

Circuit Court for Baltimore City
Case No. 123227009

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 357

September Term, 2024

TYREE BOONE

v.

STATE OF MARYLAND

Tang,
Kehoe, S.,
Raker, Irma S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: March 12, 2026

*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).

-Unreported Opinion-

On April 12, 2024, a jury found Appellant, Tyree Boone (“Mr. Boone”), guilty of reckless endangerment, wearing/carrying/transporting a handgun on one’s person, discharging a firearm within Baltimore City, possession of cocaine with the intent to distribute, and possession of a firearm in relation to a drug trafficking crime. The Honorable Melissa M. Phinn sentenced Mr. Boone to a total of 28 years of incarceration, suspending all but the mandatory ten years for possession of a firearm in a drug trafficking crime, with three years of supervised probation. Mr. Boone then filed a timely appeal and presents the following questions to this Court:¹

1. Did the trial court err by denying Appellant’s request for a jury instruction of duress?
2. Did the trial court err by admitting State’s Exhibits #1A & #1B over defense objection?
3. Is the evidence insufficient to sustain Appellant’s conviction for possession of a firearm in relation to a drug trafficking crime?

For the reasons discussed below, we answer the first question in the negative as we find the issue was not properly preserved for appellate review. We answer the second question in the negative, as State’s Exhibits #1A and #1B were properly authenticated and admitted by the circuit court. We answer the third question in the negative as the evidence was sufficient to sustain Mr. Boone’s conviction for possession of a firearm in relation to a drug trafficking crime. As such, and for reasons that we explain below, we affirm the judgment of the Circuit Court for Baltimore City.

¹ The questions presented have been reordered for legal clarity, but otherwise remain the same as posed to this Court in the Appellant’s brief.

I. FACTUAL & PROCEDURAL BACKGROUND

A. The Patapsco Avenue Incident

On July 26, 2023, Baltimore City Police received a report of a firearm “discharging” around the 900 block of East Patapsco Avenue of Baltimore City. The call came to police at 4:37 p.m. Patrol officers arrived on the scene, and their search for related victims to the firearm discharging was ultimately unsuccessful. Officers observed multiple shell casings in two locations on the scene: twenty used nine-millimeter shell casings on the sidewalk outside of 919 East Patapsco and one unused nine millimeter round at the corner of Saint Victor Street. Crime scene technicians did not respond to the scene.² One officer collected all twenty-one pieces of evidence and placed them into a single bag, which was later submitted to the Evidence Control Unit.³

Detective Serina Rollins (“Det. Rollins”) of the Southern District Detective Unit arrived on the scene around 5:30 p.m. Det. Rollins was told there was video footage in relation to the incident from a local business, Sunlite Liquors. The owner of Sunlite Liquors

² Witnesses for the State testified that the crime lab was not contacted in connection with the 900 block of East Patapsco, as the crime lab does not respond to firearm discharging scenes for evidence collection. Witnesses for the State further testified that if no victim is located at the time of a firearm discharging, crime scene technicians are not required to visit the scene per police protocol.

³ Witnesses for the State testified that Officer Selina Mezquita (“Ofc. Mezquita”) collected all twenty-one pieces of evidence and that they were unsure if Officer Mezquita wore gloves during the process. Ofc. Mezquita was not called to the stand and did not testify at trial. State’s Exhibit #4 shows Ofc. Mezquita wearing one single glove while collecting the evidence from the scene. State’s Exhibit #4 and witness testimony both note that the paper bag used to contain the evidence was obtained from one of the stores on the 900 block of East Patapsco.

entered their username and password to give Det. Rollins access to its computer system. Det. Rollins copied the video from two exterior surveillance cameras owned by Sunlite Liquors. Det. Rollins testified that she cropped the video's timeframe from 4:15 p.m. to 4:40 p.m., and that she determined the time frame for the video after rewinding the footage based on the time police received the report about the shooting.

