat, the police obtained the individual's account information, which revealed the user's email address. They then used the email address to search for any related accounts that the individual may have been using. Officers learned the email was linked to an Apple, Inc. account and subpoenaed records from them. Apple complied and handed over documents that revealed the user's phone number, address, and full name—Damon Tyler.

After discovering this critical information, Detective Scott Fisher was tasked with tracking down Mr. Tyler. On April 14, 2021, Detective Fisher and a team of officers surveilled the area around Mr. Tyler's purported home. After some time, Detective Fisher saw Mr. Tyler leave the home and enter a Honda Civic. As Mr. Tyler drove away, officers began following him in unmarked cars. Mr. Tyler parked outside of a Family Dollar store and when he exited the vehicle, officers arrested him. They searched the Civic and officers

found items that included a “Runtz” backpack¹ that belonged to Mr. Asif. That same day, a search warrant was executed at Mr. Tyler’s home and police seized videos from a home surveillance system.

Mr. Tyler was charged with (1) robbery with a dangerous weapon, (2) first-degree felony murder, (3) first-degree premeditated murder, (4) second-degree murder, and (5) use of a firearm in the commission of a crime of violence.

B. The Trial.

On August 15, 2022, the State examined Detective Schrott, over Mr. Tyler’s objections, about the home surveillance videos:

[THE STATE]: And now, Detective, I’m gonna request of the Court that we publish this to the jury and then, you can explain what we’re looking at.

DET. SCHROTT: Okay.

[COUNSEL FOR MR. TYLER]: Well, Your Honor, I don’t think he needs to explain what we’re looking—objection to him explaining to what they’re looking at. They can watch it and see it for themselves.

THE COURT: Okay. Um, are you just gonna begin playing it [?]

[THE STATE]: That was my intention.

THE COURT: And are you gonna ask questions? Or are you asking that he narrate through it?

[THE STATE]: Um, I intend to ask questions.

THE COURT: Okay.

¹ The backpack was swabbed for DNA and sent to a lab for testing. After the completion of DNA analysis, “[a] qualified, forensic biologist concluded that the DNA of the major contributor was consistent with the known DNA of Damon Tyler. With regard to the handle, the chances of the DNA being someone other than Damon Tyler are 1 in 31,000,000 for the African American community.”

* * *

[THE STATE]: Okay, Detective. I'm just gonna pause it for a second. The—is this the first of the three clips that I showed you before—

* * *

[THE STATE]: I'm gonna wait for a minute here. (LONG PAUSE)—Okay. Now, Detective, first off, during the course of your investigation of this case, did you have occasion to interact with and/or see ah, the Defendant, Damon Tyler?

DET. SCHROTT: Yes.

[THE STATE]: Okay. And having reviewed this videotape, do you recognize the individual that was—just been depicted in the, in the occasions we just saw?

DET. SCHROTT: I do.

[THE STATE]: And who do you recognize that person to be?

DET. SCHROTT: The Defendant, Damon Tyler.

[COUNSEL FOR MR. TYLER]: We—objection, for the record.

THE COURT: All right. Overruled.

[THE STATE]: And then, what, what date and time is this video clip?

DET. SCHROTT: This is from March 31st of 2021, at about 11:05—is what's displaying for—11:05 AM right now.

[THE STATE]: AM. Okay. (PAUSE)—Now, I just started the, the second clip that I referred to when you were previously testifying. Is this, again, the clips you saw earlier?

DET. SCHROTT: It is. (PAUSE)—

[THE STATE]: Okay. Now, the individual that was just depicted in this clip, do you recognize that individual?

DET. SCHROTT: I do.

[THE STATE]: And who do you recognize that to be?

DET. SCHROTT: The Defendant, Damon Tyler.

[THE STATE]: All right. And I wanna back up here for a second.

[COUNSEL FOR MR. TYLER]: Objection, again, for the record.

THE COURT: So noted. Overruled. (LONG PAUSE)—

[THE STATE]: But I gotta back up again You see anything in his hands?

DET. SCHROTT: I do. It's a, a white, Runtz backpack with purple writing

[THE STATE]: And then, what date and time is this video clip?

