Circuit Court for Baltimore City
Case No. 120059012

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 342

September Term, 2024

GARY WATKINS

v.

STATE OF MARYLAND

Graeff,
Ripken,
Eyler, Deborah S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: December 2, 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 Maryland Rule 1-104(a)(2)(B).

A jury in the Circuit Court for Baltimore City found Gary Watkins ("Appellant") guilty of second-degree murder. The court sentenced Appellant to twenty-five years' incarceration. Appellant timely appealed, submitting the following issues for our review:[1]

> 1. Whether the trial court erred in denying Appellant's request regarding wearing his jail shoes during trial.
>
> 2. Whether the trial court erred in admitting CCTV video evidence without time, date, or location stamps.

For the reasons set forth below, we shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The following facts were adduced at trial. Shortly after 5:00 p.m. on February 7, 2020, Baltimore City Police were called to respond to a shooting in the Perkins Homes community. Upon arriving, police located two victims: Joy Harvey ("Harvey") and Devante Smith ("Smith"). Both victims were transported to Johns Hopkins Hospital for treatment of gunshot wounds.

Smith had been shot six times and was pronounced dead shortly after arriving at the hospital. Harvey had been shot seven times and survived.

Harvey had spent the day of the shooting with her boyfriend, Andre Bailey ("Bailey"). Bailey gave police a recorded statement, describing the events of that day.

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[1] Rephrased from:

> 1. Did the trial court err by completely delegating its responsibility to manage courtroom security to security personnel and compelling appellant to wear his jail shoes during trial?
>
> 2. Did the trial court err by admitting video evidence that was not properly authenticated under the business record exception?

According to Bailey, he and Harvey left her sister's home in the Perkins Homes project and went food shopping. After they had finished grocery shopping, Harvey called Appellant, whom she referred to as her "father,"[2] and asked him for a ride home from the store. Appellant arrived in his Ford F-150 pickup truck, and Harvey and Bailey loaded the groceries into the bed of the truck. The trio then returned to the home of Harvey's sister.

After they arrived, as Bailey and Harvey were unloading the groceries, Appellant accused Bailey of pilfering "some weed from him." A fight broke out between the two, and Bailey fled into the home. Appellant departed from the home. Several hours later, Appellant returned with three "unidentified," masked men. Bailey and Harvey went outside, and Bailey spotted a gun "hanging out" when one of the men unzipped his jacket. Bailey, believing that the men intended to kill him, "went back in the house" and "lock[ed] the door." Bailey could "hear somebody banging on the door," but he "never open[ed]" the door. He then "hear[d] shots go off." Bailey looked out the back window and saw Appellant and the others "running" toward the intersection of Caroline and Gough Streets.[3] Bailey then went outside to help the gunshot victims.

After ensuring that the crime scene was being processed, the lead detective went to Johns Hopkins Hospital to obtain statements from Harvey and Bailey. Harvey gave a recorded statement to the police, inculpating Appellant and co-defendant Dante Gregg ("Gregg") in the shooting and selecting each of them from photographic arrays.

[2] Appellant raised Harvey along with her aunt.

[3] Bailey inferred that Appellant "must have parked" his truck near that intersection.

An indictment was returned by the Grand Jury for Baltimore City, charging Appellant with murder in the first degree of Smith, attempted murder in the first degree of Harvey, conspiracy to murder Harvey, and use of a firearm in the commission of a felony or crime of violence. Similar charges were filed against Gregg.

Appellant and Gregg were tried jointly over five days. The two eyewitnesses to the shooting, Harvey and Bailey, were both turncoat witnesses.[4] Immediately before Harvey was called to the stand to testify, the State informed the court that "there were safety concerns with" Harvey. Harvey testified contrary to the recorded statement she provided to the police detectives in 2020. At trial Harvey instead testified that she saw no one with weapons at the time and place of the shooting. The prosecutor attempted to refresh Harvey's memory with a transcript of her recorded 2020 statement, but Harvey adamantly refused to change her testimony. The prosecutor then sought to admit portions of that prior statement under Maryland Rule 5-802.1, the commonly referenced *Nance-Hardy* Rule.[5] The court overruled defense objections to admitting the entirety of Harvey's prior statement, and the court recessed to permit the State to redact the video recording of the prior statement.