The video footage showed two men, alleged to be Mr. Boone and Trey Allen⁴ ("Mr. Allen"), standing outside of Sunlite Liquors. Mr. Boone is standing outside of the store and hanging around a white Tesla motor vehicle parked in front of the store, while Mr. Allen remains in the Tesla's driver's seat. Two men cross the street from the north side of Patapsco Avenue, approaching Mr. Boone and Mr. Allen near the Tesla. The men appear to exchange words, although it is unclear what might have been said since the video lacks sound. One of the two men who approached the Tesla reaches into his cross-body bag and removes a gun, which he fires at Mr. Boone and Mr. Allen.

Mr. Boone then reaches into the Tesla to grab a firearm and fires several shots, while the Tesla's driver gets out of the vehicle with their own firearm and fires shots. The other two men who approached the Tesla turn and flee from the scene on foot, turning the corner onto Saint Victor Street. Mr. Boone and Mr. Allen then quickly enter the Tesla and drive

⁴ For the sake of legal clarity, the video features four men, and we refer to the two men near the vehicle in the video as Mr. Boone and Mr. Allen, although some discrepancy exists as to whether Mr. Boone ever conceded his presence at the Patapsco Avenue incident in the video and Mr. Allen was ultimately acquitted of all charges.

away from Sunlite Liquors. From the video footage, police were able to obtain the tag number of the Tesla involved with the incident.

B. The Fayette Street Incident

Officer Donald Muir (“Ofc. Muir”) of the Aviation Unit assisted with the search to locate the white Tesla. Ofc. Muir testified that he first located the Tesla parked curbside in front of a row house in a residential area. Ofc. Muir testified that he observed a passenger entering the Tesla prior to activating the helicopter’s camera. Ofc. Muir started recording video of the Tesla at 5:33 p.m. after confirming the Tesla was the correct vehicle. Ofc. Muir observed and recorded the Tesla driving, communicating the Tesla’s locations to other officers and the car’s movements in real time. The video from Ofc. Muir’s helicopter was later entered into evidence as State’s Exhibit #2. Ofc. Muir observed the Tesla weave through traffic and evade police pursuit. During the police pursuit of the Tesla, Ofc. Muir remained recording and stayed in communication with other officers on the ground.

Patrol Officer Morgan Clasing Banocy (“Ofc. Banocy”) pursued the Tesla as part of the police unit on the ground. At 5:50 p.m., Ofc. Banocy observed the Tesla enter New Hope Circle and pursued the Tesla to a dead-end. Ofc. Banocy then reversed her vehicle and gave the Tesla room to turn around. Ofc. Banocy then turned her vehicle and followed the Tesla onto Fayette Street, where she observed the Tesla crash into another vehicle. After the Tesla crashed, the driver and the passenger exited the vehicle. Ofc. Muir’s pilot watched the other passengers during this time, while Ofc. Muir kept observing and

recording the driver as he fled the scene on foot. There were two other passengers in the Tesla, who were ultimately found in another vehicle that was stopped by police.⁵

Back on the ground, Ofc. Banocy left her vehicle to pursue the driver of the Tesla on foot. Ofc. Banocy later identified the driver and individual she pursued on foot as Mr. Boone. Ofc. Banocy joined the other officers who carried out Mr. Boone's arrest, and her body worn camera footage was later entered into evidence as State's Exhibit #10.

Detective Jason VanHelten ("Det. VanHelten") assisted in the arrest and search of Mr. Boone's person. Det. VanHelten recovered from Mr. Boone's "dip" (waistband area): one clear plastic bag containing two yellow trash cans⁶ containing a rock-like material and twenty-three small, clear plastic bags with rock-like material. Still photographs and footage from Det. VanHelten's body worn camera were entered into evidence as State's Exhibit #5A-B and #6A-E.

Ofc. Banocy returned to the Tesla to secure the vehicle. Ofc. Banocy testified that she saw something protruding from a shopping bag in the Tesla and moved the bag to

⁵ Ofc. Muir testified, without objection, that he had "seen the occupants get out and bail and again, I ...couldn't tell because everything was happening so fast, if [the passengers were] male or female. I had told my pilot to keep an eye on them. After we got the driver my pilot was the one who advised me the other two were jumping into the back of another car..."

