Circuit Court for Howard County
Case No. C-13-CR-21-000384

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0236

September Term, 2023

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QUILLON IVAN LONG, JR.

v.

STATE OF MARYLAND

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Tang,
Albright,
Kehoe, S.,

JJ.

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Opinion by Albright, J.

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Filed: July 7, 2025

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

Quillon Ivan Long, Jr., appellant, was convicted by a Howard County jury of first-degree murder, robbery with a dangerous weapon, and related charges following the shooting death of Montez Case in the parking lot of a Columbia, Maryland convenience store.[1] At trial, Mr. Long claimed (unsuccessfully) that he had acted in self-defense. On this direct appeal, Mr. Long presents three questions for our review, all of which are related to the trial evidence. We rephrase Mr. Long's questions as follows:[2]

I. Did the circuit court abuse its discretion by admitting three images from Mr. Long's phone of an individual holding a gun?

II. Did the circuit court abuse its discretion by admitting body-camera footage of Mr. Long's arrest?

III. Did the circuit court abuse its discretion by allowing Mr. Vasudevan to state his belief about Mr. Long's intent on the night of the shooting?

We answer all three questions in the negative and affirm Mr. Long's convictions.

[1] Mr. Long was sentenced to a life term plus a consecutive twenty-year term, suspend all but five years without parole, a concurrent five-year term, and a five-year period of supervised probation upon release.

[2] Mr. Long presents his questions as:

1. Did the trial court abuse its discretion by admitting three images of a subject holding a handgun that could not be linked to the crime?
2. Did the trial court improperly admit State's exhibit 13, body-worn camera footage of Mr. Long's arrest?
3. Did the trial court err in permitting the State to elicit an opinion from a witness that invaded the province of the jury?

## BACKGROUND

### *A. The Shooting*

The shooting occurred around 9:30 pm on June 11, 2021. Mr. Case was at a convenience store parking lot in order to sell a cellphone to a buyer he was meeting for the first time after contact through an online forum. The agreed-upon sales price was $650. Following the shooting, Mr. Case was taken by ambulance to the hospital where he died.

About a month later, Mr. Long was indicted for the shooting. The specific counts were first-degree murder, conspiracy to commit first-degree murder, second-degree murder, first-degree assault, conspiracy to commit first-degree assault, armed robbery, conspiracy to commit armed robbery, robbery, conspiracy to commit robbery, the use of a firearm in the commission of a crime of violence, conspiracy to use a firearm in the commission of a crime of violence, and possession of a regulated firearm under the age of twenty-one.

### *B. Mr. Long's Trial*

A jury trial started on October 12, 2022, and lasted five days. Mr. Case's cousin, Kyjuan Jennings, was with Mr. Case on June 11, 2021, and testified about their actions that day. They began hanging out together between ten and eleven o'clock in the morning. Throughout the rest of the day, they hatched a plan to split the profits from the sale of a cellphone. Mr. Jennings would provide the phone, and Mr. Case would sell it online.

Later that evening, Mr. Case and Mr. Jennings met up in order to sell the cellphone. Mr. Jennings and another friend[3] drove over to a convenience store with the phone around eight or nine o'clock, and Mr. Case met them about five to ten minutes afterwards. Mr. Case informed Mr. Jennings that the buyer was already there and took the phone from Mr. Jennings to go sell it. Mr. Jennings stayed in his car, which he had parked in front of the convenience store.

About three minutes later, Mr. Jennings heard one or two gunshots. He could not see the cellphone transaction taking place from where he was positioned, and he "pulled off because [he] didn't know where [the gunshots] were coming from." Mr. Jennings then drove home—less than a minute away—and picked up his mother because "it sounded like somebody just shot [Mr. Case]." When they returned to the convenience store, they found Mr. Case in the back. Mr. Jennings saw blood on Mr. Case's jacket and urged bystanders to call an ambulance. He did not see any weapons on or around Mr. Case, "only [] his phone and his money on him."

An ambulance arrived and took Mr. Case to the hospital where he died from his wounds. According to the State's medical examiner, Mr. Case was killed by a gunshot to his torso. A single bullet entered the left side of his lower back and exited through the right upper quadrant of his abdomen.

[3] Mr. Jennings testified that the friend, DeAndre Evans, "was in the store buying snacks" during the shooting. Mr. Evans did not testify at trial.

From the parking lot, detectives recovered two bullet casings from a nine-millimeter handgun, Mr. Case's glasses, and Mr. Case's cellphone. They also obtained surveillance footage from the convenience store. The surveillance footage did not disclose the identity of the shooter, but it showed two individuals emerging from a black Infiniti sedan and interacting with Mr. Case before one of them shot him.