[4] A turncoat witness is "a witness whom the litigating party calls to provide favorable testimony but during trial they become a hostile witness." *Turncoat Witness*, Cornell Legal Information Institute, archived at https://perma.cc/E2GF-9CW2.

[5] Named after *Nance and Hardy v. State*, 331 Md. 549 (1993), which first promulgated the rule, later codified as Maryland Rule 5-802.1, to address "the classic evidentiary problem of the turncoat witness." 331 Md. at 552.

During that recess, however, Harvey left the courtroom and refused to return. Although a bench warrant was issued, the State was unable to procure Harvey's presence. As a result, the court ordered that Harvey's testimony be stricken from the record, and thereafter instructed the jury to disregard that testimony.[6]

When called as a witness, Bailey likewise claimed not to remember key details about the shooting that he had previously provided to the police. The State successfully introduced his contrary, prior recorded statement into evidence under Rule 5-802.1.

After the close of all the evidence, the court granted Appellant's motions for judgment of acquittal on the charges of conspiracy to murder Harvey and use of a firearm in the commission of a felony or crime of violence. The court granted Gregg's motions for judgment of acquittal on the charges of first-degree murder of Smith, attempted murder of Harvey, conspiracy to murder Harvey, and use of a firearm in the commission of a felony or crime of violence.

The jury found Appellant guilty of second-degree murder of Smith, and not guilty of first-degree murder of Smith and attempted first- and second-degree murder of Harvey. The jury found co-defendant Gregg not guilty of second-degree murder of Smith, the sole remaining charge against him.

[6] In addition to Harvey's testimony, her out-of-court statement implicating Appellant, which had been ruled admissible under Rule 5-802.1, was also rendered inadmissible because her disappearance precluded cross-examination. The court also excluded the photographic arrays, identifying Appellant and co-defendant Gregg as perpetrators, that had been admitted through her testimony.

The court sentenced Appellant to twenty-five years' incarceration. This timely appeal followed. Additional facts are included below as relevant.

DISCUSSION

I. THE COURT DID NOT ERR IN DENYING APPELLANT'S REQUEST REGARDING THE WEARING OF JAIL-ISSUED SHOES DURING TRIAL.

A. Additional Facts

On the first day of trial, upon seeing his client's appearance, Appellant's counsel remarked, "I love the white sneakers with the outfit." Shortly thereafter, the court asked counsel for co-defendant Gregg whether she was "satisfied with" his "appearance," and she replied that she was satisfied. The following colloquy then occurred:

> THE COURT: [Defense Counsel], are you satisfied with Mr. Watkins' appearance?
>
> [DEFENSE COUNSEL]: I am. My only complaint would be the shoes. We're not allowed, even though I have shoes for him, we're not allowed to bring them.
>
> THE COURT: Well, that's a matter you have to take up with the Sheriff's Office. I have no control over --
>
> [DEFENSE COUNSEL]: You --
>
> THE COURT: -- over those issues.
>
> [DEFENSE COUNSEL]: You asked the question. I'm just giving you the answer.

Defense counsel then explained to the court the problems he was having bringing civilian clothes for his clients into the courthouse:

> [DEFENSE COUNSEL]: . . . at the Mitchell Courthouse, there's only one entrance I am not allowed to come in, except for when I have court clothes.

That is the one entrance I have to go in and that one entrance is also the entrance the jurors come in.

THE COURT: Mm-hmm.

[DEFENSE COUNSEL]: So, when I have court clothes, the only entrance I can go in is the same one that I'm trying to keep them from seeing the court clothes in, . . .

* * *

THE COURT: Well, I'm sure their response would be [to] put them in a paper bag so that they can't be seen.

[DEFENSE COUNSEL]: Well, they do come in a paper bag, but then the sheriffs are required to take them out to search them, and then they say, court clothes, and then we have to fill out a form and all that happens while the jurors are coming in.

THE COURT: Well, I agree with you, [Defense Counsel]. If I ruled the world, things would be different.

[DEFENSE COUNSEL]: Yeah.

THE COURT: But I do not.