⁶ Trash cans are plastic capsules no larger than a penny used as containers for the distribution of drugs and commonly found in the Baltimore and Washington, D.C. metro areas since 2019. UNITED STATES DRUG ENFORCEMENT ADMINISTRATION, "TRASH CAN" DRUG THREAT IN MID-ATLANTIC, (August 13, 2021), <https://www.dea.gov/stories/2021/2021-08/2021-08-13/trash-can-drug-threat-mid-atlantic> [<https://perma.cc/K4KR-RMZ2>] (last visited Dec. 4, 2025). These small container capsules gain their name from their resemblance to the larger trash can receptacles used to collect garbage and other waste. *Id.*

discover a handgun. The handgun, later identified as a Glock 17, was left on the front seat by Ofc. Banocy and processed for evidence by other officers.

Witnesses for the State testified that, in addition to the Glock 17, they recovered the following items from the Tesla: one fired shell casing on the front driver's seat, one live cartridge from the passenger seat, one extended magazine, four cellphones, and additional suspected drug evidence. The additional drug evidence recovered from the Tesla included twenty-three clear plastic bags containing white tissue and white rock material, forty-three blue trash can containers containing white rock material, sixty-six yellow trash can containers containing white rock material, and three plastic bags containing white rock-like material. Later forensic tests determined the drug evidence recovered from the vehicle and from Mr. Boone's person to be cocaine.

C. The Trial

The State brought forward a 25-count indictment against Mr. Boone and Mr. Allen as co-defendants. The trial began on April 9, 2024 and concluded on April 12, 2024. The State did not charge either Mr. Boone or Mr. Allen with possession of the firearm recovered from the Tesla, the Glock 17. Instead, the State charged Mr. Boone with an "unknown handgun" in relation to a drug trafficking crime on Patapsco Avenue. The State's indictment, in relevant part, charged the offense as follows:

The Jurors of the State of Maryland for the body of the City of Baltimore, do on their oath present that the aforesaid DEFENDANT(S), late of said City, heretofore on or about **July 26, 2023, at 900 Block East I, Baltimore, MD**, during and in relation to drug trafficking crime, did possess firearm, to wit: **Unknown Handgun** under sufficient circumstances to constitute nexus to the drug trafficking crime, in violation of Criminal Law Article, Section 5-

621 of the Maryland Code; against the peace, government and dignity of the State. CR 5-621(b) (1) 04.

(Emphasis added).

Three days into the trial on April 11, 2024, the State moved to amend the indictment. The State argued no prejudice would arise from the amendment of “unknown handgun” to the Glock 17 recovered from the Tesla since the ultimate elements of the charges against Mr. Boone and Mr. Allen stayed the same.

Defense counsel for Mr. Boone objected, noting Mr. Boone’s charges concerned only the “video firing a handgun” without any reference to the Glock 17. The State responded, arguing that the jury should be allowed to make a reasonable inference that the Glock 17 ultimately recovered in the Tesla was the one Mr. Boone used in the video of the shooting. The circuit court denied the State’s motion, finding the proposed amendment more prejudicial than probative.

After the State concluded its case, Mr. Boone’s counsel made a motion for judgment of acquittal. Mr. Boone’s counsel argued that the evidence was insufficient to sustain a conviction for possession of a firearm in relation to a drug trafficking crime. The trial court ultimately denied Mr. Boone’s motion for judgment of acquittal as to the count of possession of a firearm in relation to a drug trafficking crime.

Although the State originally charged Mr. Boone with 25 counts total, it entered nolle prosequi on ten counts.⁷ Mr. Boone was acquitted of first-degree assault, second-degree assault, and the use of a firearm in a violent crime. Mr. Boone was ultimately convicted of the following five counts: reckless endangerment, wearing/carrying/transporting a handgun on one's person, discharging a firearm within Baltimore City, possession of cocaine with the intent to distribute, and possession of a firearm in relation to a drug trafficking crime.⁸ Additional facts will be included in the discussion as they become relevant.