After Mr. Jennings informed the police that Mr. Case had been at the convenience store for the sale of the cellphone on the app OfferUp,[4] Detective Jonathan Berry accessed a law enforcement database to find out more information about the transaction. The seller's information matched Mr. Case's email and phone number; the buyer's information included the email "Robertiwantitems123@gmail.com" and a phone number tied to Bishop Vasudevan. The activity on the buyer's account was "very limited[.]" A series of in-app messages between the buyer and seller set the location and time for the exchange, and the buyer described his vehicle as a "Black Nissan" while coordinating the meetup. Cellular location data from Mr. Vasudevan's phone showed that his phone had moved from an area surrounding Mr. Vasudevan's home in District Heights up to Columbia in the time leading up to the shooting, and further indicated it was "very close to the scene of the incident" when the shooting occurred.

[4] Detective Berry described OfferUp as largely the same as other online sales platforms where sellers list items for sale and interested buyers can search through them. The relatively unique feature of OfferUp, however, was that "it's encouraged to be an in-person type set up of meetings[.]"

Detective Berry also learned from the IP addresses[5] on the buyer's initial messages that the buyer had accessed the internet service at a house where Quillon Long, Sr., and Quillon Long, Jr., (Mr. Long) lived. A black Infiniti sedan was registered to both men, too. Police set up a camera outside the Long residence, and surveillance footage showed Mr. Long intermittently performing maintenance on the vehicle but mostly keeping it under a car cover.[6]

Officers executed search warrants on Mr. Long's and Mr. Vasudevan's homes around 4:00 a.m. on July 14, 2021, and subsequently arrested both of them. During trial, body-camera footage from Corporal Christopher Malinowski was introduced—over objection—depicting Mr. Long's arrest and handcuffing in his bedroom as well as the search of his home. A black Glock handgun was also recovered in the dresser of Mr. Long's bedroom, and the State's firearm and toolmark identification expert testified that the bullet casings found at the scene of the shooting were fired from the black Glock handgun.[7]

[5] Detective Berry explained that an IP address, or "internet protocol address," allows the activity from a specific device to be tracked across the internet.

[6] Detective Berry testified that items observed at the residence informed him that the rims on the black Infiniti seemed to have been altered by having been painted black since the shooting occurred. Mr. Long later testified that he often modified his car.

[7] A Hi-Point handgun was recovered in a separate dresser in the house and was not matched to the shooting.

Mr. Long's phone[8] was seized. From it, police extracted three images of an unidentifiable person holding a handgun. These images were admitted—over objection—during trial. Two of the photos were taken on the day of the shooting, and the third was from July 4, 2021. Although the photos were recovered within Mr. Long's text message attachments, they did not show up in any text message threads, and Detective Berry explained that this meant "[t]hey would have to be more than likely manually deleted or removed[.]"

Mr. Vasudevan testified about his and Mr. Long's respective roles in the robbery and shooting of Mr. Case. Although Mr. Vasudevan was primarily friends with Mr. Long's younger brother, "Q,"[9] Mr. Vasudevan was hanging out with Mr. Long on June 11, 2021, while Q was at work. While they were together, he agreed to "help [Mr. Long] look for a phone" on OfferUp. Mr. Vasudevan created an account on the app and located a cellphone that Mr. Long was interested in. Then, Mr. Vasudevan set up the exchange and traveled up to Columbia with Mr. Long because the communications with the seller were happening through Mr. Vasudevan's phone. Mr. Long's girlfriend and young daughter came along, too. According to Mr. Vasudevan, the purchase of the phone was made entirely on behalf of Mr. Long.

When they arrived at the convenience store, Mr. Vasudevan "got out of the car to talk to [Mr. Case] and make sure he got the phone and it worked." After determining the

[8] The cellphone that was the subject of the transaction was never recovered.

[9] Mr. Vasudevan identified him solely as "Q" at trial.

phone was functional, Mr. Vasudevan went back into the car to get the money from Mr. Long. Mr. Vasudevan then stated that Mr. Long called Mr. Case over to the car to show him that the phone worked.

At that point, Mr. Long got out of the car and fired two shots at Mr. Case.[10] Mr. Long then approached Mr. Case and retrieved the cellphone Mr. Case was selling from the ground next to where Mr. Case had fallen before getting back into the car. Mr. Vasudevan also got back into the car, and they drove away. A few days after the shooting, Mr. Long told Mr. Vasudevan to change his phone number.

