

Circuit Court for Prince George's County
Case No. CT220269X

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1199

September Term, 2023

MARKELL DONTA LEWIS

v.

STATE OF MARYLAND

Leahy,
Zic,
Geller, Jeffrey M.
(Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: July 13, 2026

* This is an unreported opinion. The 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).

Appellant Markell Donta Lewis was arrested pursuant to a warrant and interrogated by officers of the Prince George’s County Police Department (“PGCPD”) regarding the shooting death of R.¹ on Christmas Eve, 2021. Lewis’s girlfriend, Dasia Pickens, was also detained and interrogated by PGCPD.

Lewis was later indicted in the Circuit Court for Prince George’s County on twenty-one charges stemming from the shooting.² Following the indictment, Lewis moved to suppress, among other things, Pickens’s interrogation statements and other evidence derived from the arrest warrant, but the suppression court denied the motion. Following a jury trial, Lewis was found guilty of second-degree murder and twelve other charges, and was sentenced to eighty years of incarceration.

On appeal, Lewis presents four questions for our review, which we reorder and rephrase as:³

1. Did the suppression court err by not suppressing evidence derived from Lewis’s arrest warrant?

¹ In order to protect the identities of the victims, we refer to them by initials that have no connection to their names. *See Juan Pablo B. v. State*, 252 Md. App. 624, 629 n.3 (2021), *rev’d on other grounds*, 480 Md. 650 (2022). We intend no disrespect in doing so.

² The indictment included one murder charge; three charges for use of firearm in a crime of violence; four charges for attempted first-degree murder; four charges for attempted second-degree murder; four charges for assault in the first-degree; two charges for firearm use/felony/violent crime; and one charge each for loaded handgun in vehicle, reckless endangerment from motor vehicle, and regulated firearm: illegal possession.

³ The questions as presented by Lewis in his brief were: 1. Whether the suppression court erred by denying Lewis’s motion to suppress evidence derived from his invalid warrant; 2. Whether the suppression court erred in denying Lewis’s motion to suppress a witness’s interrogation statements procured in violation of Lewis’s right against self-

2. Did the suppression court err by not suppressing Pickens's interrogation statements?
3. Was the evidence presented at trial sufficient to permit a rational jury to find beyond a reasonable doubt that Lewis caused R.'s death?
4. Did the trial court abuse its discretion by failing to provide the jury with certain cautionary instructions following the State's summation?

We hold that because the suppression court should have excluded Pickens's interrogation statements, Lewis is entitled to a new trial.

We have divided this opinion into two parts. In Part I we address Lewis's suppression motions. We conclude that the suppression court properly declined to suppress evidence derived from Lewis's arrest warrant, but we hold that the suppression court should have suppressed Pickens's interrogation statements. Because admitting Pickens's statements into evidence violated Lewis's constitutional rights, he may be convicted only if he is retried. In Part II, because Lewis challenges the sufficiency of the evidence, we consider whether the evidence presented against him at trial was sufficient for a jury to convict him. We hold that it was and that the State may retry him. Because we remand the case for a new trial, we need not consider the last question Lewis presents about the effect that remarks at his first trial might have had on that jury.

incrimination; 3. Whether the cumulative effect of the State's improper remarks influenced the jury's verdict; and 4. Whether the evidence at trial was sufficient to permit a rational jury to find beyond a reasonable doubt that Lewis caused [R.'s] death.

PART I

BACKGROUND

Our summary of the relevant facts in this part is drawn solely from the evidence presented to the suppression court during the motions hearing on February 23, 2023. *Longshore v. State*, 399 Md. 486, 498 (2007). Because the State prevailed on both issues below, we will review the record “in the light most favorable to the State.” *Brewer v. State*, 220 Md. App. 89, 99 (2014).

The Shooting and the Investigation

Detective Derek Reed recounted the events of December 24, 2021, and the ensuing investigation. On that day, at around 4:42 p.m., the Prince George’s County Police Department received a call about a shooting. The victim, R., was found dead in his vehicle on an on-ramp to Branch Avenue. Det. Reed responded to the scene and interviewed R.’s partner, C., who witnessed the shooting. C. told Det. Reed that she and R. were in the car with their three children when the car was “cut off by another vehicle.” R. and the other driver exchanged words, and then the driver “fired shots into” R.’s vehicle. C. described the shooter as male and the vehicle as a “small, dark blue SUV with Washington, D.C. registration plates.” Based on his review of surveillance videos from the corridor of Saint Barnabas Road where the shooting took place, Det. Reed identified what he thought was the “dark-blue SUV”—a blue GMC Envoy produced between 2002 and 2009.⁴ The Envoy

⁴ Det. Reed explained that on models produced between 2002 and 2006, the word “Envoy” would “either be imbedded in the trim ... or just above the trim[,]” but for those produced from 2007 to 2009, “that marking was ... pretty much only found on the rear.”

was missing three of its four center-wheel caps (snap-on caps in the center of each wheel that “cover the lug nuts”). According to an application for statement of charges that Det. Reed finished three weeks later,⁵ C. confirmed that the Envoy was the vehicle that had cut off R., C., and their children—the vehicle R.’s killer was driving.

To find the Envoy, PGCPD detectives contacted Washington D.C.’s Metropolitan Police Department to request license-plate reader images “captured in the southeast quadrant of Washington D.C. on December 24, 2021, from 1500-1900 hours.” Police reviewing these images found an Envoy that matched the one Det. Reed was searching for, which had a D.C. license plate “GN9620.” Once they had the license plate number, PGCPD found other images of the vehicle from cameras in Prince George’s County and Washington, D.C. In each image, the Envoy was missing the same three center wheel caps. One camera image showed the Envoy just seven minutes after R.’s shooting, 2.6 miles north of the ramp where R. was shot. Police searched their database for the license plate number and found that the Envoy was registered to Lewis’s mother, Rachelle Patricia Lewis.

⁵ The January 13, 2022 “Application for Statement of Charges” was offered for identification at the suppression hearing but not formally admitted into evidence. It is evident from the record, however, that the suppression court considered the application for the arrest warrant and its contents in reaching its conclusion, so we do the same here.

Det. Reed also learned that Lewis was arrested in D.C. two months before the shooting for illegal handgun possession.⁶ At the time of his arrest, Lewis was standing next to the Envoy and had the keys. Several months later, on December 27, 2021, Lewis was arrested again for a separate crime.

Police records did not reveal any other “encounter, traffic citation, or other record” showing that anyone but Lewis had operated the Envoy. Database searches also revealed that Lewis regularly frequented the St. Barnabas Road corridor and used to live at an apartment complex where the Envoy stopped shortly before R. was killed.

Det. Reed then drafted an application for a statement of charges, detailing how police identified the car driven by the shooter on December 24, 2021, and the likely shooter.⁷ Det. Reed submitted this application and received an arrest warrant for Lewis. PGCPD officers arrested Lewis the same day the warrant issued.

⁶ Lewis was arrested for “handgun possession, carrying a pistol without a license, unregistered firearm, unregistered ammunition, [and] possession of a large capacity-feeding device.”

⁷ For example, on p. 3 of the application, Det. Reed wrote:

[D]etectives contacted the Metropolitan Police Department and requested all license plate reader images captured in the southeast quadrant of Washington D.C. on December 24, 2021, from 1500-1900 hours. A review of these images revealed a photograph of a GMC Envoy with Washington D.C. registration plate GN9620 matching the description of the suspect vehicle. Detectives then obtained additional images of this vehicle from both Prince George’s County and Washington D.C. A review of these images revealed the vehicle to be an exact match to the suspect vehicle with the exact same three of its four center wheel caps missing. Additionally, detectives determined that the GMC Envoy bearing Washington D.C. registration plate GN9620 was captured traveling northbound on Branch Ave. SE in

(Continued)

Interrogations

On January 13, 2022, Lewis and Pickens⁸ were transported to major crimes headquarters where they were Mirandized and interrogated separately. The following facts

Washington D.C. at the intersection of Alabama Ave. SE at 16:49:21 hours, approximately 7 minutes after the murder and 2.6 miles north of the ramp to Branch Avenue that the suspect vehicle traveled toward during his flight.