II. DISCUSSION

A. The Instruction of Duress

Mr. Boone argues that the circuit court incorrectly denied the instruction for the defense of duress, as Mr. Boone more than satisfied the "some evidence" required for the generation of the instruction. The State counters that Mr. Boone failed to preserve this argument by failing to object at the conclusion of the jury instructions. The State further argues that should this Court overlook the preservation issue, Mr. Boone's argument still

⁷ The ten counts included the following charges: attempted first-degree murder, attempted second-degree murder, possession of a handgun in a vehicle, possession of a gun within 100 yards of a public school, conspiracy to commit first-degree assault, conspiracy to commit second-degree assault, possession of a handgun on a public road, possession of a controlled dangerous substance with intent to distribute, conspiracy to use a firearm in relation to a drug trafficking crime, and conspiracy to possess a controlled dangerous substance. The remaining counts were lesser offenses that merged for sentencing purposes.

⁸ Mr. Allen was acquitted on all counts.

fails as Mr. Boone could not establish evidence of every element required for duress and the circuit court properly denied the instruction.

We first address if an objection to the jury instructions has been properly preserved for our review. A court's decision not to give a proposed jury instruction is reviewed under an abuse of discretion standard, with reversal appropriate only if the defendant's rights were not adequately protected. *Carrol v. State*, 202 Md. App. 487, 501–02 (2011) (quoting *Cost v. State*, 417 Md. 360, 369 (2010)).

To raise an objection to the jury instructions upon appeal, the appellant must properly preserve this issue. Rule 4-325(f) states no party may raise an issue with the grant or denial of the jury instructions “*unless* the party objects on the record promptly after the court instructs the jury, stating distinctly the matter to which the party objects and the grounds of the objection.” (emphasis added). The Rule's purpose is to allow the trial court an opportunity to correct its charge, should a correction be necessary considering the objection. *Taylor v. State*, 473 Md. 205, 227 (2021) (quoting *Gore v. State*, 309 Md. 203, 208–09 (1987)). While strict Rule compliance is preferred, an objection may nonetheless survive if it substantially complies with the Rule. *Watts v. State*, 457 Md. 419, 427 (2018). If strict or substantial Rule compliance is not applicable, an appellant's last refuge lies in plain error review. *Id.* at 428 (2018) (citing *Newton v. State*, 455 Md. 341, 364 (2017)). Mr. Boone does not argue plain error, so we only consider if the issue has been properly preserved for appeal.

Our review of the record indicates Mr. Boone’s counsel orally requested the instruction for defense of duress, which the circuit court denied due to its failure to meet the required elements. When the circuit court read the proposed instructions without the defense of duress, the court specifically asked Mr. Boone’s counsel for any objections, to which defense counsel replied, “No, [y]our [h]onor.” At the close of the jury instructions, the circuit court asked if Mr. Boone’s counsel had any exceptions, to which Mr. Boone’s counsel responded, “No thank you.” The circuit court asked for objections for a second time, to which the State responded in the negative, and Mr. Boone’s counsel replied, “Thank you.”

Despite the circuit court’s multiple offers for counsel to state any exceptions to the jury instructions, Mr. Boone’s counsel raised no objection. Defense counsel’s failure to object means the issue has not been properly preserved for appellate review. *See Alston v. State*, 414 Md. 92, 111 (2010); *see, e.g., Pitts v. State*, 250 Md. App. 496, 528 (2021). Moreover, Mr. Boone’s counsel directly responded to the court’s inquiry of objection. Counsel’s reply to the court indicated they had no objections. As such, Mr. Boone’s claim is not preserved for appellate review. Since we conclude the issue of jury instruction was not preserved, we need not address the merits of the argument.