Mr. Vasudevan was repeatedly asked at trial about Mr. Long's demeanor in the car leading up to the shooting. During his cross examination, Mr. Vasudevan acknowledged that Mr. Long had not mentioned anything about robbing or shooting Mr. Case, and that he had not observed any weapons on Mr. Long. When asked by Mr. Long's counsel, Mr. Vasudevan opined that Mr. Long had not gone to the transaction with the intent to shoot Mr. Case. The State, on redirect, then asked Mr. Vasudevan what his opinion of Mr. Long's intent was, and Mr. Vasudevan testified—over objection—that Mr. Long was there to rob Mr. Case.

Mr. Long, on the other hand, claimed that he shot Mr. Case in self-defense. According to Mr. Long, Mr. Vasudevan approached him to "[g]ive [Mr. Vasudevan] a ride to go take him to buy [a cell phone]." Mr. Long was tired after a long day of work

[10] Apparently, only one of the bullets struck Mr. Case. Although Mr. Case had a wound on his back and front, the State's medical examiner explained that they were, respectively, entrance and exit wounds from the same bullet.

and only agreed when Mr. Vasudevan offered to pay him fifty dollars. Only Mr. Vasudevan communicated with the seller, and Mr. Vasudevan also provided all the instructions to get to the convenience store.

When they arrived, Mr. Long pointed out that Mr. Vasudevan was the one who got out of the car and interacted with Mr. Case until Mr. Case approached the car. According to Mr. Long, Mr. Case walked up to the car and said, "that better be all my money or I'm going to whip-out."[11] Mr. Long also saw a black gun in Mr. Case's waistband. Mr. Long was scared for his family, so he got out of the car and shot at Mr. Case with a gun he claimed his father left in the glovebox. Realizing what he had done, Mr. Long "picked [Mr. Case's] firearm up off the ground out of his reach," and drove away. He then disposed of Mr. Case's gun. Although he asserted that he planned to turn himself in, he explained that he had not built up the courage to do so before he was arrested.

The jury convicted Mr. Long of first-degree felony murder, robbery with a dangerous weapon, robbery, first-degree premeditated murder, first-degree assault, use of a firearm in the commission of a crime of violence, and possession of a regulated firearm while under the age of twenty-one. He was sentenced to life imprisonment for first-degree murder, a consecutive twenty years, suspend all but five years without parole for the use of a firearm in the commission of a crime of violence, and a concurrent five-year term for the underage possession of a regulated firearm. Mr. Long's other convictions merged at sentencing. He then noted this timely appeal.

[11] Mr. Long explained that "[w]hip-out in street terms means pull out a gun."

## STANDARD OF REVIEW

We apply a two-step analysis when reviewing a circuit court's ruling on the admissibility of evidence. *Akers v. State*, 490 Md. 1, 24 (2025). We first determine, de novo, if the evidence is relevant. *Id.* If the evidence is relevant, we then review whether the trial court abused its discretion in admitting the evidence. *Id.* at 25. In essence, we refrain from reversing a circuit court's decision unless the evidence is "plainly inadmissible under a specific rule or principle of law," or if "no reasonable person would take the view adopted by the circuit court." *Montague v. State*, 471 Md. 657, 674 (2020) (quoting *Portillo Funes v. State*, 469 Md. 438, 478 (2020) and *Williams v. State*, 457 Md. 551, 563 (2018)).

## DISCUSSION

### I. Because the Images of an Individual Holding a Handgun Were Relevant, the Circuit Court Did Not Err in Admitting Them.

#### *A. Mr. Long's Contentions*

Mr. Long first posits that the circuit court erred by admitting three images from a phone in Mr. Long's room that showed an individual holding a handgun. These photos, Mr. Long claims, were irrelevant because they "could not be connected to the crime." Even if they were relevant, Mr. Long argues that they were "highly prejudicial and minimally probative," because they "were likely to make jurors to think of Mr. Long as a person who carried a gun and even took pictures of himself holding a gun." In other

words, Mr. Long contends that the evidence was inadmissible under Md. Rules 5-403[12] and 5-404.[13] Admitting the photos was not harmless error, he claims, because of the "extreme prejudice" inherent in evidence of gun use. To the extent that these contentions are preserved, we disagree with them.

***B. Analysis***

We begin with preservation. Although it is well established that a "general objection" typically preserves "all grounds which may exist for the inadmissibility" of evidence, that is not the case if the objecting party "voluntarily offers specific reasons for objecting to certain evidence." *Boyd v. State*, 399 Md. 457, 476 (2007). *See also, e.g.*, *Banks v. State*, 84 Md. App. 582, 588 (1990) ("[W]hen the grounds for an objection are stated by the objecting party, either on a volunteered basis or at the request of the court, only those specifically stated are preserved for appellate review; those not stated are deemed waived.").