A registration check of the GMC Envoy bearing Washington D.C. registration plate GN9620 revealed it to be registered to Rachelle Patricia L[ewis.] ... Additional database checks revealed that Ms. L[ewis] has a son, Markell Donta L[ewis] ... , who was arrested for illegal handgun possession in Washington D.C. on October 3, 2021. During this arrest, the Defendant was initially contacted by Metropolitan Police Department Officers at 4809 First St. SW standing next to the GMC Envoy bearing Washington D.C. registration plate GN9620 used in the murder. Additionally, upon being arrested, the Defendant was found to be in possession of GMC keys.

To date, investigators have been unable to locate any police encounter, traffic citation, or other record of any other individual operating the GMC Envoy bearing Washington D.C. registration plate GN9620. Moreover, further database checks revealed that the Defendant regularly frequents the St. Barnabas Road corridor and that he used to reside at ... the apartment complex the suspect vehicle stopped at prior to the murder.

⁸ We cannot tell from the record why officers detained Pickens. A detective told Pickens at the beginning of her custodial interrogation that she was not arrested:

DETECTIVE: Have you ever been arrested before?

PICKENS: No. Am I arrested?

DETECTIVE: No.

PICKENS: Okay.

DETECTIVE: You're just kind of detained and I'll explain.

PICKENS: Okay.

(Continued)

are gleaned from the transcripts of both interrogations which were accepted into evidence by the suppression court.

Christmas Eve 2021

Pickens and Lewis gave detectives varying accounts of what happened the night R. was killed. Lewis told detectives that, after he was done with work, he picked Pickens up from her house and went “straight home” and was “in the house[.]” Lewis assured the detectives that Pickens’s story would match his: “She’ll tell you she was with me.”

At first, Pickens said she was not with Lewis on Christmas Eve, but she “[p]robably” could not “get somebody to corroborate that” other than perhaps her mother. Later, she said that she was home until “around 5:00 [p.m.]” when she left to see her friend. She said that she and her friend met up with Lewis around “7:00 p.m.” at “Marlow Heights” to get a bottle of tequila. The two women then went to a lounge, Pickens said, arriving sometime between 8:00 p.m. and 10:00 p.m., then leaving around 1:00 a.m. When Detective Dashaun Randall told Pickens that Lewis said he picked her up, she said she did not “remember that.” Pickens maintained that she was not with Lewis, apart from the “minute or two” she spent getting the tequila from him. Det. Randall told Pickens that the family involved in

DETECTIVE: But before we go further, I have to advise you of your *Miranda* rights.

After the detective told Pickens that he was asking her questions about a murder, she asked how long it would be “before I could go home?” The detective responded: “I don’t want to lie. I don’t know. I don’t want to say an hour, two hours. I don’t know. ... But it could be a while.”

the shooting “saw [her] in the car.” When pressed further, Pickens asked if she “need[ed] to invoke[,]” and insisted that she “was not there.”

The Vehicle

Detectives asked Pickens and Lewis what vehicle Lewis typically drove. Pickens said Lewis mostly drove a white four-door Cadillac but also drove a blue truck. Pickens later said that she last saw the blue truck during the previous week’s snowstorm. Det. Randall showed Pickens a picture of the dark blue GMC Envoy and Pickens agreed it “looks like” Lewis’s car.

When detectives asked Lewis about his vehicle, he told detectives that, on Christmas Eve, he was driving his mother’s Cadillac CTS, like he did every day. Lewis stated that his mother used to have a “GMC Envoy” but she “got rid of” the vehicle “two [or] three months” before the interrogation. Lewis claimed that he could not recall who his mother sold the Envoy to but confirmed with the detectives that the vehicle was a “[20]09 or something” blue model with “kid stickers” on the back and “light tint.” Eventually, Lewis admitted that he was driving the Envoy on Christmas Eve.

The Passenger and the Shooter

As detailed above, Pickens repeatedly told detectives she was not a passenger in the car with Lewis on Christmas Eve and maintained this story for most of her interview. When asked whether she thought Lewis “was with another girl,” Pickens demurred: “You said someone was in the car. Somebody had to have been in the car.” Then Det. Randall

told Pickens, “[Lewis] said Dasia.” Pickens responded: “[Lewis] wants to say that it’s me so that I don’t get upset about him being in the car with someone else.”

Meanwhile, in the other interrogation room, Lewis abandoned his claim that Pickens was with him on Christmas Eve, and said he was alone. When pressed, Lewis said there was someone else in the car with him—a woman named Felicia. Lewis said he met Felicia that day.

Lewis Invokes His Right to Counsel

During their interrogation of Lewis, detectives engaged in certain activities that would later form the bases of motions to suppress.

After Lewis was read his *Miranda* rights and waived them, he requested a lawyer twice. First, as a detective explained to Lewis how detectives connected him to the shooting, Lewis said that he needed to talk to his lawyer:

DETECTIVE: Because your GPS puts you there. Because security cameras put you there. Because your vehicle puts you there. License plate reviews. Okay? Satellites. Your phone puts you there. Right? Your girlfriend is with you. You’ve got witnesses in this car. A person, no doubtingly, saw your face. All right? And people that saw your truck driving away. It’s not -- we’re not here to dispute whether you did it or not? We’re here to ask you why it went down because it did --

LEWIS: At this point, I need to talk to my lawyer.

Rather than stop the interrogation, Detective Dennis Windsor told Lewis that “if we didn’t have the proof that we [do], I wouldn’t even be here talking to you like this.” Invoking the children who were in R.’s car, Det. Windsor asked Lewis to think of his daughter. Detectives then said they accepted Lewis’s invocation of his right to counsel: “Since you

requested your attorney, we can no longer talk to you, okay? We're going to continue the search warrant. ... If you need something, you knock on the door, alright?" When Lewis asked whether he would be taken "down to Upper Marlboro," detectives told him: "It's going to be a while."

Approximately three hours later, Det. Windsor went back into the room with Lewis, ostensibly to take Lewis's picture to "put out" to the prosecutor's office. Almost immediately, officers resumed interrogating Lewis:

DETECTIVE: You said you picked up Dasia that day, right?

LEWIS: (No audible response).

DETECTIVE: All right. So is Dasia pregnant, do you know?

LEWIS: Is she?

DETECTIVE: Yeah, she's saying she is.

This questioning went on at some length before Lewis again asked for a lawyer and the detective appears to have conceded that the interrogation after Lewis asked for a lawyer was inadmissible:

LEWIS: What happened to my lawyer?

DETECTIVE: You'll get your lawyer after you go see the commissioner. Okay? You don't get a lawyer here. When you ask for an attorney, anything we talk about after that point is no good. Right? I can't sit here and press you on the case. I can talk to you. I can't ask you a bunch of questions. I can't answer a bunch of your questions.

LEWIS: Oh, my God.

DETECTIVE: You get your attorney when you go to court. All right? You understand what I'm saying?

LEWIS: Uh-huh.

DETECTIVE: You want to make this right, if you want to make a statement, anything, you want to talk to me and Smith about anything, knock on this door. Until then, ... we're going to leave you alone and we're going to continue on with Dasia. Okay?

LEWIS: She wasn't in the car with me.

DETECTIVE: Okay. Well, like I said, I'm going to give you five minutes and if you want to talk about that, knock on the door. All right?

Lewis recalled the detectives about thirteen minutes later. The detectives Mirandized Lewis again ("I need to redo my job"). One detective left to find a cold compress for Lewis's eye, and the other detective started lecturing Lewis about the importance of telling the truth, the detective's willingness to get to know Lewis despite his criminal record, and the fact that Lewis has custody of his daughter. Interrogation then resumed in earnest.

Detectives also told Lewis that Pickens and Lewis's mother would face criminal charges. First, Det. Windsor told Lewis that Pickens was going to be charged with first-degree murder because Lewis was not telling the truth:

DETECTIVE: Then [Pickens is] getting charged with it.

LEWIS: She's getting what?

DETECTIVE: She's getting charged.

LEWIS: She's getting charged?

DETECTIVE: Yeah, with you. You're being charged with first[-]degree murder.

LEWIS: Why?

DETECTIVE: Because you shot somebody.

LEWIS: I (indiscernible).

DETECTIVE: Okay. That's what the warrants are for.

When Lewis's story began to change, he said it was because detectives said Pickens could face criminal charges:

DETECTIVE: Okay. But the first time you told me, you said you weren't even driving the GMC Envoy, right?