DET. SCHROTT: This is from April 1st of 2021 and the time being displayed right now is 12:43 PM. (PAUSE)—

After the trial concluded, Mr. Tyler was found guilty of (1) robbery with a dangerous weapon, (2) first-degree felony murder, (3) first-degree premeditated murder, (4) second-degree murder, and (5) use of a firearm in the commission of a crime of violence. On March 1st, 2023, the court imposed a life sentence for first-degree murder, a consecutive twenty years' incarceration for use of a firearm in the commission of a crime of violence, and an additional twenty years for the robbery with a dangerous weapon charge. Mr. Tyler timely appealed.

II. DISCUSSION

Mr. Tyler raises one issue² on appeal, which we slightly rephrase: whether the circuit court erred in admitting Detective Schrott's testimony identifying Mr. Tyler as the individual in the surveillance video.

² Mr. Tyler phrased his Question Presented as: "Did the trial court abuse its discretion by permitting Detective Schrott to identify the person on the surveillance video as Appellant?"

The State phrased its Question Presented as: "Did the trial court properly exercise its discretion in allowing a detective to identify Tyler in surveillance footage?"

In general, we review the circuit court’s admission of evidence for abuse of discretion. *Shelton v. State*, 207 Md. App. 363, 374 (2012). “We will not disturb a trial court’s evidentiary ruling unless the evidence is plainly inadmissible under a specific rule or principle of law or there is a clear showing of an abuse of discretion.” *Moreland v. State*, 207 Md. App. 563, 568–69 (2012) (cleaned up). An abuse of discretion occurs whenever the court’s decision is “well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Id.* at 569 (cleaned up).

A. The Circuit Court Did Not Err In Admitting Detective Schrott’s Testimony.

Mr. Tyler argues that the circuit court abused its discretion in allowing Detective Schrott to provide identity testimony after watching the surveillance footage. We disagree.

For lay witnesses, “the witness’s testimony in the form of opinions or inferences is limited to those opinions or inferences which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue.” Md. Rule 5-701. Additionally, our Court has adopted the majority rule regarding lay witnesses who seek to identify individuals in photos or videos:

All of the courts among the majority agree that a lay witness who has substantial familiarity with the defendant, such as a family member or a person who has had numerous contacts with the defendant, may properly testify as to the identity of the defendant in a surveillance photograph. Moreover, several jurisdictions agree that whether a lay witness’ prior contacts with the defendant are extensive enough to permit a proper identification is a matter of weight for the jury, not admissibility.

Moreland, 207 Md. App. at 572 (quoting *Robinson v. Colorado*, 927 P.2d 381, 383 (Colo. 1996)). To reiterate, “the intimacy level of the witness’ familiarity with the defendant goes to the weight to be given the witness’ testimony, *not the admissibility* of such testimony.” *Id.* (quoting *Robinson*, 927 P.2d at 384) (emphasis added).

At trial, Detective Schrott identified Mr. Tyler as the individual depicted in the various surveillance video clips. He was asked to do so because he had interacted previously with Mr. Tyler, although how much is unknown. But even if their earlier interactions were minimal, the fact that Detective Schrott testified from his personal knowledge, had seen Mr. Tyler more often than the jury, and identified Mr. Tyler to demonstrate the importance and relevance of the surveillance footage combines to make his testimony admissible. *See id.*

Mr. Tyler counters that “[u]nlike the witness in *Moreland*, the record fails to show that Detective Schrott had ‘substantial familiarity’ with [Mr. Tyler].” But although it’s true that Detective Schrott did not have the same level of familiarity with Mr. Tyler as the witness in *Moreland* had with Mr. Moreland, who had known the defendant for decades, that difference goes to the *weight* of the evidence, not its *admissibility*. *Id.*; *see also Tobias v. State*, 37 Md. App. 605, 616–17 (1997) (“We find no abuse of discretion in allowing the authenticating witness to identify people shown in the video tape The jury saw the tape, and could judge for itself what it showed and whether Detective Battle’s identifications were accurate.”). And although Detective Schrott’s testimony could have been deemed unpersuasive, Mr. Tyler (correctly) has not made any arguments about the

weight of the testimony. The circuit court did not abuse its discretion in admitting Detective Schrott's testimony, which the jury was entitled to consider and weigh as it thought appropriate.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
APPELLANT TO PAY COSTS.**