[12] Md. Rule 5-403 provides, in full:

> Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

[13] Md. Rule 5-404 provides, in relevant part:

> (a)(1) *Prohibited Uses.* Subject to subsections (a)(2) and (3) of this Rule, evidence of a person's character or character trait is not admissible to prove that the person acted in accordance with the character or trait on a particular occasion.

Despite Mr. Long's contentions on appeal that the photographs were improper under Md. Rules 5-403 and 5-404, Mr. Long only objected to the photographs during trial on relevance grounds:

> [PROSECUTOR]: Was there any attachments that you were able to note relevant to deleted messages?
>
> [DETECTIVE BERRY]: Yes. So, in reviewing the images that were captured on the phone I found three images of a subject holding what I would identify as handguns. I can't identify the subject. It's just a handgun in a subject's hand in their lap area. The interesting part was that the photos were still in the photo portion of the phone in a Cellebrite extraction as you saw on some of the other displays . . .
>
> [DEFENSE COUNSEL]: I would have to object, your Honor, to the relevance of this testimony to this case.[14]
>
> [THE COURT]: Overruled.

Because Mr. Long objected and voluntarily put forth "relevance" as his sole objection to the admission of the photographs, we cabin our review accordingly.

Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Md. Rule 5-401. This is a "low bar to meet." *Montague*, 471 Md. at 674 (quoting *Williams*, 457 Md. at 564). In general, "all relevant evidence is admissible." *Id. See also* Md. Rule 5-402.[15]

[14] Our review of the record suggests that Mr. Long only objected to Detective Berry's *testimony* about the photographs as the data extracted from Mr. Long's cellphone. The photographs themselves were admitted without objection. Nonetheless, the State treats Mr. Long's objection to Detective Berry's testimony as an objection to the photographs, so we address this objection as such in our own analysis.

[15] Md. Rule 5-402 states in its entirety:

Here, the photographs were relevant to prove that Mr. Long possessed a gun at the time of the robbery and shooting. All three photos depicted an individual holding a handgun and were attachments in Mr. Long's text message threads. Two of the photos were dated the same day that Mr. Case was shot and killed, and the third photo was dated a few weeks after the shooting. Both the subject matter and the timing of the photos increase the likelihood that Mr. Long, the possessor of the photos, was the unidentified individual in the images. And if Mr. Long possessed a gun in the images, the images make it more likely that he possessed a handgun at the time of Mr. Case's shooting. *Cf. Montague*, 471 Md. at 693–94 (noting that the "close temporal nexus" between a murder and the defendant's rap lyrics increased the probative value of the lyrics).

The evidence was also relevant because it bears on Mr. Long's consciousness of guilt. Detective Berry testified that the photos had "more than likely [been] manually deleted or removed from the text thread as a whole." As we have previously noted, "[a] person's behavior after a crime can qualify as circumstantial evidence, or lead to reasonable inferences, that he is conscious of his guilt[.]" *Stevenson v. State*, 222 Md. App. 118, 145 (2015). To determine whether evidence of this sort is relevant, "[t]he proper inquiry is whether the evidence could support an inference that the defendant's conduct demonstrates a consciousness of guilt. If so, the evidence is relevant and

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> Except as otherwise provided by constitutions, statutes, or these rules, or by decisional law not inconsistent with these rules, all relevant evidence is admissible. Evidence that is not relevant is not admissible.

generally admissible." *Id.* (quoting *Thomas v. State*, 397 Md. 557, 575–76 (2007)). Detective Berry's testimony in this case established that Mr. Long intentionally deleted from his phone the photographs of an individual holding a firearm. This was done during the month after Mr. Case was killed. Taken together, this evidence reasonably supports the inference that Mr. Long deleted the photos in recognition of his culpability in the shooting. *See, e.g.*, *Thomas v. State*, 372 Md. 342, 351 (2002) (noting that "[c]onduct typically argued to show consciousness of guilt includes . . . destruction or concealment of evidence"). Accordingly, we see no error in the circuit court's conclusion that these photos were relevant.

## II. The Circuit Court Did Not Abuse Its Discretion by Admitting Body-Camera Footage of Mr. Long's Arrest.

### *A. Mr. Long's Contentions*

Mr. Long next asserts that the circuit court abused its discretion by admitting evidence of body-camera footage from his arrest that showed him in handcuffs. The circuit court, he argues, incorrectly weighed the probative value and prejudice of the body-camera footage when conducting its analysis under Md. Rule 5-403. He contends the evidence had "little probative value and was cumulative of testimony that Mr. Long was arrested in his home." On the other hand, he compares the prejudice from the jury seeing him in handcuffs to the "inherent prejudice" of visibly shackled defendants at trial. In his view, admitting the body-camera footage was not harmless because the inherent prejudice from the "visible shackling undermines the presumption of innocence[.]" We disagree.