LEWIS: Right. And when you came back, I told you the truth.

DETECTIVE: How long did that take though?

LEWIS: Because after you said she could be charged with something, like she didn't even do, she didn't have no knowledge of. Like --

* * *

DETECTIVE: So you're telling me the only reason you're trying to help this situation now is to help her out? You don't care about nothing else?

Lewis and Pickens Confess

After roughly four hours of interrogation and two invocations of Lewis's right to counsel, detectives decided to bring Pickens into Lewis's interrogation room. Detectives asked Lewis the identity of the female passenger in his vehicle the afternoon of the shooting, saying "[i]t's the young lady [Pickens] that's here, huh?" Lewis implied that Pickens could not tell the truth because "she's scared." Det. Windsor then offered Lewis the opportunity to speak with her long enough to "tell her to tell the truth," telling Lewis that if Pickens told "the truth, she's a witness She can go home." Lewis agreed. Detective Kenneth Smith brought Pickens to Lewis. Lewis said only four words to

Pickens: “Tell them the truth.” Detectives then took Pickens away and resumed interrogating Lewis.

When Pickens returned to her interrogation room minutes later, detectives asked her again where she was on Christmas Eve, reminding her that Lewis had given her “the green light.” Pickens’s story drastically changed. Pickens told detectives that she had, in fact, been in the Envoy with Lewis on Christmas Eve. Pickens then admitted to being with Lewis and hearing gunshots:

PICKENS: I got over there around the afternoon. The Casamigos, everything that I said was also correct, but we were going -- headed to somewhere Christmas related and **everything really did just happen very fast**. By the time I could look up to see what happened or to figure out what happened, it happened and it was just too much for me. I (indiscernible).

* * *

PICKENS: It was just -- (indiscernible) before (indiscernible). **I did not know children was in the car. I didn’t know that (indiscernible) or they got hurt.**

DETECTIVE: I believe. **How many shots you heard?**

PICKENS: My ear is -- it’s hard to hear. **It deafened out after like the first one, honestly.** That’s not something I want to be around because once my ears deafen, I like kind of checked out.

DETECTIVE: All right. Who shot? I know I got to ask you a crazy, but I have to start all over.

PICKENS: (Indiscernible).

DETECTIVE: Just say it. It’s just us now. It’s all good, but I have to play it back so it’s like I got to ask you all these little questions. Who shot?

PICKENS: (Indiscernible) shot.

DETECTIVE: **Your boyfriend? I know it's hard to say, but I got to -- did your boyfriend shoot?**

PICKENS: (No audible response.)

DETECTIVE: You said what? I know --

PICKENS: **Yeah. You all -- I mean; you all have the story though.**

DETECTIVE: Look, I know it's kind of difficult. I'm trying to get you through it. That's why I did what I did so you can actually heal and tell the truth. Right now, you're sitting here looking at the other young lady. You should be feeling like, I can get all this off my chest and I'm doing the right thing and I know it sucks I got to say he did it, but that's not my fault. You understand what I'm saying? **So this is the time now because he gave you the green light. He gave you the green light.**

(Emphasis added). Pickens continued, explaining to Det. Smith that Lewis was not “upset” or “irate” leading up to the shooting. In fact, Pickens “never looked up” until “everything happened.” Det. Smith asked Pickens:

DETECTIVE: Who was in the car with you all?

PICKENS: The car with me and him?

DETECTIVE: Yes.

PICKENS: Nobody else.

DETECTIVE: All right. Just got to ask all these questions. So after the shots, what did you say to him after you all left, you know, the end of it?

PICKENS: After we made it -- like, after --

DETECTIVE: After the shooting.

PICKENS: -- everything happened?

DETECTIVE: Yeah.

PICKENS: Once I could get the hearing back in my ear because I remember that shit happening, but so once I gained the hearing back, I kind of just like looked at him like, “Are you serious?” Like, I gave him the rundown of everything that I didn’t like about it. The fact that this is -- anything could have happened. The fact that you don’t even -- like, I was upset. I wasn’t calm, cool and collected.

* * *

PICKENS: I could tell he had -- I could tell the immediate regret that bestowed him. I could tell that he could tell he fucked up.

DETECTIVE: Uh-huh.

PICKENS: But I wasn’t -- I mean, in that situation, it wasn’t really nothing to say. Like, I mean, it happened. It happened to happen and I was upset. I asked to go home.

DETECTIVE: And where did he go? Where did he take you?

PICKENS: He took me home.

* * *

DETECTIVE: Did you tell your mother about it? Did you tell anyone?

PICKENS: I didn’t tell no one. I didn’t know how to just, honestly, tell (indiscernible). I did not know that man was hurt. I did not know children was in that car. I did not know any of that.

Motions to Suppress

Lewis filed three motions to suppress evidence, which were heard together. The first was an omnibus motion to suppress “any and all physical evidence, statements, admissions, and confessions seized by State agents” because of a “defective” or “otherwise

illegal and improper” arrest warrant, the absence of a search warrant, and violations of Lewis’s Fifth, Sixth, and Fourteenth Amendment rights.

The second motion sought to suppress evidence of the handgun that police recovered when Lewis was “detained and ultimately arrested on December 27, 2021, in an unrelated matter.” A suppression court in that unrelated matter had “determined that [Lewis] was illegally detained and[,] as a result[,] the handgun was suppressed.”⁹

The third motion sought to suppress statements made by Lewis and Pickens during their interrogations and any evidence derived from those statements. In this motion, Lewis argued that the statements “[a]llegedly [m]ade by” Lewis were “[o]btained in [v]iolation of *Miranda*.” Lewis had requested to speak with an attorney at least twice, once when he was arrested and once during his interrogation (“I need to speak to my lawyer”). Counsel claimed to have called the police station after hearing of Lewis’s arrest, but according to counsel, a staff member at the station hung up the phone.

In the third motion, Lewis also argued that Pickens’s statements were obtained in violation of Lewis’s Fifth and Fourteenth Amendment rights. Lewis contended that “after his multiple request[s] to speak with a lawyer were denied, [he] felt coerced to instruct Ms. Pickens to tell the [d]etectives the truth ... to prevent her from being arrested and

⁹ The State conceded that the ruling in the other case suppressing the handgun was “binding.” The State maintained, however, that even with the handgun suppressed, the State should be allowed to admit testimony about “what certain people may have said during this interrogation concerning the gun.”

charged as Det[.] Windsor indicated.”¹⁰ Thus, Lewis argued, he had standing to assert a constitutional challenge to the admission of Pickens’s statements because her statements were “derived from the involuntary nature of [his] statements[.]”

Det. Reed, who had written the application for statement of charges that justified Lewis’s arrest warrant, testified at the hearing. Referring to the application, he walked through the steps the police had taken to identify the Envoy, track down its owner, and figure out who was driving it on December 24, 2021. Det. Reed explained that Lewis was the prime suspect because “[Lewis] had been ... arrested while in possession of this vehicle, and [Lewis] was arrested with a firearm at the time with that vehicle.” When defense counsel asked why Det. Reed did not seek an arrest warrant on January 11, when he connected Lewis to the Envoy, but instead waited until he received forensics on the handgun recovered during the arrest on December 27, 2021,¹¹ Det. Reed replied, “I believe I had enough on January 11th” to get the arrest warrant but “[did] what all detectives do, continue[d] investigating.”

¹⁰ Although at the suppression hearing the State challenged defense counsel’s assertion that Lewis had standing to assert a constitutional rights claim based on statements made by Pickens, the State now concedes that Lewis had standing.

¹¹ As stated on page four of the Application for Statement of Charges:

During this arrest, [PGCPD] recovered a Glock 19 9mm handgun bearing serial number ... loaded with 13 rounds of ammunition. ... On January 12, 2022, the Prince George’s County Firearms Examination Unit conducted a forensic examination of the Glock 19 mm handgun ... recovered from [Lewis] and compared it to the projectile recovered from the Decedent’s vehicle. This examination resulted in a verified preliminary identification indicating that the projectile recovered from within the Decedent’s vehicle was fired from [Lewis’s] Glock 19 mm handgun[.]