B. The Admissibility of the Video Footage

Mr. Boone argues on appeal that the circuit court erred in its admission of State Exhibits #1A and #1B, as Det. Rollins’s testimony failed to lay a sufficient foundation to authenticate the video footage obtained from Sunlite Liquors. The State argues that

Exhibits #1A and #1B were properly admitted, as the State presented enough foundational proof to allow a reasonable juror to find that the video footage was authentic by a preponderance of the evidence. The State further argues that the footage was properly authenticated through the silent witness and circumstantial evidence methods.

We review the circuit court’s decision to admit or exclude evidence for an abuse of discretion. *Reddick v. State*, 263 Md. App. 562, 579 (2024) (citing *Gerald v. State*, 137 Md. App. at 304). Photographic evidence may be admitted as probative evidence itself when a witness speaks to the reliability and authenticity of the system used to obtain the video under the “silent witness” theory of admissibility. *Jackson v. State*, 460 Md. 107, 116 (2018) (quoting *Washington v. State*, 406 Md. 642, 652 (2008)). Our Supreme Court has declined to adopt any fixed or rigid foundational requirements to authenticate evidence under the “silent witness” theory, noting that the facts and circumstances surrounding the creation of photographic evidence vary greatly from case to case. *Dep’t of Pub. Safety & Corr. Servs. v. Cole*, 342 Md. 12, 27 (1996).

Testimony of one’s personal knowledge of the video’s content or direct participation in the video’s creation is not required, courts instead look to “the accuracy of the witness’s knowledge of the system of collecting, storing, and downloading the videos, the reliability of that system, and whether the video is likely to have been altered.” *Reddick*, 263 Md. App. at 582; *see also Campbell v. State*, 267 Md. App. 248, 298–306 (2025) (concluding based on the detective’s testimony that the footage: was not altered in any way by police,

was in the same form police received it, and was reviewed by the detective after first receiving the video to identify the suspects were all factors supporting authentication).

The “silent witness” is just one of several options available for video authentication, as circumstantial evidence serves as another avenue for video footage admissibility. *Mooney v. State*, 487 Md. 701, 709 (2024). Courts must assess on a case-by-case basis all the circumstances that may permit authentication of footage under Maryland Rule 5-901(b)(4). *Id.* Rule 5-901(b)(4) permits authentication via circumstantial evidence, which may include “appearance, contents, substance, internal patterns, location, or other distinctive characteristics, that the offered evidence is what it is claimed to be.” Ultimately, a court’s determination rests on whether there is sufficient evidence for a reasonable juror to conclude more likely than not that the video footage is what the proponent claims it to be with respect to authentication. *Id.*

We first examine the evidence under the “silent witness” theory, before addressing authentication via circumstantial evidence. Det. Rollins testified that she arrived on the scene an hour after police received the call about the shooting. Furthermore, Det. Rollins testified about her knowledge of the video surveillance system, having prior experience gaining footage from Sunlite Liquors on other occasions. Det. Rollins described the computer system in detail, including the number of cameras Sunlite Liquors used, the camera angles used, the ability to rewind and play back footage, and how the surveillance system operated by storing digital video as a DVR. Det. Rollins also testified about the system’s inability to alter videos.

Det. Rollins also testified that she personally recovered the footage via her flash drive before uploading the file to Axon.⁹ Det. Rollins further testified about her knowledge of the computer system's collection and storage of video, the reliability of that system, and the likelihood of the video being altered. *Reddick*, 263 Md. App. at 582. As such, the circuit court properly admitted the videos under the silent witness theory based on Det. Rollins's testimony.

Under the circumstantial evidence authentication method, Det. Rollins's testimony still provided a proper foundation for the jury to consider that the video was likely what it was purported to be. Det. Rollins's testimony spoke to the video's characteristics and location, which satisfies the requirement under Rule 5-901(b)(4). Det. Rollins's testimony provided sufficient evidence for a reasonable juror to conclude the video footage is what she testified the video to be, supporting authentication via circumstantial evidence. As such, the circuit court did not err in admitting State Exhibits #1A and #1B, as the evidence was authenticated via the silent witness and circumstantial evidence methods.