### *B. Analysis*

Md. Rule 5-403, in full, provides:

> Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

The probative value of evidence stems from its tendency "to establish the proposition that it is offered to prove." *Smith v. State*, 218 Md. App. 689, 704 (2014) (quoting *Williams v. State*, 342 Md. 724, 737 (1996)). Unfair prejudice, on the other hand, only arises if evidence "might influence the jury to disregard the evidence or lack of evidence regarding the particular crime with which the defendant is being charged." *Burris v. State*, 435 Md. 370, 392 (2013) (cleaned up).

The body-camera footage was probative because it showed that the gun was discovered in Mr. Long's dresser. The State charged Mr. Long with multiple offenses related to his illegal possession and use of a firearm. In order to prove the elements of these offenses, the State had to show that the firearm belonged to Mr. Long.[16] Several people were living in the house where the firearm was recovered. Because the body-camera footage showed the gun being retrieved from the dresser in Mr. Long's bedroom (as opposed to the bedroom of another of the home's inhabitants), the body-camera footage was probative in establishing that Mr. Long possessed the firearm. And,

[16] Mr. Long's charges included, among others, the use of a firearm in the commission of a felony or crime of violence and possession of a firearm as a minor. Possession of a firearm is a required element of both offenses. *See* Md. Code, Criminal Law, § 4-204(b); Md. Code, Public Safety, § 5-133(c).

establishing Mr. Long's ownership of the gun had additional probative value in refuting Mr. Long's claims that the gun had been stored in the glovebox of the black Infiniti by Mr. Long's father.

Moreover, the probative value of the body-camera footage was not reduced by the fact that it showed Mr. Long being arrested in his home. Video evidence is independently probative when it supports a witness's testimony. *See Washington v. State*, 406 Md. 642, 652 (2008) ("Photographs may be admissible as probative evidence in themselves rather than merely as illustrative evidence to support a witness's testimony, so long as sufficient foundational evidence is presented to show the circumstances under which it was taken and the reliability of the reproduction process."). Thus, the body-camera footage had probative value in its own right because it confirmed Detective Berry's testimony that the gun was located in Mr. Long's room.

We start our analysis of unfair prejudice by distinguishing the admission of body-camera footage here from the inherent prejudice that occurs when a defendant is visibly shackled during trial. To be sure, the cases Mr. Long relies on, *Deck v. Missouri*, 544 U.S. 622 (2005), and *Wagner v. State*, 213 Md. App. 419 (2013), support the proposition that a defendant who is viewed by a jury while in shackles faces the risk of unfair prejudice. Mr. Long, however, was not shackled during trial and the jury only saw him in handcuffs in the body-camera footage of his arrest. The risk of prejudice is not the same.

In *Deck*, the United States Supreme Court identified "three fundamental legal principles" to determine when a defendant's constitutional rights are violated by visible

shackling. 544 U.S. at 630. First, visibly shackling a defendant during trial undermines the presumption of innocence by suggesting to the jury the "need to separate a defendant from the community at large." *Id.* (citing *Holbrook v. Flynn*, 475 U.S. 560, 569 (1986)). Second, using physical restraints interferes with a defendant's right to secure a meaningful defense because it limits the defendant's ability to communicate with counsel. *Id.* at 631. Third, shackling a defendant in the presence of the jury undermines "a judicial process that is a dignified process." *Id.*

Applying these principles to a defendant who was visibly shackled during a capital sentencing hearing, the *Deck* Court held that the defendant was "inherently prejudice[d]." *Id.* at 635 (quoting *Holbrook*, 475 U.S. at 548). Although the first fundamental principle did not apply in the sentencing hearing because the defendant was no longer afforded the presumption of innocence, the second and third "similarly weighty considerations" drove the Court's conclusion that "courts cannot routinely place defendants in shackles or other physical restraints visible to the jury during the penalty phase of a capital proceeding." *Id.* at 633. The Court noted that this "constitutional requirement, however, is not absolute[,]" and requires a case-specific analysis of any special circumstances that "may call for shackling." *Id.*

This Court in *Wagner* held that a particular defendant's due process rights were not violated when the trial court required him to be shackled when receiving the jury's verdict. *Wagner*, 213 Md. App. at 479–82. The shackling in *Wagner* occurred after the jury reached its verdict (even if the verdict had not yet been announced), and there was

no indication that the shackles were visible to the jurors. *Id.* at 479. In short, the challenged use of shackles was not "so inherently prejudicial as to pose an unacceptable threat to [the] defendant's right to a fair trial[.]" *Id.* at 478 (quoting *Bruce v. State*, 318 Md. 706, 721 (1990)). As a result, reversal was not appropriate. *Id.* at 482.

