Circuit Court for Baltimore City
Case No. 122144001

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 991

September Term, 2023

TERRILL JOHNSON

v.

STATE OF MARYLAND

Reed,
Friedman,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: November 26, 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 MD. RULE 1-104(a)(2)(B).

In this appeal, appellant Terrill Johnson argues that the Circuit Court for Baltimore City erred by making evidentiary rulings that prevented him from adequately presenting his claim of self-defense to the jury. Because we agree, we reverse Johnson's convictions and remand the case for a new trial.

BACKGROUND

In April 2022, 21-year-old Johnson drove to Garden Liquors with his girlfriend, Danasia Toney, and Toney's brother, Deon Taylor, as passengers. Johnson entered the liquor store by himself to buy some soft drinks. Adrian Morris, the victim, approached Johnson at check-out. According to Johnson, Morris was acting strangely. Morris did not appear to be buying any items as he approached the check-out line. He wore a ski mask with his hood up. He asked Johnson, who had never met Morris before, whether Toney was in Johnson's car, and he asserted that Toney owed Morris money. Based on these behaviors, Johnson felt threatened by Morris to the point where he could not focus on checking out. Johnson paid with the wrong credit card, and the purchase was declined. The liquor store clerk asked whether Johnson was okay, and he told Morris that Johnson was a "good dude." Johnson purchased his drinks with a different credit card and left the liquor store.

Morris confronted Johnson outside about money that Toney allegedly owed him. Johnson went back to the car, and Morris followed him. When Johnson got in the car, Morris began arguing with Toney in the passenger seat. According to Johnson, Morris was acting aggressively and was moving his hand in and out of a bag that he was holding. Morris said that he was going to "air out the car," which Johnson thought meant that Morris

was going to shoot. Johnson then grabbed a gun in the car, shot Morris, and drove away. Morris died of his injuries.

Johnson was arrested and charged with murder, voluntary manslaughter, and three firearm charges. At trial, Johnson's theory of the case was that he acted in self-defense and in defense of the people in the vehicle when he shot Morris. The jury convicted Johnson of voluntary manslaughter and two firearm charges. The court sentenced him to fifteen years' incarceration, the first five without the possibility of parole. Johnson then noted this timely appeal.

DISCUSSION

Johnson's appeal rests on a claim of perfect self-defense. In general, self-defense requires the defendant to prove that (1) they had grounds to believe they were in imminent or immediate danger of death or serious bodily harm from an attacker; (2) they in fact believed they were in this danger; (3) they were not the aggressor and did not provoke the confrontation; and (4) they did not use excessive force. *State v. Marr*, 362 Md. 467, 473 (2001); *State v. Faulkner*, 301 Md. 482, 485-86 (1984). Moreover, self-defense comes in two flavors: perfect and imperfect. *E.g.*, *Marr*, 362 Md. at 472. Perfect self-defense requires the defendant's belief as to danger and necessary force be "*objectively reasonable*"—meaning a reasonable person in the same circumstance would have the same belief. *Id.* at 474, 480; CHARLES E. MOYLAN, JR., CRIMINAL HOMICIDE LAW § 10.3 (2002) (emphasis added). And in analyzing a defendant's reasonableness, the jury must consider the "circumstances … as perceived by the defendant." *Marr,* 362 Md. at 480-81. A successful perfect self-defense results in an acquittal. *Id.* at 472-73. By contrast, an

unreasonable, but honestly held belief of danger or necessary force may establish imperfect self-defense, which mitigates the charge to a lesser-included offense. *Id.* at 473-74; MOYLAN, *supra*, § 10.3.

At trial, Johnson asserted both perfect and imperfect self-defense. In this current appeal, however, we are not concerned with imperfect self-defense because Johnson prevailed on this defense at trial—the jury acquitted him of murder and found him guilty of the lesser-included offense, manslaughter. Accordingly, we are only concerned here with perfect self-defense.

