

Circuit Court for St. Mary's County  
Case No. C-18-CR-22-000500

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 701

September Term, 2024

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DEVRON NY'QUEZ MURRAY

v.

STATE OF MARYLAND

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Tang,  
Albright,  
Hotten, Michele D.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Tang, J.

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Filed: May 8, 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 its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On July 15, 2022, the appellant, Devron Murray, shot two individuals during a fracas at a carnival. A jury sitting in the Circuit Court for St. Mary’s County convicted him of first-degree murder, attempted first-degree murder, first-degree assault, two counts of using a handgun in the commission of a violent crime, wearing, carrying, and transporting a handgun, and possession of a regulated firearm by a person under the age of twenty-one.

The appellant filed a timely appeal and presents three questions for our review:

1. Did the trial court err in admitting a message sent by the appellant the day before the shooting?
2. Did the trial court err in allowing the prosecutor to give an inappropriate and prejudicial closing argument?
3. Did the trial court err in failing to merge the sentence for wearing, carrying, and transporting a handgun and the sentence for use of a handgun in the commission of a crime of violence?

We answer the first question in the affirmative. Given our disposition, we need not address the remaining issues.<sup>1</sup>

## **BACKGROUND**

On July 15, 2022, Syncere Smith was shot and killed at a carnival. A second victim, Sayqwan Mackle, was shot but survived. After receiving a description of the shooter, police

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<sup>1</sup> The court sentenced the appellant on each conviction for use of a handgun in the commission of a violent crime to twenty years, the first five to be served without parole. The court also imposed a three-year sentence for the single conviction for wearing and carrying the same handgun. As to the third issue, the State agrees with the appellant that the sentence for wearing and carrying must merge with the sentences for using the same handgun in the commission of a violent crime. *See Hunt v. State*, 312 Md. 494, 510 (1988); *Wilkins v. State*, 343 Md. 444, 447 (1996); *Tilghman v. State*, 117 Md. App. 542, 571–72 (1997).

quickly apprehended the appellant at a gas station. Officers arrested the appellant, took his cell phone and other belongings, and discovered a handgun behind a nearby shed.

The appellant was charged with multiple offenses and proceeded to a jury trial. He did not dispute being at the carnival or firing the gun; rather, he claimed he acted in self-defense. The appellant testified that on the evening of July 15, his friend Eric Wood called to say he had been “jumped” at the carnival. While Mr. Wood stayed at the carnival, an associate picked up the appellant and drove him there. The appellant denied bringing a gun with him.

According to the appellant, when he arrived at the carnival and greeted Mr. Wood, they were approached by a large group of about twenty people. The appellant testified that he saw “about three knives” and that one person in the group “started slashing, trying to stab everybody.” He also saw someone approaching him, “pulling a gun out of his waistband.” The appellant “ran around the other side of the car” they arrived in and grabbed a gun off a car tire. He testified that he “just started shooting” and felt terrified and scared because “they were trying to cut people.” He explained that he could not have retreated or run away because “they were surrounding us” and someone was behind him with a knife.

**“Might gotta shoot one”**

The prosecutor cross-examined the appellant regarding his and Mr. Wood’s communication the day before the incident. Specifically, the prosecutor sought to

introduce, through the appellant’s testimony, a Snapchat message<sup>2</sup> he sent to Mr. Wood on July 14, 2022—the day before Mr. Wood was “jumped.” The prosecutor intended to ask the appellant if he had sent the message stating, “might gotta shoot one.”

According to the prosecutor, the message was relevant to undermine the appellant’s claim that he acted in self-defense when he fired the gun the following day. The prosecutor argued that the statement “impeached” the appellant’s assertion that he did not go to the carnival with the intent to “retaliate.” The prosecutor explained, in relevant part:

This conversation with [Mr. Wood] the day prior, “Might gotta shoot one” when they’re going back and forth about stuff, “Might gotta shoot one.” And you get called by [Mr. Wood] and show up, ten minutes, everything that’s been said. This is squarely on point to impeach him of “I’m just a peaceful guy and I was afraid of my life and couldn’t retreat.” This directly goes against that.

Defense counsel objected, arguing that the message was from the day before the carnival incident and lacked context—either as to its addressee, the person it referred to, if any, or the meaning of “shoot” in this context. The court overruled the objection and admitted the message into evidence. The appellant later testified that “might gotta shoot one” referred to shooting music videos, explaining that he had shot about five or six videos while recording over one hundred rap songs.

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<sup>2</sup> “Snapchat is a social media platform that provides free messaging and photo and video sharing for its users.” *State v. Galicia*, 479 Md. 341, 350 n.2 (2022).