In the present case, because Mr. Long was not shackled during trial, none of the three instances for *Deck* prejudice came to pass. There is a critical difference between the jury viewing a shackled defendant at trial as opposed to observing the defendant handcuffed during an arrest. The former may improperly influence the jury to believe a defendant should be separated from society. *Deck*, 544 U.S. at 630. The use of handcuffs during an arrest, though, is a routine practice that speaks more to an arresting officer's need to secure the scene and their own safety. *See, e.g.*, *Barnes v. State*, 437 Md. 375, 391 (2014) (noting that handcuffing is a measure "traditionally associated with arrest"). Any suggestion that Mr. Long required physical separation from the community was diminished further by a lack of restraints during his trial. And, because he was not restrained during trial, Mr. Long's ability to communicate with counsel was not impeded nor was the integrity of the judicial proceeding itself undermined.

Without the inherent prejudice that results from shackling a defendant during trial, the body-camera footage did not otherwise present an "unacceptable threat" to Mr. Long's right to a fair trial. *See Wagner*, 213 Md. App. at 478. To the contrary, the jury only briefly viewed Mr. Long in handcuffs and only on the body-camera footage of his arrest, all of which obviated any unfair prejudice to Mr. Long. *Accord Bruce*, 318 Md.

at 722 (holding a defendant was not denied a fair trial despite the jury inadvertently seeing deputies removing the defendant's handcuffs when he was led into the courtroom); *State v. Latham*, 182 Md. App. 597, 616–18 (2008) (holding that trial counsel was not deficient despite failing to inquire into a juror's "momentary glimpse" of the defendant in shackles while in transit to the courtroom). Accordingly, we conclude that the circuit court did not abuse its discretion by admitting the body-camera footage of Mr. Long's arrest.

## III. The Circuit Court Did Not Abuse Its Discretion by Permitting Mr. Vasudevan to Testify to His Belief That Mr. Long Went to Rob Mr. Case.

### *A. The Parties' Contentions*

Finally, Mr. Long argues that the circuit court abused its discretion by allowing Mr. Vasudevan to testify to his belief that Mr. Long went to the convenience store parking lot in order to rob Mr. Case. According to Mr. Long, Mr. Vasudevan's testimony invaded the province of the jury "because it offered a legal conclusion on the ultimate issue which only the jury was qualified to decide: i.e., whether Mr. Long was engaged in actions that constituted a robbery." Further, Mr. Long asserts that the testimony was speculative, and inadmissible under Md. Rule 5-701.

The State, on the other hand, contends that Mr. Long "opened the door" to Mr. Vasudevan's earlier testimony through his own prior questioning of Mr. Vasudevan. The State argues that the circuit court correctly found that Mr. Long "injected the issue of intent into [Mr.] Vasudevan's testimony by asking [Mr.] Vasudevan's *personal knowledge* of [Mr.] Long's intent." Moreover, the State argues that the questioning

elicited testimony from Mr. Vasudevan that was "rationally connected to the underlying facts observed by [Mr.] Vasudevan[.]"

We conclude that the circuit court did not abuse its discretion by allowing Mr. Vasudevan's testimony. First, we agree with Mr. Long that admitting Mr. Vasudevan's complained-of testimony was erroneous. Second, since we believe the State misinterprets the "opening the door" doctrine for the reasons we explain below, we analyze the inadmissible evidence under the doctrine of "curative admissibility," a doctrine that is "frequently confused" with "opening the door." *See Clark v. State*, 332 Md. 77, 84 (1993). Third, we determine that Mr. Vasudevan's complained-of testimony was proportional to previous inadmissible testimony elicited from Mr. Vasudevan by Mr. Long, himself. Thus, in the limited circumstances of this case, we conclude that the circuit court did not abuse its discretion by allowing the later testimony from Mr. Vasudevan under the doctrine of "curative admissibility."

### *B. Mr. Vasudevan's Testimony*

The backdrop for this issue first arose during the State's case in chief, after the State had called Mr. Vasudevan and concluded its direct examination of him, and during Mr. Long's cross examination of Mr. Vasudevan that followed. After questioning Mr. Vasudevan about several of his observations from the night of the shooting, Mr. Long's counsel asked Mr. Vasudevan for a conclusion about Mr. Long's intent:

> [DEFENSE COUNSEL]: So, you know for sure from your personal knowledge that there was nothing about [Mr. Long's] actions or words that indicated that he had planned to engage in any kind of shooting, right?
>
> [MR. VASUDEVAN]: Yes.

. . .