Det. Windsor testified about Lewis's interrogation. He said that the main reason he reinitiated the interrogation following Lewis's first request to speak with his attorney was to assess Pickens's claim that she "may be pregnant." Det. Windsor said he wanted to avoid "putting a pregnant female in the jail that wasn't involved in the case." He told the suppression court that even though he knew that Lewis's statements "were possibly going to be the subject of suppression," he "needed to know that Desha [sic] was pregnant or not. That was more important to me than anything he was going to say about the case." Det. Windsor also confirmed that, after Lewis told Pickens to tell the detectives "the truth[.]" she told "a different story than what she had been telling [Det.] Randall up to that point."

When the suppression court delivered its ruling, the court first addressed Lewis's argument that because police used an earlier, admittedly unlawful stop to obtain an arrest warrant, all evidence derived from Lewis's arrest should be suppressed. The court agreed that the stop on December 27 had been adjudicated to be illegal but concluded that even without information obtained from the stop, police had enough information to show probable cause and obtain an arrest warrant:

I find it credible pursuant to the testimony that the officers relied upon other information such as [the] description of the automobile, the view of the license plate reader information obtained, a view of the body camera from the October[] 2021 incident, [and the fact] the defendant had been stopped in that area prior. He'd been arrested in that motor vehicle prior to the December 27th [illegal stop]. All this is important because none of this information was obtained pursuant to the December 27th, 2021 arrest[.]

Even if the bad stop had not occurred on December 27th, the police, in their investigation, would have identified the defendant as a suspect in the murder case before [this court] today.

The suppression court thus rejected Lewis’s argument and denied his motion to suppress evidence derived from his arrest.

The suppression court then turned to the statements Lewis made during his interrogation. The suppression court found that Lewis’s “request” for an attorney “was unambiguous and clear.” “[Det. Windsor] conceded in his own testimony that he wanted to talk to the defendant and he says, I wanted to talk knowing that any information I learned could not be used.” The court granted the motion to suppress Lewis’s statement explaining, “as [the] detective should have ceased all questioning once Mr. Lewis invoked his rights under *Miranda*, the Court finds that the failure to halt all questioning is a clear violation of *Miranda*[.]”

Turning to Lewis’s request to suppress Dasia Pickens’s statements, the court found that Lewis did not have “standing to contest” those statements. In reaching this conclusion, the suppression court necessarily agreed with prosecutors’ argument that Lewis was invoking Dasia’s Fifth Amendment rights, rather than his own *Miranda* rights. The suppression court summarily ruled that “the law does not support his request, his arguments or his motion before [the court.]”

STANDARD OF REVIEW

When reviewing the resolution of a motion to suppress, we “extend great deference to the suppression judge with respect to the determination and weighing of first-level findings of facts” and “will not disturb [that judge’s findings] unless clearly erroneous[.]” *Brewer v. State*, 220 Md. App. 89, 99 (2014) (citing *Williamson v. State*, 413 Md. 521,

531-32 (2010)). By contrast, we review a suppression court’s application of law, including whether to apply the exclusionary rule, without deference. *Whittington v. State*, 246 Md. App. 451, 469-70 (2020); *see State v. Copes*, 454 Md. 581, 603 (2017).

When an arrest warrant is challenged in a motion to suppress, the suppression court does not reconsider “whether probable cause exists; that has already been determined by someone else.” *State v. Amerman*, 84 Md. App. 461, 463 (1990). Instead, the suppression court asks whether the magistrate that issued the warrant had a substantial basis for finding probable cause. *Illinois v. Gates*, 462 U.S. 213, 238-39 (1983). For this reason, we will reverse the suppression court only if the magistrate lacked a substantial basis for finding probable cause. *Amerman*, 84 Md. App. at 472-73.

DISCUSSION

A.

Lewis’s Arrest Warrant

Parties’ Contentions

Lewis argues that the suppression court erred by failing to “invalidate Lewis’s arrest warrant” and “suppress any evidence derived therefrom.” Quoting *Rovin v. State*, 488 Md. 144, 182 (2024), he contends that without information about Lewis’s unlawful arrest, the affidavit that supported his arrest warrant contains only “bare allegations ... insufficient to create a ‘reasonable ground for belief’ that Lewis ... committed any crime.” Although detectives could connect Lewis to the Envoy, the affidavit could not show “a nexus between Lewis and the December 24th shooting.”

The State responds that, under the inevitable discovery doctrine or the independent source doctrine, a court may excise the “constitutionally tainted information” contained in the Application for Statement of Charges and then determine whether the remaining information supports a finding of probable cause. The State contends that, once the tainted information is removed from the arrest warrant, the

[u]ntainted information showed that the male shooter used a distinctive car that was an “exact match” for [Lewis’s mother’s] GMC Envoy, that Lewis had used the Envoy on an earlier occasion, that police found no records of anyone else using the car, and that Lewis was mere blocks from the shooting scene three days later.

Moreover, the State observes that “the commissioner could note Lewis’s October 2021 arrest for ‘illegal handgun possession’” that was referenced in the Application under *Amerman v. State*, 84 Md. App. 461, 484 (1990).

Legal Framework

The Fourth Amendment to the United States Constitution, applicable to the States through the Fourteenth Amendment, guards against “unreasonable” searches and seizures. “Reasonableness” is “determined by balancing ‘the intrusion on the individual’s Fourth Amendment interests against its promotion of legitimate governmental interests.’” *Darling v. State*, 232 Md. App. 430, 449 (2017) (quoting *Maryland v. Buie*, 494 U.S. 325, 331 (1990)). To similar effect, Article 26 of the Maryland Declaration of Rights instructs “[t]hat all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive[.]” To satisfy these two constitutional provisions, Maryland entrusts neutral judges and magistrates to issue warrants grounded in

probable cause and “supported by ‘Oath or affirmation.’” *Rovin v. State*, 488 Md. 144, 184 (2024) (citations omitted).

This procedure is governed by Rule 4-212, which authorizes a commissioner, a judge of the District Court, or a judge of a circuit court to issue an arrest warrant “upon a finding that there is probable cause to believe that the defendant committed the offense charged in the charging document” if “there is probable cause to believe that the defendant poses a danger to another person or to the community.” Rule 4-212(d)(1) and (2). In all events, the charging document must be attached to the warrant. *Id.*

When deciding whether there is probable cause to believe the defendant committed a crime, “the issuing judge is confined to the averments contained in the ... warrant application.” *Birthead v. State*, 317 Md. 691, 700 (1989). Based on the application, the judicial officer “make[s] a practical, commonsense decision whether, given all the circumstances set forth in the affidavit before him,” the arrest warrant should be issued. *Gates*, 462 U.S. at 238. To establish probable cause, a warrant application need not establish a *prima facie* case for the precise criminal activity for which the arrest warrant is sought. *Id.* at 235.

An affidavit in support of a warrant may not use “evidence derived as a result of a prior illegal search or seizure, or knowledge gained through such a search and seizure” to establish probable cause. *Everhart v. State*, 274 Md. 459, 481 (1975). If a warrant is based on evidence that was obtained illegally, our courts ordinarily remedy this violation by excluding the evidence gathered as a result of the resulting arrest under the “fruit of the

poisonous tree doctrine.” *Id.* at 480. This doctrine has deep roots in our jurisprudence. *See, e.g., Silverthorne Lumber Co. v. United States*, 251 U.S. 385 (1920). The doctrine requires courts to suppress or exclude evidence obtained by unlawful searches, seizures, or other constitutional violations by law enforcement. *Id.* at 392. Preventing the government from using this illegally obtained evidence is meant to “deter police from violations of constitutional and statutory protections.” *Nix v. Williams*, 467 U.S. 431, 442-43 (1984).

Our decisional law recognizes three exceptions to this exclusionary rule. *Gibson v. State*, 138 Md. App. 399, 403-04 (2001). First, the tainted evidence can be cleansed if the state shows that the evidence came from a source that is independent of the illegal actions. *Id.* at 403. When “an [illegal act] has given investigators knowledge of facts x and y, but fact z has been learned by other means, fact z can be said to be admissible because derived from an ‘independent source.’” *Murray v. United States*, 487 U.S. 533, 538 (1988). We have referred to this exception as the “independent source doctrine,” because it allows evidence discovered by police through some other, untainted source. *Harley v. State*, 266 Md. App. 665, 683 (2025).