Johnson's appeal centers on his claim that he was unable to adequately present his theory of perfect self-defense because the circuit court erroneously excluded important evidence explaining why his fear of imminent death or bodily harm to himself and those in the car was objectively reasonable. Specifically, Johnson challenges that the circuit court (1) erred when it excluded testimony of Johnson and Taylor describing what people said prior to the shooting; (2) abused its discretion in excluding an expert on young adult brain development; (3) abused its discretion in refusing to give a jury instruction about young adult brain development; (4) erred in excluding Johnson's testimony about his experiences with gun violence in Baltimore City; and (5) erred in excluding Taylor's testimony about his experiences during the shooting. Because we hold that the circuit court committed

reversible error with respect to the first issue, we reverse and remand this case for a new trial. Our resolution of this first issue renders moot the remaining issues.[1]

[1] The trial court will decide these remaining issues afresh on remand. Because these remaining issues are likely to recur, we take this opportunity to offer some general guidance. *See Smith v. State*, 218 Md. App. 689, 695-96 (2014) (reversing convictions and addressing two issues that were likely to recur on remand).

First, Johnson argues the circuit court abused its discretion when it excluded expert testimony about "[y]oung adult developmental psychology." Specifically, this proposed expert explained that individuals between 18 and 25 years old undergo a "highly individualized" stage of their brain development, in which they develop the ability to regulate their behaviors under "conditions of threat." The expert neither examined Johnson individually, nor testified to Johnson's age at the time of the offense. We note two preliminary observations regarding expert testimony on young adult developmental psychology in perfect self-defense claims:

- As mentioned above, this objectively reasonable standard requires the jury to consider the "circumstances" from the defendant's perspective. *Marr*, 362 Md. at 480; MOYLAN, *supra*, § 10.3. Our appellate courts have identified several instances where such a circumstance is relevant to this analysis. *See e.g.*, *Wallace-Bey v. State*, 234 Md. App. 501, 536, 546 (2017) (permitting evidence of a defendant's psychological reactions to the victim's behavior); *Thomas v. State*, 301 Md. 294, 306-07 (1984) (explaining that character evidence of the victim may prove a defendant's state of mind); *Gainer v. State*, 40 Md. App. 382, 387-88 (1978) (applying the castle doctrine). Our courts have not, however, recognized brain development or age as such a circumstance. We express no view on whether brain development can be a circumstance that may be relevant to self-defense claims. Instead, we defer to the trial judge's logic and experience to determine its relevance on remand.

- Even if age or brain development is a relevant circumstance for perfect self-defense, it is not clear that it applied to Johnson himself. Johnson's expert did not examine him, so she could not testify to how Johnson's brain development and thought process during the shooting compared to a fully matured adult. As a result, the expert's testimony could not help the jury determine whether Johnson acted reasonably in light of his age or brain development. MD. R. 5-702 (allowing a trial court to admit expert testimony if the testimony "will assist the trier of fact to understand the evidence or to determine a fact in issue").

The primary issue to Johnson's appeal is whether the circuit court erred in excluding Johnson and Taylor's testimony describing what people said leading up to the shooting. We review three pieces of testimony here: (1) Johnson's testimony about the store clerk's reassuring statements, (2) Johnson's testimony that Toney said "[Morris is] about to shoot," and (3) Taylor's testimony about Morris's threatening statements. The State argues that

In sum, should Johnson offer similar evidence on remand, the trial court must determine whether age or brain development is a relevant circumstance to the objectively reasonable analysis, and if so, whether this circumstance applies to Johnson and helps the jury determine whether his fears were objectively reasonable.

Second, Johnson asserts that the circuit court abused its discretion by refusing to instruct the jury on how Johnson's age or brain development informed the reasonable person analysis. If Johnson is retried, the trial judge will decide afresh how to instruct the jury, based on its conclusion to the first issue in this footnote.