Following a recess, when the court reconvened, the court once again ascertained that co-defendant Gregg's counsel "was satisfied with" her client's "appearance." The court asked Appellant's counsel the same question, and he replied, "Same complaint as before, just about the shoes." The court replied, "Noted for the record, sir." On the second, third, and fourth days of trial, Appellant's counsel renewed his objection to his client

having to wear inappropriate footwear.[7] The court granted him a continuing objection on the matter.

B. Party Contentions

Appellant contends that the trial court erred "by completely delegating its responsibility to manage courtroom security to security personnel," thereby compelling him to wear his jail-issued shoes during trial. He furthermore asserts, relying primarily upon *Estelle v. Williams*, 425 U.S. 501 (1976) and *Knott v. State*, 349 Md. 277 (1998), that the trial court's failure to exercise its discretion caused him prejudice because the jurors "could reasonably deduce" that the reason he was wearing inappropriate shoes[8] was "because he was incarcerated." Appellant also posits that the prejudice he allegedly suffered was compounded by the weakness of the State's case.[9]

The State contends that the claim raised on appeal, that the trial court abdicated its responsibility for conducting courtroom proceedings to security personnel, is different from the ground for objection Appellant raised at trial, that security personnel had

[7] Although neither party mentions it, it appears that the issue concerning Appellant's shoes was finally resolved satisfactorily during the fourth day of trial. After reconvening following the luncheon recess that day, Appellant's counsel told the court, "And I am happy with his appearance."

[8] In his brief, Appellant characterizes the shoes he was wearing as "shoes from a jail uniform" and as "gym shoes." During trial, defense counsel described them as "white sneakers" and "shoes . . . from the gym."

[9] In the prejudice section of his brief, Appellant further contends that there was an absence of "any compelling State interest" that was served by preventing him from wearing appropriate shoes. This contention is more appropriately addressed under the error/abuse of discretion prong of the analysis.

interfered with his ability to bring proper shoes into the courtroom.[10] Therefore, the State contends the claim is unpreserved. The State further maintains that defense counsel failed to create a factual record sufficient to establish that the shoes were "identifiable" as prison garb or that the jury could see the shoes. Finally, the State asserts that any purported error was harmless beyond a reasonable doubt; as demonstrated by the attenuated relationship between Appellant's shoes and any inference that he was incarcerated, the absence of evidence that the jury could see his shoes, and Appellant's acquittal on three out of four charges.

C. Analysis

1. Preservation

As a threshold issue, appellate courts generally "will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court." *Small v. State*, 235 Md. App. 648, 696 (2018) (quoting Md. Rule 8-131(a)), *aff'd*, 464 Md. 68 (2019). Pursuant to Maryland Rule 4-323(c), to preserve an issue for appeal, parties must make known to the circuit court that they desire, or object to, an action by the court at the time the ruling or order on the action is made or sought. *Vangorder v. State*, 266 Md. App. 1, 37 (2025); *Lopez-Villa v. State*, 478 Md. 1, 12 (2022).

[10] In the State's words, "[t]his is a complaint about ongoing courthouse policy – not an objection to any decision made by the trial court." The State further asserts that Appellant "acknowledged that the trial court had no discretion in this regard" and that "by neglecting to ask the court to take any action," he "failed to preserve his appellate contention that the court failed to exercise discretion that it did not have."

Here, defense counsel objected on at least four occasions to the trial court's ruling on Appellant's shoes, declining to order that Appellant be permitted to change his shoes because the court found that doing so would violate security protocols.[11] The last occasion on which counsel objected, he requested a continuing objection, which the trial court "[n]oted for the record." *See* Md. Rule 4-323(c). Appellant's claim that the trial court failed to act regarding the objection to the shoes Appellant was wearing and the intersection of courtroom security was raised in the trial court and is thus preserved. Md. Rule 8-131(a).

2. Merits

Turning to the merits, the "conduct of a criminal trial is committed to the sound discretion of the trial judge[,]" and is therefore reviewed under the abuse of discretion standard. *Wiggins v. State*, 315 Md. 232, 239 (1989) (quoting *Hunt v. State*, 312 Md. 494, 506 (1988)), *overruled on other grounds*, *Horton v. California*, 496 U.S. 128, 150 (1990). "If the exercise of discretion results in the denial of a fair trial to a defendant, the discretion is certainly abused." *Id.* at 240. *See also Campbell v. State*, 243 Md. App. 507, 518 (2019).