[DEFENSE COUNSEL]: And you were there so you would know, right?

[MR. VASUDEVAN]: Yes.

On redirect, the State returned to this line of questioning:

> [PROSECUTOR]: Okay. Looking at all of the factors, looking back on that night, what do you believe Mr. Long was there to do?
>
> [DEFENSE COUNSEL]: I object, Your Honor.

At the bench conference that followed, the State noted that Mr. Long's counsel had previously "opened the door" to the question when asking Mr. Vasudevan whether, based on his personal knowledge, Mr. Long went to shoot Mr. Case. The circuit court then overruled the objection. The State re-asked the question:

> [PROSECUTOR]: Let me restate the question. Looking back at that night and all the factors that you know now, what do you believe that [Mr.] Long was there to do?
>
> [MR. VASUDEVAN]: Rob him.

### *C. Analysis*

We first address the inadmissibility of Mr. Vasudevan's opinion testimony. In criminal jury trials, the jury—alone—serves to measure the weight of evidence, judge the credibility of witnesses, and to resolve evidentiary conflicts. *Turner v. State*, 192 Md. App. 45, 81 (2010). There is, however, no bar restricting witness testimony "merely

because it embraces an ultimate issue to be decided by the trier of fact." Md. Rule 5-704(a).[17]

Mr. Long's initial contention that Mr. Vasudevan's testimony was inadmissible merely because it touched on an ultimate issue falls short because the plain language of Md. Rule 5-704(a) directs otherwise. In fact, Rule 5-704(a) is designed specifically to abolish the "ultimate issue" rule. *See U.S. v. Barile*, 286 F.3d 749 (4th Cir. 2002) (discussing the development of Fed. R. Evid. 704).[18] Effectively, Rule 5-704(a) eliminates prohibitions on addressing the ultimate issue writ large, shifting the test solely to whether the evidence is admissible (or not) under other evidentiary rules. *See id.*

Shifting our focus to other aspects of Mr. Vasudevan's testimony, though, we do agree with Mr. Long that the testimony was inadmissible under Md. Rule 5-701. The rule provides:

> If the witness is not testifying as an expert, 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.

[17] Md. Rule 5-704(b) provides the sole and inapplicable exception to this general rule:

> An expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may not state an opinion or inference as to whether the defendant had a mental state or condition constituting an element of the crime charged. That issue is for the trier of fact alone. This exception does not apply to an ultimate issue of criminal responsibility.

[18] Because Md. Rule 5-704(a) derives from Fed. R. Evid. 704(a), the federal courts' interpretations of the federal rule guide us in our interpretations of our own rules. *See Harrod v. State*, 261 Md. App. 499, 531 n.7 (2024) (citing *Garay v. Overholtzer*, 332 Md. 339, 355 (1993)).

Md. Rule 5-701.

Our decision in *Bell v. State*, 114 Md. App. 480 (1997), is instructive on the application of this rule. In *Bell*, at trial, the State called two bystanders who witnessed part of a shooting. 114 Md. App. at 505–06. The defendant (the undisputed shooter) claimed self-defense. *Id.* During the direct examinations of both bystanders, the State asked if they saw anything indicating to them that there was an imminent threat of death to the defendant from the victim or the victim's companions. *Id.* at 506–07. Over objection, the trial court allowed the bystanders to testify that they had not. *Id.*

We held the bystanders' testimony on the defendant's intent to be inadmissible because the testimony pulled together the bystanders' observations and asked for their conclusions. *Id.* at 508–09. Both bystanders "clearly lacked first-hand knowledge as to the central issue of the [defendant's] state of mind." *Id.* at 509 (cleaned up). Moreover, the bystanders' conclusions were not "helpful to a clear understanding of [their] testimony or the determination of a fact in issue." *Id.* (citing Md. Rule 5-701). In sum, the bystanders' opinions were "not properly received in evidence." *Id.*

Mr. Vasudevan's testimony as to Mr. Long's intent—both on cross examination and redirect—was inadmissible for the same reasons. In both instances, Mr. Vasudevan was asked for conclusions about Mr. Long's intent based on his personal knowledge and his observations from that evening. But there was no evidence that Mr. Vasudevan had first-hand knowledge of Mr. Long's intent. Accordingly, Mr. Vasudevan's conclusion was not helpful to the jury's understanding. *See* Md. Rule 5-701. Although

Mr. Vasudevan could testify to his *observations* from the day of the shooting, his *opinion* on Mr. Long's intent was improper. *Accord Bell*, 114 Md. App. at 509.