Third, Johnson contends the circuit court erred in excluding his testimony about his prior experiences with violence and the shootings of his friend and uncle in Baltimore City, arguing these shaped his perception that Baltimore City was dangerous, and, as a result, he faced imminent harm. Self-defense, however, requires a "reasonable belief in imminent or immediate danger … *from the assailant.*" *Porter v. State*, 455 Md. 220, 234-35 (2017) (emphasis added). Because Johnson's prior experience testimony did not mention Morris, it does not support Johnson's reasonable fear of him. Nor can mere presence in Baltimore City establish a reasonable belief of imminent danger. While no Maryland case law addresses this issue, *Washington v. State* is instructive: a "generalized description of an area as 'high crime,' without a greater connection to the observed activities, does not support [an officer's] reasonable suspicion." 482 Md. 395, 438-39 (2022) (quoting *Sizer v. State*, 456 Md. 350, 380 (2017) (Adkins, J., concurring and dissenting)). Likewise, Johnson's generalized view of Baltimore City as "dangerous," without a nexus between the where the prior shootings or experiences occurred and his encounter with Morris at the liquor store, cannot support a reasonable belief in imminent danger. On remand, this testimony would not be relevant unless Johnson can lay a foundation as to its relation to his fear of Morris or the liquor store where the encounter occurred.

this testimony was not relevant, was not hearsay, or both. We hold that the circuit court committed reversible error in excluding these three pieces of testimony.

We begin our analysis with relevance, because under Maryland Rule 5-402, for evidence to be admissible, it must be relevant. Evidence is relevant if it "ha[s] any tendency to make the existence of any fact that is of consequence to the determination of the action more [or less] probable." MD. R. 5-401. We review whether evidence is relevant without deference to the circuit court. *Williams v. State*, 457 Md. 551, 563 (2018).

Following relevance, we turn to whether the proffered testimony is hearsay. Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. MD. R. 5-801(c). A statement that is not offered for its truth but that is instead offered to establish its effect on the listener is not hearsay. *Ashford v. State*, 147 Md. App. 1, 77 (2002) (holding that an officer's statement to the defendant that his wife implicated him in a crime was not hearsay because it was offered to show it broke his resistance, not for its truth); LYNN MCLAIN, MARYLAND EVIDENCE, STATE & FEDERAL, § 801:10(a) (3d ed. 2024). In particular, a statement offered for its effect on the listener may show why someone "took actions in view of [them] learning the statement, or the reasonableness … of those actions." MCLAIN, *supra*, § 801:10(a); *see Belton v. State*, 483 Md. 523, 542, 544-45 (2023) (holding that a victim's statement was not hearsay because it was offered to prove the reasonableness of a defendant's self-defense claim). We review whether evidence is hearsay without deference to the circuit court. *Dulyx v. State*, 425 Md. 273, 285 (2012).

Finally, we review whether the circuit court's exclusion of these pieces of testimony was harmless error. An error is not harmless if we can determine, beyond a reasonable

doubt, that it did not influence the jury's verdict. *Dionas v. State,* 436 Md. 97, 108 (2013). "[W]here credibility is an issue," as it is in self-defense cases, "an error affecting the jury's ability to assess a witness'[s] credibility is not harmless error." *Id.* at 110; *see Bell v. State,* 114 Md. App. 480, 503-04 (1997) (determining that because "[s]tate of mind … is an integral part of … self-defense," the defendant's credibility "was a particularly crucial component of [the defendant's] defense."). On the other hand, erroneously excluded evidence *could* be harmless if it is cumulative of other properly admitted evidence. *Dove v. State,* 415 Md. 727, 743-44 (2010) (emphasis added).

We evaluate each of the three pieces of testimony for its relevance, whether it is hearsay, and whether its exclusion was harmless error, in turn below.

1. THE STORE CLERK'S REASSURING STATEMENTS

Johnson argues that the circuit court erroneously excluded his testimony about what the store clerk said when he purchased drinks in the liquor store. On direct examination, Johnson testified that he felt afraid of Morris when Morris walked into the store and stood behind Johnson while he purchased his drinks. The circuit court then sustained objections to several of defense counsel's questions about what the store clerk said to him and Morris. Notably, defense counsel proffered that the store clerk was reassuring Johnson by asking if he was okay and that the store clerk told Morris that Johnson was a "good dude."[2]

[2] We note that the record is inconsistent about the reassuring words that the store clerk allegedly used. Johnson, during his police interrogation, stated that the store clerk said he was "good peoples." Defense counsel, on the other hand, proffered that Johnson would have testified on the stand that the store clerk said he was a "good dude." Given that both versions mean the same thing, this inconsistency does not affect our analysis, and we will refer to the store clerk's reassuring words using "good dude."