Second, evidence obtained illegally may be used in court if the “prosecution can establish by a preponderance of the evidence that the information ultimately or inevitably would have been discovered by lawful means” because “then the deterrence rationale has so little basis that the evidence should be received.” *Nix*, 467 U.S. at 444. We have referred to this as the “inevitable discovery doctrine,” because it allows evidence that the police would have inevitably uncovered. *Harley*, 266 Md. App. at 682.

Third, evidence that would otherwise be excluded as fruit of the poisonous tree may be admitted if the State can show “attenuation.” *Nardone v. United States*, 308 U.S. 338, 341 (1939). Attenuation is a “fact-specific analysis that focuses on when and the manner in which the evidence seized was obtained in relation to the unlawful conduct.” *Sizer v. State*, 456 Md. 350, 376, *aff’d on other grounds*, 456 Md. 350 (2017). Whether the attenuation is sufficient to cleanse tainted evidence depends on “1) the proximity between the actual illegality and the evidence the defendant sought to be suppressed; 2) the presence of intervening factors; and 3) the flagrancy of the governmental misconduct involved in the case.” *Cox v. State*, 421 Md. 630, 652-53 (2011) (quoting *Miles v. State*, 365 Md. 488, 522 (2001)).

Once all the tainted information is excluded from the warrant application, if “the remaining information in the warrant ... establishes probable cause,” then “the warrant is lawful.” *Kamara v. State*, 205 Md. App. 607, 628 (2012). Reviewing courts “need not consider the *actual* effect of the evidence on the individual judge.” *Id.* Instead, under the “objective test,” we decide only whether the untainted information provided a sufficient basis for the judicial officer’s ultimate “finding of probable cause.” *Id.* (quoting *Williams*, 372 Md. at 419).

Analysis

The suppression court correctly denied Lewis’s motion to suppress evidence derived from his arrest warrant. Even excluding the information on page four that was obtained

from the illegal search on December 27, the application provided a substantial basis for the judicial officer’s probable cause finding.

Lewis argues—and the State does not dispute—that information in the warrant application that police acquired because of Lewis’s unlawful arrest cannot support the subsequent arrest warrant issued in this case. *Gibson*, 138 Md. App. at 403-04. We agree. We cannot reasonably conclude that law enforcement would have discovered the gun without the illegal actions of the officers as there is nothing in the record that indicates discovery of the gun was inevitable or that its discovery was based on an independent source. There was also no appreciable time between the violation (the illegal arrest) and the discovery of the evidence, and therefore, the information included on page four of the Statement of Charges pertaining to the gun cannot be cleansed by attenuation.

The suppression court correctly determined that the remainder of the warrant application adequately supported a finding of probable cause. On balance, the evidence derived from the December 27 arrest constitutes less than a quarter of the information contained in the Statement of Charges. The remaining untainted evidence linked Lewis to the blue GMC Envoy missing three of its four center wheel caps, and surveillance footage and witness testimony linked the Envoy to the murder. As the suppression court found, testimony reinforced that this untainted evidence was “credible”—it matched “[the] description of the automobile, the view of the license plate reader information obtained, a view of the body camera from the October[] 2021 incident, [and the fact] the defendant had been stopped in that area prior[.]” Lewis’s arrest on October 3, 2021, connected him to the

Envoy, so the suppression court was right to note that Lewis had “been arrested in that motor vehicle prior to the December 27th incident.”

Together, this untainted information was sufficient to sustain the commissioner’s “practical and common-sense decision” that there was a fair probability that “an offense has been or is being committed by the person to be arrested.” *Rovin*, 488 Md. at 184 (quoting *Greenstreet v. State*, 392 Md. 652, 667 (2006)). Accordingly, we hold that the suppression court did not err in denying Lewis’s motion to suppress the evidence obtained from the arrest warrant.

B.

Pickens’s Statements

Parties’ Contentions

Lewis argues that the suppression court should have excluded Dasia Pickens’s interrogation statements, particularly those obtained after Lewis told Pickens to “tell them the truth.” Lewis contends, and the State agrees, that the suppression court was wrong to hold that Lewis lacked standing to make these arguments. On the merits, Lewis argues that because detectives violated his right to counsel, his statement to Pickens and Pickens’s subsequent statements should be excluded.

The State asks us not to reach the merits, but rather, that we reverse the suppression court’s ruling on Lewis’s standing and remand the case to allow the court to decide whether Pickens’s statements are sufficiently attenuated from Lewis’s to be admissible. The State avers that “a witness’s voluntary decision to give information can be an intervening

circumstance forestalling the suppression of derivative evidence[,] and therefore, “at issue is whether Pickens’s decision to change her story triggered the attenuation doctrine[.]” If we reach the merits, the State asks us to affirm the suppression court because Pickens ultimately made her own decision to tell “the truth[,]” and this intervening choice by Pickens makes her statements sufficiently attenuated from violations of Lewis’s rights.

Quoting *Portillo Funes v. State*, 469 Md. 438, 462 (2020) and *State v. Bell*, 334 Md. 178, 189 (1994), Lewis’s reply asks us not to remand because the record is “sufficiently developed” and our determination would not “work an unfair prejudice to the parties or to the court.” Lewis argues that Pickens’s alleged choice to change her story was not a choice “of ‘sufficient[.]’ ‘free will’ to purge any associated taint.” *Miles v. State*, 365 Md. 488, 526 (2001). Lewis points to the fact that Pickens stuck to her story even after detectives lied to her about Lewis confessing as proof that only Lewis’s involuntary statement to Pickens could have caused Pickens to change her story. This is enough, he says, to distinguish other attenuation precedents and reverse the suppression court.

Legal Framework

Statements made by a third-party witness may be suppressed on the defendant’s motion if they derive from violations of the defendant’s constitutional rights. *Ferguson v. State*, 301 Md. 542, 553 (1984) (suppressing the voluntary identification of a defendant by a witness because the identification derived from defendant’s illegal arrest). In other words:

on[c]e it is determined that a defendant ... has standing to object to evidence obtained as a direct result of violations of his Fourth Amendment rights, his

standing to object to evidence obtained as an indirect result of those violations derives from the prior establishment of his standing to object to the evidence directly obtained.

Garrison v. State, 28 Md. App. 257, 275 (1975).

Involuntariness

Our predecessors have held that under certain circumstances, a “mere *Miranda*” violation is not enough to suppress a defendant’s statements or a third party’s derivative statement. *Fried v. State*, 42 Md. App. 643, 646 (1979). In addition, the violation of the defendant’s *Miranda* rights must have rendered the statements “involuntary.” *Brown v. State*, 168 Md. App. 400, 410 (2006), *aff’d*, 397 Md. 89 (2007). And even if the defendant’s statements were involuntary, the third party’s derivative statements are admissible if they are sufficiently attenuated from the violation of the defendant’s rights. *Cox v. State*, 421 Md. 630, 651-53 (2011) (“although evidence derived from illegal police activity is generally inadmissible, some derivative evidence can be introduced” if “purged of the primary taint” through “attenuation”) (quoting *Wong Sun v. U.S.*, 371 U.S. 471, 488 (1963)).

A defendant’s statements can be involuntary under either of two tests—a constitutional test and a Maryland common law test. *Lee v. State*, 418 Md. 136, 158 (2011). Statements are involuntary under the constitutional test if, under the “totality of the circumstances,” *Madrid v. State*, 474 Md. 273, 329-30 (2021), the defendant was “compelled ... to be a witness against himself,” U.S. Const. amend. V, or “compelled to give evidence against himself,” Md. Decl. of Rts., art. 22. “[C]onstitutional voluntariness

does not require that all promises, threats, or inducements render a confession involuntary; instead, the federal constitution requires only that courts consider promises, threats, or inducements as part of the totality of the circumstances that courts must look at to determine voluntariness.” *Reynolds v. State*, 327 Md. 494, 505 (1992) (citing *Arizona v. Fulminante*, 499 U.S. 279 (1991)). Psychological pressure applied to a suspect by officers conducting an interrogation may manifest as coercive tactics which “overbear[] the will of the suspect and induce[] the suspect” to make incriminating statements. *Lee*, 418 Md. at 159; see *Colorado v. Connelly*, 479 U.S. 157, 167 (1986) (coercive actions are “a necessary predicate to the finding that a confession is not ‘voluntary’ within the meaning of the Due Process Clause of the Fourteenth Amendment”).