## **PARTIES’ CONTENTIONS**

On appeal, the appellant contends that the trial court erred in admitting the Snapchat message because it was irrelevant and highly prejudicial. He contends that the message lacked relevance since it was sent the day before the incident, and neither he nor Mr. Wood could have anticipated that Mr. Wood would be “jumped” the following day. Moreover, the message was vague and lacked context, leaving its meaning to the jury’s pure speculation. The appellant further asserts that any relevance the message might have had was substantially outweighed by the risk of undue prejudice.

The State continues to maintain that the Snapchat message was relevant to the appellant’s claim of self-defense and served to impeach his testimony. Specifically, the State argues that the message was relevant to rebut the appellant’s claim that he acted in self-defense; it undermined his assertion that he was merely reacting to an unexpected threat of knife-wielding people who approached him. Instead, the message supported the State’s theory that the appellant anticipated—and inferentially, initiated—violence.

In the same vein, the State contends that introducing the message was a proper exercise of cross-examination. It impeached the appellant’s specific claim of self-defense and demonstrated that he anticipated violence and had formed intentions the day before the shooting. The State maintains that the appellant’s remedy was to explain the message, which he did, leaving the jury to assess the weight of the evidence. Finally, the State argues that the message’s probative value outweighed any risk of unfair prejudice, especially since the appellant was afforded the opportunity to clarify its meaning.

## STANDARD OF REVIEW

The Supreme Court of Maryland summarized the oft-repeated standard of review applicable to the admissibility of evidence:

Our review of the trial court’s decision to admit evidence involves a two-step analysis. First, we determine whether the evidence was relevant, which is a conclusion of law that we review *de novo*. While trial judges are vested with discretion in weighing relevancy in light of unfairness or efficiency considerations, trial judges do not have discretion to admit irrelevant evidence.

If we determine that the evidence in question is relevant, we proceed to the second step—whether the evidence is inadmissible because its probative value is outweighed by the danger of unfair prejudice, or other countervailing concerns as outlined by Maryland Rule 5-403. In connection with this second inquiry, we consider whether the trial court abused its discretion by admitting relevant evidence which should have been excluded as unfairly prejudicial. The second inquiry—the trial judge’s discretionary ruling of the admissibility of evidence under Rule 5-403—is subject to the abuse of discretion standard.

*Akers v. State*, 490 Md. 1, 24–25 (2025) (citation modified).

## DISCUSSION

We apply the *de novo* standard of review in the first step of the analysis in determining whether the Snapchat message is relevant. “A central evidentiary principle in our legal system is that only relevant evidence is admissible.” *Id.* at 25; Md. Rule 5-402 (“Evidence that is not relevant is not admissible.”). “Relevant evidence” means evidence having “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. Relevance “is generally a low bar, but it is a legal requirement nonetheless.” *State v. Simms*, 420 Md. 705, 727 (2011).

“Two characteristics of relevant evidence are: (1) materiality and (2) probative value.” *Akers*, 490 Md. at 26. “Evidence is material if it bears on a fact of consequence to an issue in the case.” *Id.* “Materiality looks to the relation between the propositions for which the evidence is offered and the issues in the case.” *State v. Joynes*, 314 Md. 113, 119 (1988); *see also* 1 McCormick on Evidence § 185.1 (9th ed.), Westlaw (updated Feb. 2025) (“Materiality concerns the fit between the evidence and the case.”).

On the other hand, probative value is “the tendency of evidence to establish the proposition that it is offered to prove.” *Joynes*, 314 Md. at 119. As the Supreme Court of Maryland explained:

Evidence is probative if it is related logically to a matter at issue in the case. In turn, for evidence to be related logically to a matter at issue, the court must be satisfied that its admission increases or decreases the probability of the existence of a material fact. The probative value inquiry—and therefore also the relevancy inquiry as a whole—often depends upon how attenuated the evidence is to the material fact it is intended to prove or disprove. Where the proffered evidence is several inferential leaps removed from the consequential fact, or where it involves a speculative chain of inferences to reach a determination, the less likely the evidence will make that fact more or less probable. This means that the evidence is not probative and, therefore, is irrelevant.

Evidence also lacks probative value when its relevancy depends on attributing meaning to actions too ambiguous and equivocal to support the proposition for which it is offered. When a person’s conduct is equivocal and therefore equally consistent with multiple interpretations, it invites improper speculation by the factfinder as to the meaning of that conduct.

*Akers*, 490 Md. at 26–27 (citation modified).

