Circuit Court for Harford County
Case No. 12-K-16-1547

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1128

September Term, 2017

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RANSOM INGRAM, JR.

v.

STATE OF MARYLAND

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Reed,
Friedman,
Fader,

JJ.

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Opinion by Friedman, J.

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Filed: July 12, 2018

Ransom Ingram, Jr. suspected that his girlfriend, Leigh Ann Harkins, had stolen money from him. In retaliation, Ingram violently attacked Harkins and forced her into the trunk of his car. Ingram kept her in the trunk for five days, periodically bringing her food. Eventually, Harkins escaped from the trunk and ran to a nearby Cracker Barrel restaurant, from which she contacted the police.

Ingram was convicted by a jury in the Circuit Court for Harford County of kidnapping, first degree assault, second degree assault, use of a firearm in the commission of a crime of violence, false imprisonment, possession of a firearm while prohibited, possession of heroin, and possession of cocaine. Ingram raised this timely appeal, challenging his convictions on three grounds: *first*, that the trial court violated his Sixth Amendment confrontation clause right when it did not allow him to cross-examine Harkins on why she failed to appear as scheduled at trial; *second*, that a witness' oral statement that Ingram had confessed to him should have been excluded; and *third*, that an inculpatory jail call between Ingram and another witness should also have been excluded.

## DISCUSSION

### I. CONFRONTATION CLAUSE

Ingram first argues that the trial court erred in limiting his cross-examination of Harkins.

Harkins testified on the morning of the second day of trial. When her direct examination concluded, the court took its lunch recess. The court informed the jury and the lawyers that her cross-examination would begin after lunch. But Harkins did not return from the lunch break. The trial court issued a body attachment and she was returned to

court the following morning, when her cross-examination began. In that cross-examination, Ingram sought to question Harkins on the reasons for her absence the previous day. The trial court held a hearing outside the presence of the jury at which Harkins explained that she had not returned to court because she was afraid of Ingram. The trial court excluded the entire line of questioning.

In analyzing this issue, there are, obviously, two competing interests at stake. Ingram is right that he has a constitutional right to defend himself against the charges. This right includes not only the right to produce evidence, but also the right to discredit the State's witnesses against him. Cross-examining Harkins is, as Ingram notes, but one part of his efforts to discredit her by demonstrating her alleged lack of credibility to the jury. The State is also right, however, that the trial judge enjoys wide latitude in determining what evidence is relevant and what is not. The governing caselaw resolves these competing interests by noting, first, that a defendant's right "to be confronted with the witnesses against him," U.S. CONST. amend. VI, while broad, is not unlimited. It does not provide a defendant the unfettered right to "cross-examination that is effective in whatever way, and to whatever extent the defendant may wish." *Delaware v. Fensterer*, 474 U.S. 15, 20 (1985). Thus, without running afoul of the constitutional guarantee, a trial court may limit the scope of a cross-examination for any number of reasons, including if, for instance, it is necessary for witness safety, to prevent prejudice or the confusion of issues, or is repetitive. *Martinez v. State*, 416 Md. 418, 428 (2010). Moreover, appellate courts are very deferential to such decisions. *Peterson v. State*, 444 Md. 105, 124 (2015).

Here, the trial court precluded Ingram from questioning Harkins about why she didn't return for court after the lunch recess. We think there are two completely valid reasons that the trial court made this choice, and we would affirm on either ground. *First*, the trial court found that the question about why she didn't return after lunch was not relevant to the question of her truthfulness. There is nothing wrong with this decision and we affirm on this basis. *Second*, the trial court had already heard, at the bench, that Harkins' reason for not returning from the lunch break was that she was afraid of Ingram. The trial court may have been concerned that this line of questioning could have resulted in testimony so prejudicial to Ingram as to require a mistrial and sought to avoid this outcome by barring the questioning. On this basis too, we fail to see how the trial court abused its discretion.

## II. THE STATE'S CONTINUING OBLIGATION OF DISCLOSURE

Ingram's second and third allegations of error concern the State's continuing obligation to disclose discoverable material "promptly" after it is "obtained." Md. Rule 4-263(j). Ingram asserts that certain discoverable material was not promptly disclosed after it was obtained and therefore should have been excluded. We disagree.

The parties spend a tremendous amount of time explaining what precisely was discoverable. We don't think that level of detail is necessary to resolve the questions. Instead, we shall summarize:

- On an undisclosed date, Ingram called his friend, Davis, from jail. That call was recorded and the recording was reviewed on June 3 or 4 by an Assistant State's Attorney. On the morning of June 5, the fifth day of trial and the day on which Davis was to testify, the ASA, based on information gleaned from the recorded telephone call, asked Davis if Ingram had confessed committing

the crime to Davis. Davis responded yes. The ASA immediately disclosed that Davis' trial testimony would include that Ingram confessed to him. Ingram objected, arguing that the State had "obtained" the relevant information during the original, undated phone call and that it was not disclosed "promptly" thereafter. The trial judge overruled the objection and admitted the testimony.

- On April 16, Ingram called another friend, Pierce, from jail. The call was recorded but the ASA didn't review the recording until May 25. On May 25, the ASA reviewed the recording and, on that same day, disclosed the contents to Ingram. Ingram objected that the delay between April 16 and May 25 was too long. The trial judge agreed and excluded the testimony.

- On May 21, Ingram again called Pierce from jail. The call was again recorded. On May 25, the ASA reviewed the recording and, on that same day, disclosed the contents to Ingram. Ingram again objected to the delay, but the trial judge found that the ASA had "promptly" disclosed the contents of the call after they were "obtained."

As noted above, the legal standard, provided by Rule 4-263(j), is that discoverable materials must be produced "promptly" after they are "obtained." We review the factual determinations made by the court for clear error, and the evidentiary rulings on an abuse of discretion standard. *Cole v. State*, 378 Md. 42, 55-56 (2003).

As to the first call, the trial court apparently held that the discoverable material wasn't anything found in the undated telephone call between Ingram and Davis. Rather, it was something in that call that prompted the ASA to ask Davis whether Ingram had confessed to him. It was Davis' answer to *that* question that was the discoverable material. And the trial court found that the ASA disclosed that information "promptly" after it was "obtained." We see no abuse of discretion here.

As to the second call, the trial court found that the call occurred on April 16 and went unreviewed by the ASA until May 25. The trial court was critical of this practice and

precluded the State from introducing the evidence. Although not challenged here, we think that this is precisely the right result. The State cannot delay reviewing materials in its possession to avoid triggering its disclosure obligation.

As to the third call, the trial court found that it was not unreasonable for the ASA to wait four days from the date of the telephone call before reviewing the call. Thus, it found that the State produced the discoverable material "promptly" after it had "obtained" it. We think that this is a wholly rational decision and we will not disturb it.

We can identify no error by the circuit court, and we therefore affirm.

**JUDGMENT OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.**