A trial court "cannot, consistently with the Fourteenth Amendment, compel an accused to stand trial before a jury while dressed in identifiable prison clothes[.]" *Estelle v. Williams*, 425 U.S. 501, 512 (1976). The Court uses a three-part test to decide whether the protections in *Estelle* have been violated: (1) the clothing at issue must be identifiable

[11] We do not agree with the State's characterization of defense counsel's actions as a failure to object to the trial court's actions but rather, as "a complaint about ongoing courthouse policy[,]" as the trial court did not lack authority to control the manner of proceedings in the courtroom. *See*, *e.g.*, *Whittlesey v. State*, 340 Md. 30, 84 (1995); *Wagner v. State*, 213 Md. App. 419, 476 (2013).

as prison garb; (2) the element of compulsion must be present, that is, the defendant must have objected seasonably to being forced to wear the clothing; and, if the first two parts are established, (3) the burden shifts to the State to establish harmless error. *Knott v. State*, 349 Md. 277, 290–93 (1998). Applying this test, the Supreme Court of Maryland reversed a defendant's convictions because he had been compelled to attend trial in an "orange jumpsuit" that was "identifiable prison attire[.]" *Id.* at 291–92 & n.4.

In this case, even if we were to conclude the trial court abused its discretion in declining to accommodate Appellant's wish to be permitted to change his shoes because one or more sheriff's deputies objected, there is no evidence in the record that Appellant was prejudiced by the assumed abuse of discretion. *See Cooley v. State*, 385 Md. 165, 184–85 (2005).

First, it is far from clear that Appellant's "white sneakers" were "identifiable as prison attire[.]" *Knott v. State*, 349 Md. at 292. Unlike in *Knott*, where the defendant was compelled to wear an orange jumpsuit, which was readily identifiable as prison garb, in the present case, the white sneakers were not nearly so obviously imbued with the mark of being incarcerated. It is not clear in the record that, from the perspective of the jury, Appellant was wearing anything other than his own shoes. They could have simply concluded that he did not own a pair of dress shoes or that he preferred to wear comfortable shoes rather than dress shoes. Moreover, defense counsel identified no markings on the shoes themselves identifying them as jail-issued. Furthermore, the record is silent as to whether the jury was able to observe Appellant's shoes at any time during the proceedings. It was incumbent on Appellant to make a record demonstrating those crucial facts, and he

did not do so. We decline Appellant's invitation to infer, from an incomplete record, that the jury must have observed his shoes or that it perceived those shoes as prison garb. Even were we to assume that Appellant's shoes were identifiable as prison garb and that the jury observed them,[12] we would conclude that this had no influence on the verdict under the harmless error analysis.[13]

As we explained in *Rainey v. State*:

> Harmless error review is the standard most favorable to the defendant short of an automatic reversal. That standard must be applied in a manner that does not encroach upon the jury's judgment. [H]armless error factors must be considered with a focus on the effect of erroneously admitted, or excluded, evidence on the jury. Among the factors that should be considered are the nature, and the effect, of the purported error upon the jury[,] the jury's behavior during deliberations, including the length of those deliberations[,] and the strength of the State's case, from the perspective of the jury.

246 Md. App. 160, 185 (2020) (internal citations and quotation marks omitted).

In assessing harmless error *sub judice*, Appellant points to the split verdict—and the outright acquittal of his co-defendant—as evidence that the State's case was weak, a factor weighing against finding harmlessness. The State, in contrast, points to the same split verdict as support for the contention that the jury that was not prejudiced by Appellant's footwear.

[12] As noted in the preservation section *supra*, it is uncontested that Appellant was not permitted to change his shoes despite his objections to wearing the jail issued sneakers. Hence, the second step of the *Estelle* test is met, and we turn to discuss the third step.

[13] We furthermore find, as Appellant contends, that no compelling State interest can be found in the record to have been served in denying his choice of shoes to wear during trial.

We agree with the State. That the jury acquitted Appellant of three of the four charges, including the serious offenses of first-degree murder of Smith and attempted first- and second-degree murder of Harvey, and found him guilty of only one of the charges, second-degree murder of Smith, is the surest evidence that the jury took its duty seriously and carefully weighed the evidence with an open mind, applying the reasonable doubt standard fairly and to the best of its ability, and that, concomitantly, Appellant's shoes had no influence on the jury as demonstrated by its verdict *Cf. Dionas v. State*, 436 Md. 97, 109–14 (2013). We hold that any purported error was harmless beyond a reasonable doubt.