Without questioning the relevance of the statements, the circuit court determined that they were hearsay. We hold that these statements were relevant, were not hearsay, and that their exclusion was not harmless error.

First, the State argues that the store clerk's reassuring statements were not relevant because the jury could only speculate why the store clerk said what he said. We disagree. Here, the store clerk's statements were not speculative and may tend to show the reasonableness of Johnson's belief that he was in imminent danger. The store clerk's statements showed that they may have also perceived that Morris was acting in a threatening manner. As a result, the statements explain why he attempted to reassure Johnson and placate Morris. Moreover, because this interaction happened mere minutes before the shooting, the store clerk's statements may have contributed to Johnson's reasonable belief that Morris was dangerous because Johnson could have reasonably believed that the store clerk also perceived that Morris was dangerous. *See Marr*, 362 Md. at 481 (finding reasonable belief of dangerous situation is "often shaded by knowledge or perceptions of ancillary or antecedent events"). Accordingly, the store clerk's statements were relevant.

Second, the circuit court found that the store clerk's reassuring statements were hearsay. The State concedes on appeal that these statements were not hearsay. We agree with Johnson and the State. The store clerk's statements were not offered to prove that the store clerk was, in fact, interested in whether Johnson was okay or that Johnson was, in fact, a "good dude." MD. R. 5-801(c) (hearsay is an out-of-court statement offered for its truth). Instead, the store clerk's statements were offered for their effect on Johnson. The

statements demonstrate that Johnson believed the store clerk may also have perceived Morris as threatening. As a result, the store clerk's reassuring statements may have had the effect of confirming that Johnson's fear of Morris was reasonable. Because the statements were offered for a non-truth purpose, they were not hearsay.

Third, the State argues that the exclusion of the store clerk's reassuring statements was harmless because it was cumulative of other admitted evidence—a video of Johnson recounting his interaction with the store clerk in a police interview and a security video, without audio, depicting the interaction with the store clerk. We disagree. While, in some cases, erroneously excluded evidence could be harmless if it is cumulative, the store clerk's statements here were not harmless for two reasons. First, the jury could have found Johnson's fear of Morris more reasonable because the statements would have confirmed that the store clerk also perceived Morris as threatening. Second, Johnson's testimony about the store clerk would have buttressed his own credibility. At trial, the State impeached Johnson because, for the first ten minutes of his police interview, Johnson denied his presence at the liquor store. Because Johnson's direct testimony about what the store clerk said would have been consistent with his prior testimony later in the police interview, it could have countered the State's impeachment evidence. As a result, a jury might have found his view of the encounter with the store clerk and his fear of Morris more credible—and thus, more reasonable—had he been given the opportunity to describe the encounter himself. We cannot say, therefore, that any of these statements would not have influenced the verdict if the jury had the opportunity to consider them. Thus, the exclusion of these statements was not harmless beyond a reasonable doubt.

The store clerk's statements were relevant, were not hearsay, and their exclusion was not harmless. Accordingly, the circuit court committed reversible error in excluding Johnson's testimony about what the store clerk said.

2. TONEY'S "[MORRIS IS] ABOUT TO SHOOT" STATEMENT

Johnson argues that the circuit court erroneously excluded his testimony about what Toney, who sat next to him in the car, said in the moments leading up to the shooting. Johnson described how Morris approached the car after leaving the liquor store and began arguing with Toney. Defense counsel then attempted to ask Johnson about what Toney had said just prior to the shooting:

[DEFENSE COUNSEL]: Did Ms. Toney say anything during this --

[JOHNSON]: Yes.

[PROSECUTOR]: Objection.

THE COURT: Counsel, approach the bench.

* * *

THE COURT: … [H]ow is that not hearsay?

[DEFENSE COUNSEL]: It is effect on the listener, your Honor. *She said [Morris is] about to shoot* --

* * *

THE COURT: Yes. It's being offered for the -- sustained.