That said, the "open door" and "curative admissibility" doctrines can, "in limited circumstances, give a party the right to introduce otherwise inadmissible evidence." *Conyers v. State*, 345 Md. 525, 545 (1997).[19] The doctrines are based in fairness and seek to balance any unfair prejudice a party may have suffered. *Williams v. State*, 251 Md. App. 523, 560 (2021), *aff'd*, 478 Md. 99 (2022). So, for evidence to be admissible under either doctrine, "the remedy must be proportionate to the malady." *Ford*, 462 Md. at 39. In short, the two doctrines allow parties to "meet fire with fire" when responding to evidence introduced by the opposing side. *State v. Robertson*, 463 Md. 342, 352 (2019) (cleaned up); *see also Clark*, 332 Md. at 91.

The "open door" doctrine expands the realm of relevant evidence. *Robertson*, 463 Md. at 352. Under the "open door" doctrine, evidence that is otherwise inadmissible may be admitted in response to: "(1) admissible evidence which generates an issue, or (2) inadmissible evidence admitted by the court over objection." *Clark*, 332 Md. at 84–85. The "open door" doctrine, however, only cures evidentiary issues of relevancy. *Id*. ("Generally, 'opening the door' is simply a contention that competent evidence which

[19] The "open door" and "curative admissibility" doctrines are both applications of common law rules of evidence. Although the Maryland Rules of Evidence were not promulgated until 1994—a year after the *Clark* decision was issued—we continue to recognize the application of both doctrines under the Rules. *See, e.g.*, *Conyers v. State*, 345 Md. 525 (1997); *Ford v. State*, 462 Md. 3 (2018). *See also* Md. Rule 1-201 ("Neither these rules nor omissions from these rules supersede common law or statute unless inconsistent with these rules.").

was previously irrelevant is now relevant through the opponent's admission of other evidence on the same issue.") Here, where Mr. Vasudevan's testimony was inadmissible for reasons other than relevancy, the "open door" doctrine does not apply.

The "curative admissibility" doctrine, though, "allows otherwise irrelevant *and* incompetent[20] evidence to repair the damage caused by previously admitted incompetent inadmissible evidence." *Clark*, 332 Md. at 88 (emphasis and footnote added). In other words, when highly prejudicial and inadmissible evidence has been admitted without objection, a trial court has discretion to allow the opposing party to offer inadmissible evidence "that would go no further than neutralize the previously introduced inadmissible evidence[.]" *Id.* at 89. Since Mr. Vasudevan's testimony during his cross examination was inadmissible but admitted without objection, and his testimony on redirect was inadmissible, the "curative admissibility" doctrine comes into play.

In *Clark*, the Court held that a circuit court has discretion to permit curative admissibility of otherwise inadmissible evidence where:

> (1) the previous prejudicial evidence was not objected to and there was no timely motion to strike;
>
> (2) there is no showing that the failure to object or strike the previous prejudicial evidence was due to an intentional decision in order to admit the curative evidence;
>
> (3) the previous inadmissible evidence was highly prejudicial and would not be cured by a motion to strike and a cautionary instruction;
>
> (4) the curative evidence goes no further than neutralizing the previously admitted prejudicial evidence without injecting additional issues in the case;

[20] The Court used the term "incompetent" to encompass evidence made inadmissible on any basis other than relevance. *Clark*, 332 Md. at 87 n.2.

(5) the curative evidence is of the same character as the previous inadmissible evidence; and

(6) the probative value of the otherwise inadmissible curative evidence outweighs the danger of "confusion of the issue or misleading the jury or by considerations of undue delay, waste of time, etc.

*Clark*, 332 Md. at 90–91 (cleaned up).

Here, we conclude that the circumstances satisfied the circuit court's exercise of discretion to apply the "curative admissibility" doctrine to Mr. Vasudevan's testimony on redirect. First, the State did not object to Mr. Long's cross examination of Mr. Vasudevan regarding his opinion of Mr. Long's intent. Nor did the State move to strike that testimony. Second, there is nothing to suggest that the State intentionally abstained from objecting in order to gain a tactical advantage. Distilling down the third through fifth factors, Mr. Vasudevan's testimony on redirect was proportional to his cross examination testimony. In each instance, Mr. Vasudevan was asked to provide his opinion—based on his personal knowledge and his observations from that night—of whether Mr. Long had the requisite intent for a charged crime. Attempting to cure the inadmissible opinion by Mr. Vasudevan that Mr. Long did not have the intent to shoot Mr. Case, the State asked a single question about what Mr. Vasudevan believed Mr. Long *did* have the intent to do.

Although we recognize that "curative admissibility" is a doctrine that is traditionally disfavored and "must be used with great caution[,]" *Clark*, 332 Md. at 90, we conclude that its application here is not so unreasonable as to rise to an abuse of discretion.

**JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.**