Under the Maryland common law standard, “a confession is involuntary if [the confession] is the product of an improper threat, promise, or inducement by the police.” *Lee*, 418 Md. at 158 (citing *Knight v. State*, 381 Md. 517, 531 (2004)). In fact, “a confession is presumptively inadmissible ‘unless it is shown to be free of any coercive barnacles that may have attached by improper means to prevent the expression from being voluntary.’” *Hof v. State*, 337 Md. 581, 595 (1995) (quoting *Hoey v. State*, 311 Md. 473, 483 (1988)). Like the constitutional standard, “the voluntariness of a statement is examined under the totality of the circumstances affecting the interrogation and confession[.]” *Zadeh v. State*, 258 Md. App. 547, 614 (2023) (cleaned up). The factors that bear on the voluntariness of a confession are numerous, as the Supreme Court explained in *Williams v. State*:

[W]e look to all elements of the interrogation, including the manner in which it was conducted, the number of officers present, and the age, education, and experience of the defendant. Not all of the multitude of factors that may bear on voluntariness are necessarily of equal weight, however. Some are transcendent and decisive. We have made clear, for example, that a confession that is preceded or accompanied by threats or a promise of advantage will be held involuntary, notwithstanding any other factors that may suggest voluntariness, unless the State can establish that such threats or promises in no way induced the confession.

375 Md. 404, 429 (2003).

Promises or threats regarding “a near relative with whom the defendant naturally has a close bond of affection” are coercive and can render statements involuntary. *Stokes v. State*, 289 Md. 155, 160-61 (1980). When an officer “promise[s] not to arrest a near relative of the defendant, or ... threat[ens] to do so,” that conduct “constitutes a form of inducement which will render a resulting statement involuntary.” *Id.* (emphasis added). Other “inducements [or threats] extreme enough to make the [statements] unreliable and which directly impact[] the accused or the crime charged” may also render a statement involuntary.¹² *Reynolds*, 327 Md. at 512.

Attenuation

Evidence derived from an involuntary statement can be cleansed and admitted because it is derived from an independent source, or it would have been discovered

¹² Of course, “not every deceptive practice by the police” will be sufficient to defeat voluntariness of a statement made in custody. *Ball v. State*, 347 Md. 156, 178-79 (1997), *cert. denied*, 522 U.S. 1082 (1998). Officers can lie “to the suspect about the strength of the evidence against” the suspect or express “false sympathy for the suspect” without meeting the standard for “overbearing the will of the suspect.” *Lee*, 418 Md. at 159.

inevitably, or because it is sufficiently attenuated from the involuntary statement.¹³ *Gibson v. State*, 138 Md. App. 399, 404 (2001). Because the State does not argue here that Pickens’s statements could be acquired through another source or would be inevitably discovered, we focus on attenuation.

A derivative statement can be cleansed only if it is so attenuated from the involuntary statement that it is not affected by the illegal action that rendered the statement involuntary. *Miles v. State*, 365 Md. 488, 520-21 (2001). To decide attenuation, we look to “[1] [t]he temporal proximity of the [illegal conduct] and the [statement], [2] the presence of intervening circumstances, and [3] the purpose and flagrancy of the official misconduct,” but “[n]o single fact is dispositive.” *Brown v. Illinois*, 422 U.S. 590, 603-04 (1975)

First, on temporal proximity, “[t]here is no ‘mathematically precise test’ to determine how much time must pass [between the illegal act and the statement] to purge the taint.” *Cox*, 421 Md. at 653 (quoting *Miles*, 365 Md. at 527 (2001)). Courts have found that minutes and hours are not sufficient to cleanse the tainted evidence, but when a half day or more passes between the illegal act and the statement, that time may be sufficient for attenuation. See *Ferguson v. State*, 301 Md. 542, 550 (1984) (twenty minutes insufficient); *Brown*, 422 U.S. at 604-05 (two hours insufficient); *Taylor v. Alabama*, 457

¹³ Although the fruit of the poisonous tree doctrine “has traditionally barred from trial physical, tangible materials obtained either during or as a direct result of a” constitutional violation, “verbal evidence which derives so immediately from [a violation of constitutional rights] is no less the ‘fruit’ of official illegality[.]” *Wong Sun*, 371 U.S. at 485.

U.S. 687, 691 (1982) (finding six hours insufficient to purge the primary taint), *but see Cox*, 421 Md. at 654 (finding twenty hours a “sufficient separation between the illegal activity and the challenged statements to weigh in favor of a finding of attenuation”).

Second, an intervening circumstance is “any event that ‘breaks the causal connection between the unlawful conduct and the derivative evidence’”—anything that allows the declarant of the statement to also contribute to attenuation. *Cox*, 421 Md. at 654. Here, attenuation increases as the declarant has the opportunity to think about his or her options and actions “carefully and objectively[.]” *Id.* (quoting *Ferguson*, 301 Md. at 551).

Third, we are mindful that excluding evidence serves as a disincentive for illegal police activity. For that reason, the more purposeful the police misconduct, the more this factor will weigh in favor of suppressing derivative evidence. *Id.* at 655. If, after weighing the three factors above, a court finds that the analysis “provide[s] strong support for suppression,” then the derivative evidence “must be suppressed.” *Ferguson*, 301 Md. at 553.

Analysis

Preliminarily, we agree with the parties that Lewis had standing to challenge the admission of Pickens’s statements. Because Lewis’s challenge to Pickens’s statement derives from the involuntariness of Lewis’s own statements, he had standing to challenge both. *Coleman-Fuller v. State*, 192 Md. App. 577, 611-12 (2010). This remains true even though the derivative evidence at issue is another witness’s statement. *United States v.*

Ceccolini, 435 U.S. 268, 274-79 (1978); *United States v. Kimball*, 884 F.2d 1274, 1279-80 (9th Cir. 1989).

We decline the State’s invitation to stop here and remand the case for the suppression court to consider attenuation. Attenuation “plainly appears by the record to have been raised in” the suppression court, and our resolving it is “desirable to avoid the expense and delay of another appeal.” Rule 8-131(a). All facts relevant to attenuation were “sufficiently developed” at the suppression hearing to let us consider the issue in full. *Portillo Funes v. State*, 469 Md. 438, 462 (2020). And our resolution of this issue will “not work an unfair prejudice to the parties or to the court.” *Id.* Because, as we will explain in some detail, the record clearly shows that Pickens’s statement was not sufficiently attenuated from Lewis’s involuntary statement, we will decide the issue now in the interest of judicial economy. And because this issue turns on undisputed facts in the record, the suppression court would be in no better position than we are to perform the analysis.

First, Lewis’s statement to Pickens that she should tell detectives “the truth” was patently involuntary. Even after Lewis had twice invoked his right to counsel, detectives “psychologically pressured” Lewis to say something to Pickens. *Hof*, 337 Md. at 596-97. Det. Windsor told Lewis that if Pickens “tells the truth, she’s a witness. All right? She can go home.” Det. Windsor said that Pickens was “pregnant with [Lewis’s] child,” and that Pickens’s choice to “have [Lewis’s] back [was] getting her in a pickle”—“if she’s really pregnant, she don’t need to be going to jail. ... She didn’t shoot at nobody, right? She don’t need to be in jail. Okay?” With that, Det. Windsor coached Lewis about what

would happen next: the detective would bring Pickens into the interrogation room; Lewis would very briefly tell Pickens to tell the truth; and then Pickens would leave. Det. Windsor urged, “Just tell her to tell the truth. All right?” Lewis did exactly what Det. Windsor told him to do and nothing more: “Tell them the truth.” Although Pickens was not Lewis’s spouse, detectives invoked a similarly close personal bond by emphasizing that she was Lewis’s girlfriend and could be pregnant with his child. These threats to imprison Lewis’s girlfriend, made after detectives had ignored Lewis’s request for an attorney, made Lewis’s compliance involuntary. *Stokes*, 289 Md. at 160-61 (finding involuntariness when police “promised petitioner they would not arrest his wife if he revealed the location of the heroin” and “this promise bore fruit”).