The circuit court thus excluded, based on hearsay, Johnson's testimony about how Toney said that Morris was about to shoot. On appeal, the State argues that this statement was not relevant, that it was hearsay, and that, even if it was erroneously excluded, the error was harmless. We disagree.

First, the State argues that Toney's "[Morris is] about to shoot" statement was not relevant because the jury could only speculate about why Toney said what she said. But here, Toney's statement made it more likely that Johnson's belief of imminent or immediate danger was reasonable because it corroborated his beliefs about the danger Morris posed. Thus, the statement was relevant because it made it more likely that Johnson, from his perspective, had a reasonable belief that Morris had a gun and that he was going to shoot. *Marr*, 362 Md. at 481 (stating that defendant's belief in imminent danger is based on the "sensory … perception[s] of the situation that [they] … confront[]").

Second, Toney's "[Morris is] about to shoot" statement was not hearsay because it was offered to show its effect on Johnson. Here, Toney's statement was not offered to show that, in fact, Morris was about to shoot, but instead, was offered to show that Toney's statement had the effect of making Johnson *believe* that Morris was about to shoot. Thus, Toney's statement that Morris was about to shoot was not hearsay.

Third, excluding Toney's "[Morris] is about to shoot" statement was not harmless because it might have influenced how the jury assessed the objective reasonableness of Johnson's fear of Morris. Here, the jury was tasked with determining whether Johnson's fear of imminent or immediate harm was reasonable based on his perception of the circumstances. *See Marr*, 362 Md. at 480. The jury heard that, from Johnson's perception, several facts justified his fear of Morris: that Morris wore a ski mask; that Morris was talking angrily at Toney about how she owes him money; that Morris had his hand in his bag, which Johnson believed held a gun; and that Morris said he was going to "air out the car," which Johnson interpreted as he was going to shoot everyone in the car. The jury did

not hear that Toney told Johnson that Morris was about to shoot. Toney's statement may have influenced the jury's assessment of whether Johnson's fear was reasonable for two reasons. First, Toney's statement reaffirmed Johnson's fears about Morris, and, thus, the jury may have found that Johnson's fear was reasonable because another person in the car interpreted the situation—that Morris was going to shoot—in the same way. Second, Toney's physical and personal perspective allowed her to best understand if Morris was going to harm those in the car, and thus, the jury might have found that it was reasonable for Johnson to rely on Toney's statement. From a physical perspective, Morris confronted Toney outside the front passenger seat where she sat. Thus, being closest to Morris, it is possible that Toney could better perceive whether Morris had a gun and was going to fire it. From a personal perspective, and unlike Johnson, Toney knew Morris and knew that she allegedly owed him ten dollars. Given her familiarity with Morris, the jury could have found that Johnson thought that Toney could better judge Morris's demeanor and his potential to act violently. Accordingly, the exclusion of Toney's statement was not harmless beyond a reasonable doubt because it might have influenced how the jury assessed the objective reasonableness of Johnson's fear.

Toney's statement was relevant, was not hearsay, and its exclusion was not harmless. Accordingly, the circuit court committed reversible error in excluding Johnson's testimony about what Toney said.

3. MORRIS'S THREATENING STATEMENTS

Johnson contends that Taylor's testimony about what he heard Morris say immediately before the shooting, while Taylor sat in the back seat of the car, was

admissible. At trial, defense counsel asked Taylor several versions of the question "What did you hear [Morris] say[]?" The circuit court sustained objections to each of those questions. Defense counsel later proffered that Taylor heard Morris tell Toney she owed him money, demand she pay him now, and say, "I'm going to shoot up the car." The State argues that these threatening statements were not relevant, were hearsay, and, if they were erroneously excluded, were harmless. We disagree on all three grounds.