C. Motion for Judgment of Acquittal & Sufficiency of the Evidence

1. Motion for Judgment of Acquittal

Mr. Boone's argument regarding the sufficiency of the evidence is necessarily tied to his motion for judgment of acquittal. concerns the sufficiency of the evidence to sustain

⁹ Axon Records provides law enforcement agencies with a cloud-based platform to upload digital evidence and reports. *See Axon Records*. AXON, <https://www.axon.com/products/axon-records> (last visited Dec. 2, 2025).

his conviction of possession of a firearm at Patapsco Avenue in relation to a drug trafficking crime.

a. Additional Background

On the third day of the trial, Mr. Boone’s counsel moved for judgment of acquittal and argued that the evidence was insufficient to sustain a conviction of a firearm in relation to a drug trafficking crime at the conclusion of the State’s case. The following exchange occurred:

[DEFENSE COUNSEL]: Now 20—20th count said that during and [in] relation to a drug trafficking crime that— Mr. Boone possessed a gun in sufficient circumstances to constitute a nexus to the drug trafficking crime. So the question is, is there a drug trafficking crime? I mean do you see—I mean what could it be argued that Mr. Boone did, okay? Yes, there’s cocaine in the car. Yes, he has cocaine on his person. This—the court has to believe there’s sufficient information that he had a gun accessible to him. It wasn’t on his person. Immediately accessible on him to assist his drug distribution crime. The mere fact that there happened to be a weapon in the car which the person used to react to the shooting I suggest to you would not satisfy—

THE COURT: Well, he’s not charged with that gun.

[COUNSEL FOR APPELLANT]: That’s correct. That’s correct. He [is] just charged with—

THE COURT: With—

[DEFENSE COUNSEL]: —whatever you see on the video, the unknown weapon. So I’m going to ask the court to grant that as to that count. The cocaine I will not argue. That’s [the] 21st count. I’ll submit. And that’s the end of my argument.

The State counterargued against the motion for acquittal, stating:

[THE STATE]: My argument, Your Honor, is that the firearm which we see in his hands in the video and there are drugs that were found in the car. Although later, but it’s the same vehicle that—

THE COURT: But the gun in the car—see, you know, listen, Ms. [prosecutor], you know, you got a little bit of [an] issue with the gun, okay.

[THE STATE]: Understood.

THE COURT: Because he's not charged with the Glock 17.

[THE STATE]: Understood.

THE COURT: The Glock 17 is in the car with the drugs. I—I get that for drug trafficking. He's not charged with the Glock 17. So now you're trying to connect whatever gun you're saying he's firing with at the scene—

[THE STATE]: Yes.

THE COURT: —with the drugs in the car.

[THE STATE]: Yes, Your Honor. Which is why it's charged as an unknown handgun.

THE COURT: And how are you doing that? No, you charged it as unknown. I don't know why you charge these unknown handguns, ... but we're not going to go there. I want you to explain to me how you're making that leap from wherever he is on Patapsco—

[THE STATE]: Yes.

THE COURT: —[to where] the car is stopped on Fayette; right?

[THE STATE]: Yes, Judge.

THE COURT: Okay. Make that leap for me how the gun ... is connected to the drugs in the car.

[THE STATE]: —Your Honor, the State's position is that despite him—despite him not being charged with the Glock 17, he is charged with an unknown handgun in connection with the drugs which [were] recovered not only from his person and not only just from his person [but] in a pocket, but the officer had to search and manipulate his pants, if you will, in order to get the drugs out of his pants.

THE COURT: So you're connecting the—the gun that was—he was using to fire with the drugs that [were] in his dip area; is that right?

[THE STATE]: Yes, and the car.

THE COURT: Well, if you keep saying the car you're not going to get it.

[THE STATE]: Yes, Your Honor. In his dip area.

THE COURT: Denied. Next, [count] 21.

[DEFENSE COUNSEL]: The motion is denied?

THE COURT: Yes, I denied it.