Next, we hold that Pickens’s statements changing her story and implicating Lewis were a direct result of Lewis’s involuntary statement, not attenuated evidence produced through Pickens’s choice. After roughly four hours of consistently telling detectives a different story, Pickens responded to Lewis’s direction and made statements implicating Lewis. Almost no time elapsed between Lewis’s coerced statement and Pickens’s resulting statements, and nothing broke the causal chain between Lewis’s direction and Pickens’s revised statements.

Ferguson is an especially instructive precedent here. 301 Md. 542 (1984). Ferguson was unlawfully arrested, because the officer who arrested him lacked probable cause to believe Ferguson had committed a crime. *Id.* at 547. At the police station, police brought the victim of a crime into the room where Ferguson was being held, and the victim

identified Ferguson as one of his assailants. *Id.* at 546. The Supreme Court ultimately excluded the identification, reasoning that it was fruit of Ferguson’s unlawful arrest and not sufficiently attenuated. *Id.* at 553. After surveying our decisional law, the Court concluded that lags in time “between two hours and six hours” between unlawful arrests and challenged evidence were “insufficient attenuation.” *Id.* Thus, the Court held that in Ferguson’s case, a lag of “twenty minutes ... weighs in favor of suppression.” *Id.* at 550. The Court observed that, even though the victim had made his own volitional choice to positively identify Ferguson, that choice was not an “intervening circumstance[,]” because it did not “break[.]” the causal connection between the unlawful conduct and the derivative evidence. *Id.* at 550-51.

The same reasoning applies here. After Lewis told Pickens to tell the truth, Pickens in some sense made her own choice to testify against Lewis. But Pickens’s choice did not break the causal connection between the unlawful conduct (coercively interrogating Lewis) and the derivative evidence (Pickens’s admissions). To the contrary, because Pickens had spent *hours* telling a different story and insisting that it was the truth, all the evidence in the record suggests that the only thing that caused Pickens to confess was Lewis’s direction. Pickens did not speak to anyone else in the time between Lewis’s statement and her own confession, nor did she have any significant time to consider the potential consequences of her actions. Lewis’s involuntary statement directly and immediately led to Pickens changing her story.

Finally, the interrogation transcripts strongly support the conclusion that the detectives were trying to coerce confessions that they knew violated Lewis's *Miranda* rights. Detectives acknowledged aloud to Lewis and again at the suppression hearing that they knew his request for a lawyer would make a later confession inadmissible. Having procured an arrest warrant only for Lewis, we do not understand their basis for detaining Pickens for hours and telling her she could not go home, let alone threatening to jail her. Assuming detectives were genuinely interested in figuring out whether Pickens was pregnant, nothing in their interrogation conduct militates against suppressing Pickens's derivative statements.

In sum, we hold that the suppression court correctly declined to suppress evidence derived from Lewis's arrest, but that the suppression court erred by refusing to suppress Pickens's interrogation statements that were made after Lewis was coerced into directing Pickens to tell the truth. Because we hold that Pickens's interrogation statements should have been excluded from the evidence against Lewis at trial, his convictions cannot stand.

PART II

SUFFICIENCY GENERALLY

Before this Court, Lewis challenges the sufficiency of the evidence presented against him at trial. Under binding precedent, we ask whether the evidence against Lewis would have been sufficient to sustain his convictions, otherwise double jeopardy principles

forbid a new trial.¹⁴ *Winder v. State*, 362 Md. 275, 324 (2001). This is because, “[w]hen a criminal defendant properly appeals the sufficiency of the evidence supporting his or her conviction on any count, Maryland appellate courts normally address the sufficiency issues even when that court decides to reverse the judgment of the trial court on another ground.” *Id.* “If ... we hold that the evidence admitted at trial was insufficient to sustain the [] conviction, then double jeopardy prohibits the retrial of Appellant” on that charge. *Id.* at 325. We include all of the evidence admitted at trial in our review, even the evidence that we just decided the trial court should have excluded. *Emory v. State*, 101 Md. App. 585, 629-30 (1994). We do this because double jeopardy asks only whether the prosecution *produced* enough evidence to support a conviction, and we cannot know what other evidence the prosecution may have held back once its evidence was admitted. *Williams v. State*, 251 Md. App. 523, 569 (2021), *aff’d*, 478 Md. 99 (2022).

When we review the evidence for sufficiency, we defer to the jury. *Brown v. State*, 252 Md. App. 197, 208 (2021). We “view[] the evidence in the light most favorable to the prosecution,” and ascertain if “*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Scriber v. State*, 236 Md. App. 332, 344 (2018) (quoting *Darling v. State*, 232 Md. App. 430, 465 (2017)). To that end, we draw all “reasonable inferences” in favor of the prosecution’s case, even if we “would have chosen a different reasonable inference.” *Bible v. State*, 411 Md. 138, 156 (2009)

¹⁴ Lewis preserved this argument by moving “for a judgment of acquittal pursuant to Maryland Rule 4-324(a).” *Chisum v. State*, 227 Md. App. 118, 129 (2016).

(alteration in original). As we review the evidence, “we are not concerned with what a factfinder did with the evidence”; “we are concerned with what a factfinder could have done with the evidence.” *Purnell v. State*, 250 Md. App. 703, 711 (2021) (cleaned up).

It does not matter to us whether Lewis’s conviction was based on direct evidence or circumstantial evidence, because “proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct” evidence. *State v. Smith*, 374 Md. 527, 534 (2003). A valid conviction may rest wholly on circumstantial evidence if the circumstantial evidence is sufficient to convince a trier of fact of the defendant’s guilt beyond a reasonable doubt, rising above “strong suspicion or mere probability.” *Moye v. State*, 369 Md. 2, 13 (2002) (citing *White v. State*, 363 Md. 150, 163 (2001)); see *Smith*, 415 Md. at 185 (stating that the “inferences made from circumstantial evidence must rest upon more than mere speculation or conjecture”). To sustain a conviction based on circumstantial evidence alone, however, “the circumstances, taken together, [must be] inconsistent with any reasonable hypothesis of innocence.” *Id.* at 537.

THE EVIDENCE AGAINST LEWIS

Lewis’s trial proceeded before a jury in the Circuit Court for Prince George’s County beginning on April 3, 2023. The victim’s partner, C., recounted the confrontation between R. and the driver of the dark blue SUV, the shooting of R., and the aftermath. She showed the jury on a large map where each event took place. During C.’s testimony, the State played portions of the 911 call placed by C. and R.’s daughter, S. The jury could

hear the voices of C., her children, and the 911 dispatcher on the call. C. confirmed that she did not know Lewis prior to the shooting.

The victim's ten-year-old daughter, S., testified that she saw a male driver start shooting and a woman in the front passenger seat of the vehicle. S. confirmed that a dark blue SUV in a surveillance video looked like the one the shooter was driving.

Dasia Pickens was compelled to testify over her invocation of her Fifth Amendment rights. She confirmed S.'s testimony that the dark blue SUV pictured in security camera footage looked like Lewis's car. When asked about her whereabouts on Christmas Eve around 4:30 p.m., Pickens said she was "with [her] best friend" and not with Lewis.

Pickens testified that before her interrogation, officers picked her and Lewis up at Lewis's mother's house and then took them to the police station. At some point prior to the officers showing up at the residence, Pickens took a pill she thought was Percocet but was actually fentanyl that stayed in her system for at least 4 to 5 hours. When asked specifics about the interview—such as the detectives' names, or if she remembered "being told [she was] being recorded on video and audio[,]"—Pickens could not recall. The State introduced State's Exhibit 8, a copy of the transcript of Pickens's January 13, 2022, interrogation with detectives. Prosecutors then walked Pickens through her interrogation remarks. Pickens often said she could not recall what she told police in the interrogation, and then when she was shown a transcript, she would concede that it was accurate. For each interrogation statement, Pickens remembered it "from [her] statement piece"; she did "not remember saying it out of my mouth."

On cross-examination, Pickens told the jury that she was “telling a lie” when she told detectives that she was in the “blue SUV” with Lewis on Christmas Eve. She did not “even know what type of SUV [Lewis] drove” since she normally saw him drive a “white” car. She said that she did not witness R. being shot. When a prosecutor asked Pickens why she lied to detectives, she testified that she just gave them what they seemed to want:

At a certain point of the night, my body went into a self-preservation mode and I went into a withdrawal. At a certain point, I felt like I was being led and I just wanted out of the office completely. And every question that he asked, I did give a rebuttal and I may have said some things to sensationalize me getting out of that room, honestly.