First, Morris's threatening statements were relevant because it makes a fact of consequence to the case more likely. *See* MD. R. 5-401. Morris's statements, testified to by Taylor, corroborated what Johnson heard Morris say—that Morris said he was going to "air out the car," and that he was arguing with Toney about the money she allegedly owed Morris. Because Taylor's testimony about what Morris said aligned with Johnson's testimony, Taylor's testimony makes it more likely that Johnson did, in fact, hear Morris threaten to "air out the car" and argue with Toney, and that what he heard may have contributed to a reasonable belief that he was in imminent or immediate danger.[3] Because

[3] The State argues that Taylor's testimony did not corroborate Johnson's testimony because Taylor's proffered testimony and Johnson's testimony about what Morris said differed. We disagree for two reasons. *First,* there is no requirement that two statements must be identical for them to corroborate each other. *See Hunt v. State*, 321 Md. 387, 425 (1990) (explaining how slain officer's vest, gun, and other equipment corroborated testimony about how he was killed). The statements "I'm going to shoot up this car" and "I'm going to air the car out" are sufficiently similar to corroborate what Johnson heard—that Morris was threatening to shoot the people in Johnson's car. *Second*, Taylor's testimony is based on what defense counsel proffered he would say, and a proffer only requires that the attorney provide "the substance … of the excluded evidence." *Devincentz v. State*, 460 Md. 518, 535 (2018). As such, Taylor may well have testified to exactly what Johnson heard Morris say if he had been given the chance at trial. We, therefore, reject the State's argument.

Taylor's testimony makes Johnson's testimony more likely and may help the fact finder determine Johnson's reasonableness, the statements were relevant.

Second, Morris's statements were not hearsay because they were being offered to show their effect on Johnson. Specifically, Morris's statements were being offered not for their truth, that Morris did, in fact, "air out the car," but to show that Morris' threats and argument with Toney may have affected and contributed to Johnson's belief that he needed to defend himself. Accordingly, the statements were not hearsay.

Third, the exclusion of Morris's threatening statements was not harmless because Taylor's testimony, which corroborated Johnson's version of the encounter with Morris, would have affected Johnson's credibility. At trial, much of the State's case involved attacking Johnson's version of the events at the car. The State entered a video of the encounter at the car into evidence and used it to point out inconsistencies in Johnson's version of the encounter, including whether Morris actually reached inside his bag immediately prior to the shooting. In closing arguments, the State's prosecutor argued that the inconsistencies in Johnson's version of the encounter meant that the jury could not trust his testimony:

> [T]he defense would … have you rely on … [Johnson's] words, someone who was hiding the ball from you, someone who did not give you the complete story, was just trying to make you feel bad for him. Is that someone that we can truly trust?

Because attacking Johnson's version of the events at the car—and by extension, his credibility—was central to the State's case, the State may have convinced some jurors that Morris did not, in fact, argue with Toney and that Morris didn't say that he was going to

"air out the car." Taylor's testimony about Morris's statements, on the other hand, corroborated that Morris threatened to shoot those in the car and corroborated that Morris was hostile towards Toney. Thus, had the testimony been admitted, it may have convinced the jury that Johnson's version of events was correct and that, as a result, his fear of Morris was reasonable. Accordingly, the exclusion of Morris's statements was not harmless error beyond a reasonable doubt.

Morris's threatening statements were relevant, were not hearsay, and their exclusion was not harmless. Thus, the circuit court committed reversible error in excluding Taylor's testimony about Morris's threatening statements.[4]

CONCLUSION

We hold that the circuit court committed reversible error in excluding Johnson's testimony about the store clerk's reassuring statements, Johnson's testimony about Toney's "[Morris is] about to shoot" statement, and Taylor's testimony about Morris's threatening statements. Accordingly, we reverse Johnson's convictions and remand the case for a new trial.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS REVERSED AND REMANDED FOR FURTHER

[4] The final, remaining issue in Johnson's appeal challenges whether the circuit court properly excluded Taylor's testimony regarding his perception of the encounter with Morris and Morris' argument with Toney. Because these questions can be asked in a variety of forms, there is no one answer to whether the elicited testimony would be relevant on remand. MD. R. 5-401. If similar testimony is offered on remand, its relevance should be evaluated with regard to whether it pertains to Taylor's own feelings and opinions (which are less likely to be relevant), or whether it describes the circumstances of the shooting (which are more likely to be relevant).

PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY THE STATE.