

Circuit Court for Prince George's County
Case No. CT150294X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 292

September Term, 2017

DARREN F. SIMS

v.

STATE OF MARYLAND

Woodward, C.J.,
Beachley,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 9, 2018

*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.

Following a jury trial in the Circuit Court for Prince George’s County, Darren Sims, appellant, was convicted of second-degree rape and second-degree assault. Sims raises two issues on appeal: (1) whether the trial court erred by allowing a police officer to bolster the victim’s credibility by opining that a rape had occurred, and (2) whether the trial court abused its discretion in admitting a portion of his recorded statement to the victim because, he claims, the statement was irrelevant, unduly prejudicial, and referenced prior misconduct that was inadmissible under Maryland Rule 5-404(b). For the reasons that follow, we affirm.

At trial, the victim testified that she was babysitting for Sims’s girlfriend and fell asleep in the house after the children went to bed. She woke up to find Sims on top of her with his penis in her vagina. The victim then sat up and ran into the next room, locked the door, used her cell phone to record Sims apologizing to her, and called the police.

Prince George’s Police Department Officer Thomas Wilson, Jr. responded to the 911 call and spoke with the victim, who informed him that she had been raped. When the prosecutor asked Officer Wilson what actions he took after speaking with the victim, the following exchange occurred:

[OFFICER WILSON]: Hum, notifications were made. Other units had arrived on the scene as well. Notification was made to the criminal investigative division. Hum, and she was transported to Prince George’s County Police Headquarters, criminal investigative division, the sexual assault unit section.

[PROSECUTOR]: And why was that done?

[OFFICER WILSON]: So that she [could] be further interviewed. The

police of the Prince George’s County Police, what they do with the victim of sexual assault which may differ from other agencies is to basically get the officer, the first arriving officer to establish the facts, secure a crime scene, transport the victim or the witnesses to that unit or locate a suspect and detain them and bring them also to the unit so they can be further interviewed by a detective or maybe even a child psychologist. It just depends on the nature of the crime and who’s interviewing and what took place. *And in this case it was a rape.*

On appeal, Sims contends that Officer Wilson’s statement “in this case it was a rape” improperly bolstered the victim’s testimony. We disagree. To be sure, “[i]t is . . . error,” as a “matter of law,” “for the [trial] court to permit to go to the jury a statement, belief, or opinion of another person to the effect that a witness is telling the truth or lying.” *Bohnert v. State*, 312 Md. 266, 277, 279 (1988). However, when viewed in context, Officer Wilson was not offering his opinion on the victim’s veracity. Instead, he was simply explaining why he had called the sexual assault unit to interview the victim. Consequently, the trial court did not err in admitting his testimony.

Sims also asserts that the trial court erred in admitting a portion of his statement to the victim that she recorded on her cell phone. In that statement, Sims stated that he had “really messed up” and that “it was in his own house this time that he messed up.” Sims contends that the “clear implication” from the latter statement was that he had messed up on other occasions outside the home and, therefore, that the statement was irrelevant, unduly prejudicial, and improperly referenced prior bad acts.

“[T]o preserve an objection, a party must either ‘object each time a question concerning the [matter is] posed or . . . request a continuing objection to the entire line of questioning.’” *Wimbish v. State*, 201 Md. App. 239, 260-61 (2011) (citation omitted).

“Th[is] requirement of a contemporaneous objection at trial applies even when the party contesting the evidence has made his or her objection known in a motion in limine[.]” *Id.* Here, Sims’s defense counsel objected on relevancy grounds prior to the recorded statement being admitted. However, after the recording was admitted, the victim then testified about the contents of the recording, including the allegedly inadmissible statement, without objection. Consequently, this claim is not preserved for appeal.¹

**JUDGMENTS OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**

¹ We also note that, because Sims’s only objection to his statement being admitted was based on relevancy grounds, his contentions that his statement was unduly prejudicial and referenced prior bad acts are not preserved in any event. *See Jeffries v. State*, 113 Md. App. 322, 341 (holding that a party who objected to testimony at trial only as to general relevance could not argue for the first time on appeal that the testimony was inadmissible evidence of other bad acts.), *cert. denied*, 345 Md. 457 (1997).