II. THE TRIAL COURT DID NOT ERR IN ADMITTING THE CCTV VIDEO EVIDENCE.

A. Additional Facts Pertaining to the Claim

Several months after the State's initial discovery disclosures and well in advance of trial, the State filed a supplemental discovery notice, disclosing to the defense that it possessed, among other things, "CCTV Video from" the scene. Then, approximately one month prior to trial, the State filed another supplemental disclosure, declaring its intent, "pursuant to Maryland Rules 5-902 and 5-803," to "introduce into evidence, without testimony from the Custodian of Records," "[r]ecords of regularly conducted business activity," including "CCTV video."

At the start of the third day of trial, counsel for co-defendant Gregg objected to the admission of the CCTV videos, contending that because they do not contain time stamps, they "should [not] be admitted because they can't be properly authenticated." Gregg's counsel further explained that the times of the various CCTV videos were not synchronized; thus, for example, "the shooting itself occurs somewhere around minute 8"

in one of the videos, but in another, "[p]eople began running around minute 3, which means that those videos did not start at the same time."

The court disagreed, declaring that "authentication comes in through the business records exception" and that counsel's objection "goes to the weight of the evidence, not to its admissibility." Appellant's counsel then joined in the objection and stated, additionally, that he did not "believe that the business records exception by itself trumps *Washington*,[14] that shows that there has to be some sort of authentication." The court again disagreed, declaring that "the objection that's being raised goes to the weight of the evidence," that is, "[w]hether it's probative of the issues for which it's being offered."

The State asserted that "the videos indicate not on the actual video but on the label of the video in the file. . . what camera it came from, the date of the camera, and what time the video started." She further explained that three of the cameras started at 1700 hours and that two others started at 1705 hours, "so that would be the five-minute discrepancy" of which Appellant complained.

The trial court ruled that the videos were admissible as self-authenticating business records, stating that "if the [Appellant] wanted to challenge [the video] or to test [the video], you could have brought in the people who managed the CCTV system and" questioned them on its reliability. Appellant's counsel protested that, under *Washington*, it was the State's burden, not his, to call the people who managed the CCTV system. The court reiterated that it would admit the CCTV videos into evidence as self-authenticating

[14] Counsel is referring to *Washington v. State*, 406 Md. 642 (2008).

business records, and it then granted Appellant's request for continuing objections to the video evidence.

During Harvey's truncated direct examination, the prosecutor introduced into evidence a Certificate of Records of Regularly Conducted Business Activity, sworn by the Custodian of Records, attesting to the prerequisites under the Maryland Rules for admitting the four CCTV videos, recovered from CitiWatch cameras mounted in the vicinity of the crime scene. The videos themselves were then admitted into evidence. Those exhibits remained in evidence despite the redaction of Harvey's testimony because their admissibility did not depend upon her testimony.

During the investigation, the lead investigator in the case, Detective Richard Moore, noticed that there were several CitiWatch cameras installed in the Perkins Home community, which led him to order that the contested videos be recovered and later introduced into evidence. Detective Moore testified that he was "familiar with the area" and narrated during portions of those videos as they were broadcast to the jury, explaining the sequence of events they depicted. From the video, the detective identified Appellant as one of the participants in the crimes and identified his Ford pickup truck, parked on Gough Street, as the getaway vehicle.

B. Party Contentions

Appellant contends that the trial court erred in admitting video evidence as it was not properly authenticated under the business records exception. According to Appellant, because the videos themselves "bore no time stamps, date stamps, or serial/camera numbers," any identifying information associated with the videos was not part of the

purported business records and therefore could not serve to authenticate them. Thus, Appellant asserts, the "only 'evidence' before the trial judge that these completely unmarked videos depict the times, dates, and locations they claim to show were bare allegations—in the form of the file names—by the unknown person who prepared the videos clips for prosecutorial purposes."

The State counters that the CCTV videos at issue were properly admitted as self-authenticating records of regularly conducted activity under Maryland Rules 5-902(12) and 5-803(b)(6)(A)–(D). The State further asserts that the videos were also authenticated by circumstantial evidence, including Detective Moore's testimony that he was "familiar with the area" where they were recorded and that the videos "captured different stages of the same ongoing event[.]"