Kelli Sullivan, a “civilian crime scene investigator” with PGCPD, responded to the scene of R.’s shooting. She searched the area, sketched the Branch Avenue scene, and took photographs. At trial, she authenticated roughly 20 photographs she took. She also detailed the physical evidence collected at the scene: including fragments of a shell casing “recovered from the driver’s side running board”; swabs from the fragment used for DNA testing; a “non-jacketed bullet” recovered by the medical examiner; a “blood card containing [R.’s] sample” recovered by the Office of the Chief Medical Examiner; fingernail clippings collected by the medical examiner; and personal effects from R.’s body. These items were admitted into evidence.

Corporal Lowan Woods, a “crime scene investigator” for PGCPD, went to the hospital to collect “evidence from the victim.” He sketched R.’s body, noting anything he

thought might be a gunshot wound.¹⁵ At trial, he authenticated the items he collected from R.'s body and the photos he took.

Chelsey Simonds, another crime scene investigator with PGCPD, had processed R.'s truck. She “photographed the vehicle, took some notes, recovered items of evidence from in the vehicle, and then took after-pictures.” In addition, she recovered “bullet fragment evidence” and “some cell phones.” At trial, she authenticated her photos. Reviewing her photos, she pointed out “defects” in the vehicle, including on the driver’s door handle, the driver’s window, and the interior of the driver’s door. There was also a defect in the “rear driver’s side ... window.” On the passenger side of the truck, there was a defect on the mirror and the front passenger side window was broken.

Ms. Simonds also assisted with a search of Lewis’s mother’s house. During the search, she recovered some documents with the name Markell Lewis, and a “yellow and silver gunlock” from one of the basement bedrooms. She admitted that she didn’t know whose bedroom was whose.

Dr. Pamela Ferreira, an assistant medical examiner in the Office of the Chief Medical Examiner for the State of Maryland, testified as “an expert in the area of forensic science.” She had performed an autopsy on R., removing a “deformed jacketed bullet” from “the bottom of his breastplate.” The State then reviewed autopsy photographs with her, including photos of “gunshot entrance wounds” on R.’s body. She noted that there

¹⁵ Cpl. Woods explained in his testimony that, in this case, the word defect refers to marks on the body that he suspected may be gunshot wounds. Because Cpl. Woods is not a trained physician, he “[cannot] say that’s a gunshot wound.”

was no “gunpowder or stippling” on the gunshot wound or an abrasion next to the gunshot wound, which suggests the gun was not fired at close range. Her report concluded that R.’s cause of death was “gunshot wound of the torso” and the manner of death as “homicide.”

Det. Derek Reed used the enlarged map to show the jury the “off-ramp onto Branch Avenue” where R.’s “vehicle stopped.” Det. Reed used several still images from surveillance videos collected by his team to show the path of the dark blue Envoy leading up to the time of the shooting. From the still images, Det. Reed showed when the Envoy and R.’s truck began to “travel[] alongside each other.” One of the stills, Det. Reed pointed out, showed the Envoy’s window rolled down as the Envoy and R.’s truck are “driving side by side.” The stills also showed the moments after the shooting where the truck “get[s] ready to cut over across in front of [a] taxi to get into the off-ramp for Branch Avenue southbound” where the truck eventually comes to a stop.

Det. Reed then explained how his team used license plate readers to identify the license plate on the Envoy. Det. Reed had reviewed over 8,000 images from the license plate readers. He said he could identify a vehicle from the license plate reader data that matched the surveillance videos and C.’s description of the shooter’s vehicle. Det. Reed then reviewed business records that showed a 2008 blue Envoy was sold by Rochelle Lewis on January 11, 2022—18 days after R.’s murder.

Det. Aven Odhner of PGCPD’s technical operations unit “predominantly deal[s] with cell phone forensics,” testified as an expert in cell phone forensics. Det. Odhner showed the jury a map prepared for the investigation, containing the cell tower activity for

a cell phone issued to Lewis's mother. The map showed that the phone was in the area of the 4400 block of Saint Barnabas Road at the time of the shooting. Another map showed that Pickens's cell phone "was also in the area of the location of [the] incident during the time frame," though Det. Odhner could not "determine" that the two cell phones were "together."

Det. Dashaun Randall, who interrogated Pickens, recalled that Pickens was "calm" and "cooperative." Det. Randall did not perceive that Pickens was "under the influence of any substance" or that Pickens was in "withdrawal," except that Pickens became nauseous. Det. Randall added that Pickens "was pregnant at the time," although he later conceded there could have been other reasons why Pickens was nauseated. Pickens never "invoke[d] her right to counsel" or "ask[d] to end the interview," but she did say that "she wanted to get out of there."

Officer Charles Richardson described for the jury what he saw when he arrived at the scene of the shooting, confirming that his bodycam footage was accurate. He noted the "bullet holes in the left side of the vehicle[,] the driver "suffering from gunshot wounds[,] and the passengers still in the truck. Officer Richardson later transported C. and her children to the homicide office.

ANALYSIS

Lewis argues that the evidence offered by the State at trial was "insufficient, as a matter of law, to sustain [his] conviction[.]" because it rested on "stacked speculative

inferences.” There was no eyewitness identification of Lewis, and the “admissible evidence created no nexus between Lewis and the December 24th shooting[.]”

We disagree. The evidence offered by the State was sufficient for a trier of fact to reasonably and “fairly be convinced ... of the defendant’s guilt of the offense[s] charged.” *Wilson v. State*, 319 Md. 530, 535-36 (1990). Eye-witness testimony established the type of vehicle the shooter was driving, and nearby surveillance footage established its make, model, and likely year. PGCPD then used over 8,000 images from license plate readers across two jurisdictions to identify the vehicle and its license plate number. The license plate information led officers to Lewis’s mother, and Lewis’s prior arrest in October 2021 tied him to the Envoy. Cell phone records put Pickens and a phone associated with Lewis’s mother’s cell phone plan, one the jury could infer Lewis was using, in the area of the shooting. Eye-witness testimony ruled out Lewis’s mother as the shooter, so a reasonable jury could conclude beyond a reasonable doubt that it was Lewis.

Lewis is right that tying all this evidence together requires certain inferences, but those inferences are not overly speculative. To the contrary, eyewitness and surveillance evidence tying the shooting to the Envoy, registration and arrest information tying the Envoy to Lewis, and data analysis tying the cell phones to the scene of the shooting allow “a rational inference of facts which could fairly convince a trier of fact of the defendant’s guilt of the offense charged beyond a reasonable doubt.” *Donati v. State*, 215 Md. App. 686, 718 (2014). Indeed, although the sequence of testimony working from the Envoy to Lewis required several investigatory steps, the cell phone evidence helped ensure that the

steps were reasonable. *Pressley v. State*, 295 Md. 143, 150 (1983) (evidence is not always links in a chain; sometimes, it is like a cable with threads that run together).

This evidence remains sufficient even though Pickens testified at trial that she did not witness the shooting and that she lied to police. The jury was free to conclude that Pickens was lying to them about lying to police. Because the jury was allowed “to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence,” the tension between Pickens’s testimony and the other evidence did not prohibit a guilty verdict. *Neal v. State*, 191 Md. App. 297, 314 (2010) (quoting *Sparkman v. State*, 184 Md. App. 716, 740, *cert. denied*, 410 Md. 166 (2009)).

CONCLUSION

Police violated Lewis’s *Miranda* rights and coerced his direction to Pickens. When Pickens followed Lewis’s coerced directions, her interrogation statements were the direct consequence of the violation of Lewis’s *Miranda* rights and should have been excluded. Because the evidence adduced at Lewis’s trial was sufficient to support a guilty verdict, we vacate Lewis’s convictions and remand the case for a new trial.

**JUDGMENTS OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED IN PART, REVERSED IN
PART, AND REMANDED FOR A NEW
TRIAL; COSTS TO BE SPLIT BETWEEN
THE PARTIES, APPELLANT PAYING 2/3,
PRINCE GEORGE’S COUNTY PAYING
1/3.**