Our appellate courts have applied these principles when conducting a de novo review of the trial court’s relevancy determinations. *Id.* at 27–28 (collecting cases); *see also Smith v. State*, 218 Md. App. 689, 705–06 (2014) (holding that evidence regarding the

defendant’s ownership of unrelated firearms and ammunition was minimally relevant, at best, and highly prejudicial, and should have been excluded because of a lack of “direct or tangible connection to the events” surrounding the particular shooting at issue); *Nance v. State*, 93 Md. App. 475, 496–97, 497 (1992) (holding that the trial court correctly determined that the statement “its [sic] going to be war” was inadmissible; “the tenuous and speculative import of the challenged statement renders it susceptible to exclusion on the basis of relevancy”); *Montague v. State*, 471 Md. 657, 687–88 (2020) (distinguishing between rap lyrics that are inadmissible because they are merely generalized references glorifying violence and rap lyrics that may be admissible because they bear a close and particularized nexus to the details of an alleged crime); *but see Foster v. State*, 297 Md. 191, 211 (1983) (statement that accused’s husband had threatened to kill the victim should have been admitted because it was “highly relevant to the central issue in the guilt phrase of the trial”).

We hold that the trial court erred in admitting the Snapchat message. There was no indication that the phrase “might gotta shoot one,” sent a day earlier, had any connection to the shooting at the carnival the following day. The message was too vague to suggest any relation to the upcoming carnival event; it was unclear who or what “one” referred to, and there was no evidence linking this message to the appellant’s mindset leading up to the shooting. In other words, the evidence lacked materiality, as it did not bear on any “fact of consequence” in the case. *Akers*, 490 Md. at 26. Instead, the message’s substance was

“several inferential leaps removed” from any consequential fact, rendering both its materiality and probative value dubious. *Id.* at 26–27.

Moreover, we are not persuaded by the State’s impeachment argument. A witness generally may be cross-examined on any matter relevant to the issues, such as “matters and facts as are likely to affect his credibility, test his memory or knowledge, show his relation to the parties or the cause, his bias, or the like.” *Smith v. State*, 273 Md. 152, 157 (1974); *see also* Md. Rule 5-616(a)–(b). However, cross-examination is not without limitations. *Smith*, 273 Md. at 157. “There may be cases where the subject matter has no relevance at all[.]” *Id.* at 157. In a jury trial, questions designed to elicit impeachment evidence should be permitted “unless they lack a factual foundation, or their probative value is substantially outweighed by the danger of undue prejudice or confusion of the jury.” *Calloway v. State*, 258 Md. App. 198, 217 (2023). “[I]f the evidence sought to be admitted is not relevant to the witness’s credibility, *i.e.*, it lacks probative value for impeachment, it should not be admitted.” *Id.*

The State’s impeachment argument restates the contention we have already rejected—that the substance of the message was admissible because it rebutted the appellant’s claim that he was not the aggressor. The State offers no other explanation for the message’s probative value for impeachment,<sup>3</sup> and the message’s lack of relevance

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<sup>3</sup> In a footnote in its brief, the State merely notes that the message revealed an “inconsistenc[y]” in the appellant’s claim that it had been weeks since he last communicated with Mr. Wood. Even if the prosecutor intended to use the message to impeach the appellant on the timing of his communication with Mr. Wood, the prosecutor was able to—and did—accomplish this without introducing the substance of the message.

remains a threshold hurdle to its admission for the reasons previously discussed. For the reasons stated, we shall vacate and remand for further proceedings consistent with this opinion.<sup>4</sup>

**JUDGMENT VACATED AND CASE  
REMANDED TO THE CIRCUIT COURT  
FOR ST. MARY’S COUNTY FOR  
FURTHER PROCEEDINGS CONSISTENT  
WITH THIS OPINION. COSTS TO BE PAID  
BY ST. MARY’S COUNTY.**

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<sup>4</sup> The State did not raise the issue of harmless error in its brief; therefore, we consider this argument waived. *See Akers*, 490 Md. at 30 n.12 (considering the issue of harmless error waived because the State did not brief it). In any event, we conclude that the error was not harmless beyond a reasonable doubt. “[W]here credibility is an issue and, thus, the jury’s assessment of who is telling the truth is critical,” as in the case of self-defense, “an error affecting the jury’s ability to assess a witness’[s] credibility is not harmless error.” *Dionas v. State*, 436 Md. 97, 110 (2013); *see also Howard v. State*, 324 Md. 505, 517 (1991) (“In a case that largely turned on whom the jury was going to believe, the improperly admitted evidence of the defendant’s prior conviction may have been the weight which caused the jurors to accept one version rather than the other.”).