C. Standard of Review

"The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." Md. Rule 5-901(a). A trial court "need not find that the evidence is necessarily what the proponent claims, but only that there is sufficient evidence that the *jury* ultimately might do so." *Jackson v. State*, 460 Md. 107, 116 (2018) (quoting *United States v. Safavian*, 435 F. Supp. 2d 36, 38 (D.D.C. 2006)) (emphasis in original). "The threshold of admissibility is, therefore, slight." *Id.* (citation omitted).

We review a trial court's ruling "as to whether an exhibit was properly authenticated" for abuse of discretion. *Mooney v. State*, 487 Md. 701, 717 (2024). A trial

court abuses its discretion "where no reasonable person would take the view adopted by" the court. *Williams v. State*, 457 Md. 551, 563 (2018).

D. Analysis

"[F]or a trial court to admit a video, there must be sufficient evidence for a reasonable juror to find by a preponderance of the evidence that the video is authentic." *Mooney*, 487 Md. at 728. The "reasonable juror" standard "applies to authentication of videos, just as it does to authentication of social media evidence and other evidence." *Id.*

Videos may be authenticated through a variety of means. The "'pictorial testimony' and 'silent witness' theories of authentication are not 'the exclusive ways a video can be authenticated[.]'"[15] *Id.* (quoting *Commonwealth v. Davis*, 168 N.E.3d 294, 310–11 (Mass. 2021)). They may also be authenticated as business records and, more generally, through circumstantial evidence. *Id.* at 729–30. Thus, Maryland Rule 5-901(b) provides in part:

> **(b) Illustrations.** By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this Rule:
>
> (1) *Testimony of Witness With Knowledge.* Testimony of a witness with knowledge that the offered evidence is what it is claimed to be.
>
> * * *

[15] "[T]he pictorial testimony theory of authentication allows photographic [or video] evidence to be authenticated through the testimony of a witness with personal knowledge" of what it purports to represent. *Washington v. State*, 406 Md. 642, 652 (2008). "[T]he silent witness method of authentication," frequently applied to surveillance videos, "allows for authentication by the presentation of evidence describing a process or system that produces an accurate result." *Id.* In this case, neither of those methods were relied upon by the prosecutor.

(4) *Circumstantial Evidence.* Circumstantial evidence, such as appearance, contents, substance, internal patterns, location, or other distinctive characteristics, that the offered evidence is what it is claimed to be.

* * *

(9) *Process or System.* Evidence describing a process or system used to produce the proffered exhibit or testimony and showing that the process or system produces an accurate result.

(10) *Methods Provided by Statute or Rule.* Any method of authentication or identification provided by statute or by these rules.

Maryland Rule 5-902 governs "items of evidence [that] are self-authenticating" and provides in relevant part:

Subject to the conditions in this Rule, the following items of evidence are self-authenticating, and, except as required by statute or this Rule, require no testimony or other extrinsic evidence of authenticity in order to be admitted:

* * *

(12) Certified Records of Regularly Conducted Activity. The original or a copy of a record of a regularly conducted activity that meets the requirements of Rule 5-803(b)(6)(A)-(D) and has been certified in a Certification of Custodian of Records or Other Qualified Individual Form substantially in compliance with such a form approved by the State Court Administrator and posted on the Judiciary website, provided that, before the trial or hearing in which the record will be offered into evidence, the proponent (A) gives an adverse party reasonable written notice of the intent to offer the record and (B) makes the record and certification available for inspection so that the adverse party has a fair opportunity to challenge them on the ground that the sources of information or the method or circumstances of preparation indicate lack of trustworthiness.

(13) Certified Records Generated by an Electronic Process or System. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification and notification requirements of paragraph (12) of this Rule.