When the jury deliberated, a juror note asked specifically, in relation to Mr. Boone, if “all the counts [were] only for 900 Patapsco.” In response, the State conceded that there were “two locations.” Defense counsel for Mr. Boone clarified that only for Count Four should the jury consider all locations. Count Four was for possession of cocaine with the intent to distribute, but did not concern possession of a firearm in relation to a drug trafficking crime (Count Five). The trial court instructed the jury, “[a]s to Count 4 you may consider all locations.” No challenges were raised related to the court’s note to the jurors following jury instruction that clarified “as to count four you may consider all locations.”

b. The Contentions of the Parties

Mr. Boone argues that the circuit court erred in its denial of the motion for judgment of acquittal as to this count because the evidence was insufficient to sustain his conviction of possession of a firearm at Patapsco Avenue in relation to a drug trafficking crime. He

further argues that reversal of his conviction of possession of a firearm in relation to a drug trafficking crime is required.¹⁰

Mr. Boone contends the State did not show that the unknown gun used in the Patapsco Avenue incident was related to the drug evidence recovered during Mr. Boone's later arrest during the Fayette Street incident. Furthermore, Mr. Boone contends that the circuit court implicitly rejected the argument that the "jury should be allowed to make a reasonable inference in terms of the gun that was ultimately recovered" in denying the State's motion to amend the charging document based on potential prejudice to the defense for the State's failure to identify the Glock 17 recovered from the Tesla as the gun used during the Patapsco Avenue incident.

The State counterargues that a jury could rationally infer that Mr. Boone possessed both the firearm and the cocaine at the same time, thus establishing a nexus between the firearm and the drugs. The State further contends that the jury could reasonably infer, based on the relatively short time that passed between the video of Mr. Boone firing the gun on Patapsco Avenue and his subsequent arrest and search on Fayette Street, that at the time of the Patapsco Avenue incident, Mr. Boone possessed the gun and the drugs together. The State contends that because Mr. Boone was wearing the same clothing in the video at

¹⁰ Mr. Boone does not challenge his other convictions, so we need not address the remaining convictions of reckless endangerment, wearing/carrying/transporting a handgun, discharging a firearm within Baltimore City, and possession of cocaine with intent to distribute.

Patapsco Avenue and because drugs were later found on his person after the Fayette Street incident, the evidence is sufficient to sustain Mr. Boone's conviction.

c. Analysis

Appellate review of a lower court's decision to deny a defendant's motion for judgment of acquittal is limited. *State v. Payton*, 461 Md. 540, 557 (2018) (citing *Morgan v. State*, 134 Md. App. 113, 126 (2000)). When an appellant challenges the sufficiency of evidence to sustain a conviction, the determination rests on whether the verdicts were supported by sufficient evidence. *State v. Albrecht*, 336 Md. 475, 479 (1994). Sufficient evidence shows (either directly or circumstantially) or supports a rational inference of facts which could fairly convince a factfinder of the defendant's guilt beyond a reasonable doubt. *Id.* Our function in respect to evidentiary inferences is to determine whether the trial court made "reasonable, i.e., rational, inferences from extant facts." *State v. Smith*, 374 Md. 527, 547(2003).

We defer to all reasonable inferences that the factfinder draws, regardless of whether another court would have chosen a different reasonable inference. *Hall v. State*, 233 Md. App. 118, 137 (2017) (citing *Cox v. State*, 421 Md. 630, 657 (2011)). In assessing the sufficiency of evidence, our task is to determine if the jury's verdict was supported by either direct or circumstantial evidence by which any rational trier of fact could have found Mr. Boone guilty beyond a reasonable doubt of possession of a firearm under sufficient circumstances to constitute a nexus to a drug trafficking crime.