* * *

Maryland Rule 5-803(b)(6), incorporated by reference in Rule 5-902(12), provides that the certain business records "are not excluded by the hearsay rule, even though the declarant is available as a witness":

> (6) *Records of Regularly Conducted Business Activity.* A memorandum, report, record, or data compilation of acts, events, conditions, opinions, or diagnoses if (A) it was made at or near the time of the act, event, or condition, or the rendition of the diagnosis, (B) it was made by a person with knowledge or from information transmitted by a person with knowledge, (C) it was made and kept in the course of a regularly conducted business activity, and (D) the regular practice of that business was to make and keep the memorandum, report, record, or data compilation. A record of this kind may be excluded if the source of information or the method or circumstances of the preparation of the record indicate that the information in the record lacks trustworthiness. In this paragraph, "business" includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

This case is controlled by *Mooney* and our recent decision in *Campbell v. State*, 267 Md. App. 248 (2025). In *Mooney*, the Supreme Court of Maryland noted that video evidence may be authenticated in multiple ways, including as business records and through circumstantial evidence. 487 Md. at 729. Moreover, the Court held that the "pictorial testimony" and "silent witness" theories of authentication are not the sole or exclusive ways that videos may be authenticated. *Id.* at 728.

In *Campbell*, we held that a trial court did not abuse its discretion in admitting Nest security camera footage depicting a murder scene. *Campbell*, 267 Md. App. at 299–307. In that case, the State introduced a certificate from a records custodian, employed by Google LLC, averring, among other things, that he was "familiar with how the records were created, managed, stored[,] and retrieved," that "Nest servers recorded the information provided by Nest automatically at the time, or reasonably soon after, it is entered or

transmitted by the user," and that "this data was kept in the course of this regularly conducted activity and was made by regularly conducted activity as a regular practice of Nest." *Id.* at 295–96. We held that the trial court did not abuse its discretion in admitting this certificate as a self-authenticating document under Maryland Rule 5-902(12). *Id.* at 299–303. Here, the Certificate of Records of Regularly Conducted Business Activity submitted by the State likewise was properly admitted as a self-authenticating document under the same rule subsection. Indeed, Appellant does not appear to contend otherwise, and there is no dispute here that the State complied with the discovery and notice requirements pertaining to such records.

In *Campbell*, we further concluded that the Nest video was properly admitted "as a self-authenticating record pursuant to Maryland Rule 5-902(13)." 267 Md. App. at 302–03. Here, the State did not assert Rule 5-902(13) as a basis for admissibility; however, we do not have any reason to conclude that it does not apply in this case. Were it necessary to decide the issue, we would conclude that the videos were admissible as self-authenticating records under Rule 5-902(13). Instead, we turn to circumstantial evidence as the basis for authentication.[16]

As we held in *Campbell*, the videos at issue here were admissible through circumstantial evidence. 267 Md. App. at 303–04. Detective Moore testified that he was "familiar with the area" depicted in the videos and that, upon canvassing the crime scene,

[16] Although we do not do so here, we note that in ruling on an appeal, this court may conclude that the trial court arrived at the correct conclusion for incorrect reasons. *See Yaffe v. Scarlett Place Residential Condominium, Inc.*, 205 Md. App. 429, 440 (2012) ("[W]e can affirm when the trial court's decision was right for the wrong reasons.")

he had noted that there were several CitiWatch cameras operating there. Moreover, as the State points out in its brief, "the various cameras captured different stages of the same ongoing event," and the consistency between the different videos supports the conclusion that all four of them accurately depicted the events as claimed by the proponent. We further note that body-worn camera video, depicting the same location, had been admitted through the testimony of one of the first-responding police officers and was broadcast to the jury. The body-worn camera video provides an additional layer of consistency, further corroborating that the CitiWatch videos were what the State claimed they were. Based on those facts, there was sufficient circumstantial evidence to support the trial court's discretionary decision to admit the CitiWatch videos into evidence because "a reasonable juror [could] find by a preponderance of the evidence that the video is authentic."[17] *Mooney*, 487 Md. at 728.

The gravamen of Appellant's complaint is that the absence of identifying marks on the videos rendered them inadmissible. The trial court, when presented with this same argument, declared that the absence of those marks went to the weight of the evidence, not its admissibility. We agree with the trial court's assessment.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS ASSESSED TO APPELLANT.

[17] Additionally, as in *Campbell*, "the record in this case does not contain any hint that artificial intelligence may have played a role[;] nor was there any suggestion that the video may have been altered in any way." 267 Md. App. at 304 n.28 (quoting *Mooney* at 735–36 (Fader, C.J., concurring)).