Mr. Boone was charged under Section 5-621(b)(1) of the Criminal Law Article, which provides in relevant part: (b) During and in relation to a drug trafficking crime, a person may not: (1) possess a firearm under sufficient circumstances to constitute a nexus to the drug trafficking crime. Md. Code Ann., Crim. Law § 5-621(b)(1). Maryland caselaw notes that factfinders are entitled to find that the gun was possessed “in relation to” a drug trafficking crime when: (1) drugs are discovered under circumstances that indicate the person possessing those drugs intended to distribute them, and (2) a gun is discovered in close proximity to the drugs. *Johnson v. State*, 154 Md. App. 286, 309 (2003).¹¹

The court did not err in denying the motion for judgment of acquittal. The evidence established that, about an hour after the appellant was seen on video with a gun at Patapsco Avenue, the appellant was found with two trash cans and 23 clear plastic bags containing rock-like material (cocaine). Detective VanHelten testified that these were “packaged for street level distribution.” In denying the motion, the court apparently recognized that the jury could reasonably infer that when the appellant possessed a gun on Patapsco Avenue,

¹¹ Since other Maryland cases involving 5-621(b)(1) convictions differ from the particular facts arising in this case, we may consider federal cases.¹¹ The Fifth Circuit considered eight non-dispositive factors in firearm possession related to drug trafficking crimes, namely: (1) the type of drug activity that is being conducted, (2) accessibility of the firearm, (3) the type of the weapon, (4) whether the weapon is stolen, (5) the status of the possession (legitimate or illegal), (6) whether the gun is loaded, (7) proximity to drugs or drug profits, and (8) the time and circumstances under which the gun is found. *United States v. Ceballos-Torres*, 218 F.3d 409, 412 (5th Cir. 2000). Courts may look to decisions of other courts in various jurisdiction as persuasive authority. *See Johnson*, 154 Md. App. at 305–09 (2003) (relying on federal cases involving 18 U.S.C. § 924(c) for persuasive authority).

he also possessed these drugs. In applying the standard of review, the court did not err in denying the motion for judgment of acquittal.

2. **Sufficiency of the Evidence**

The evidence was sufficient to sustain the jury's finding that the appellant possessed a firearm on Patapsco Avenue in relation to a drug trafficking crime. The appellant was captured on video in the Tesla with a gun on Patapsco Avenue and was apprehended about an hour later after fleeing from the Tesla. As stated, when police apprehended the appellant, they discovered drugs on his person, which were packaged for distribution. A search of the Tesla yielded a large quantity of similarly packaged cocaine. Based on all the evidence, the jury could reasonably infer that the appellant had the same drugs on his person and/or in the car earlier at Patapsco Avenue, where he was seen with a firearm, and thus, that the gun had a nexus with the drug trafficking crime. *See Perry v. State*, 234 Md. 48, 51 (1964) (explaining that the weight to be given to evidence is a matter for the jury to determine); see also *Johnson*, 154 Md. App. at 308 (citing *United States v. Molina*, 102 F.3d 928, 932 (7th Cir. 1996) (holding that "if the drugs and the gun are together in the same place it is nearly an inescapable conclusion that they satisfy the in relation to prong of section 924(c)(1) [which bears close resemblance to Criminal Law § 5-621].")).

The appellant attempts to separate the evidence regarding his possession of the gun at Patapsco Avenue from the evidence of the Glock 17 and packaged drugs later found in the car and on his person at Fayette Street, as if the trial had been conducted in a bifurcated manner. However, the trial was not conducted this way, nor did the jury receive instructions

to disregard evidence regarding the apprehension and search at Fayette Street when considering the charge at issue. Instead, the jury was free to consider all the evidence presented at trial and draw reasonable inferences to determine whether the appellant possessed a firearm on Patapsco Avenue in relation to a drug trafficking crime. For the reasons stated, there was sufficient evidence to support the conviction for this offense.

III. CONCLUSION

We find that the jury instruction issue was not preserved upon appeal, and the circuit court correctly addressed the duress instruction given the lack of objection. We find that the video footage was properly authenticated and affirm the circuit court's admission of Exhibits #1A and #2B. We also find that the evidence is sufficient to sustain Mr. Boone's conviction for the possession of a firearm in relation to a drug trafficking crime. Accordingly, we affirm.

**JUDGMENT OF THE CIRCUIT COURT FOR
BALTIMORE CITY AFFIRMED. COSTS TO
BE PAID BY THE APPELLANT.**