

Circuit Court for Charles County
Case No. C-08-CR-23-000298

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1305

September Term, 2024

DEANTHONY LAMONT WARRICK

v.

STATE OF MARYALND

Wells, C.J.,
Ripken,
Woodward, Patrick L.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: November 21, 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 Rule 1-104(a)(2)(B).

A jury empaneled in the Circuit Court for Charles County found appellant Deanthony Warrick guilty of the first-degree murder of Jasmine Hicks, wearing and carrying a dangerous weapon with the intent to injure Hicks, possession of phencyclidine (PCP), possession of a regulated firearm after being convicted of a crime of violence, and possession of a regulated firearm, namely an AR-15 style rifle. The court sentenced him to life without the possibility of parole.

Warrick filed a timely appeal and poses two questions which we slightly reword for clarity:¹

1. Did the court abuse its discretion in admitting a video tape of the murder?
2. Did the court abuse its discretion in declining to instruct the jury on: (a) voluntary intoxication, (b) hot-blooded response to legally adequate provocation, and (c) imperfect self-defense?

We answer in the negative as to each question and affirm the convictions.

BACKGROUND

The essential facts of this case are not in dispute. One morning, Officer Tayler Eschelman was called to a house located at 2325 Woodberry Drive in Bryan's Road, Charles County, Maryland. There, in the front yard, he discovered the body of Jasmine

¹ Warrick's verbatim questions to us are:

1. Did the trial court abuse its discretion in admitting evidence the potential for unfair prejudice of which outweighed its probative value?
2. Did the trial court err or abuse its discretion in refusing to instruct the jury on (a) voluntary intoxication (b) manslaughter by hot-blooded response to legally adequate provocation, and/or (c) manslaughter by imperfect self-defense?

Hicks. Hicks' bloody body showed multiple stab wounds. An assistant medical examiner determined that she died as a result of fourteen wounds to her head and neck.

Hicks' murder was captured by a surveillance camera mounted over the garage of a house directly across the street from 2325 Woodberry Drive. [State's 3]. In the video, which also captured the verbal exchange between Hicks and Warrick, Warrick can be seen stabbing Hicks while accusing her of taking his property. The video shows Warrick leaving Hicks lying in the front yard of the house. At trial, an assistant medical examiner testified that Hicks did not die immediately from her wounds. Warrick does not dispute that in the video she can be heard moaning and calling for help for approximately an hour after he left. [Yellow at 2-3]. The State played the entire video for the jury, over Warrick's objection. That video is the subject of Warrick's first claim of error and will be discussed in detail later.

The day after Hicks' body was discovered, Warrick was driving a car that struck a tree and caught fire in a remote wooded area of neighboring Prince George's County. The subsequent police investigation revealed that the license plate and the frame of the vehicle matched the car in which Warrick can be observed in the surveillance video driving away from the scene of Hicks' murder. Body worn camera footage from the police officer who arrived at the scene first shows Warrick at the scene of the car crash talking to the occupants of a nearby house. Warrick was taken to a local hospital, but the police had linked him to Hicks' murder by that time.

The police took Warrick into custody. After he was given the *Miranda* warnings, Warrick gave an audio recorded statement to detectives in which he ultimately acknowledged knowing Hicks, admitted to being with her at the scene of her murder, but said nothing about attacking her. Toward the end of his statement, again, without admitting he did anything to Hicks, Warrick said she was killed in self-defense. In a jumbled statement, he explained Hicks and her brother had stolen some guns from him and he believed Hicks and her brother would attack him. Warrick’s recorded statement was played for the jury. He elected not to testify or present any evidence.

The jury convicted Warrick of first-degree murder, wearing and carrying a dangerous weapon with intent to injure, simple possession of PCP, possession of a regulated firearm (handgun) after being convicted of a crime of violence, and one count of possession of a regulated firearm (AR-style rifle). The court sentenced Warrick to life imprisonment without the possibility of parole. Warrick filed a timely appeal. Additional facts will be discussed as needed.

DISCUSSION

I. The Trial Court Properly Balanced the Probative Value of Admitting the Surveillance Videotape Against Its Potential to Unfairly Prejudice Warrick.

A. Parties’ Contentions

Warrick contends the circuit court committed reversible error in allowing the jury to view the entire 90-minute-long surveillance video recording. Warrick argues that while the portion of the video showing the attack might be relevant to prove he murdered Hicks, everything that follows after he drove away, or about five minutes into the ninety-minute

recording, should have been omitted because there was “a very real risk of a conviction based upon strong emotion rather than the presence or absence of evidence.” [Yellow Brief at 7]. In other words, he asserts the jury watching and hearing Hicks die for more than an hour was unfairly prejudicial.

The State admits the video is prejudicial but contends its probative value substantially outweighs the danger of any unfair prejudice. Specifically, the State argues the video is probative of Warrick’s state of mind not only at the time he killed Hicks, “an extraordinarily disturbing crime” in the State’s estimation, but also showed his state of mind afterwards in not seeking aid for Hicks even though he knew she was dying.

B. Analysis

When considering the admission of photographic or video evidence, trial courts utilize a two-part test. “[F]irst, the judge must decide whether the photograph is relevant[.]” *State v. Broberg*, 342 Md. 544, 555 (1996). A photograph is relevant if it “assist[s] the jury in understanding the case or aid[s] a witness in explaining his testimony[.]” *Mason v. Lynch*, 388 Md. 37, 49 (2005) (internal citations omitted). “[S]econd, the judge must balance its probative value against its prejudicial effect.” *Broberg*, 342 Md. at 555. “The admissibility of photographs” or any other evidence “is determined by a balancing of the probative value against the potential for improper prejudice to the defendant. . . . This balancing is committed to the trial judge’s sound discretion.” *Bedford v. State*, 317 Md. 659, 676 (1989) (internal citations omitted). An abuse of discretion occurs only when “no reasonable person would take the view adopted by the circuit court.” *Montague v. State*,

471 Md. 657 (2020) (quoting *Williams v. State*, 457 Md. 551, 563 (2018)) (further citation omitted). The abuse of discretion standard is highly deferential, so, “[t]he fact that we might have struck the balance otherwise is beside the point.” *Newman v. State*, 236 Md. App. 533, 556 (2018) (quoting *Oesby v. State*, 142 Md. App. 144, 167 (2002)).

[P]hotographic evidence may be highly probative of the degree of murder. *Roebuck v. State*, 148 Md. App. 563, 597 (2002) (internal citations omitted). In *Johnson v. State*, 303 Md. 487, 502 (1985), *cert. denied*, 474 U.S. 1093 (1986), the Supreme Court of Maryland explained: “On certain occasions, photographs have also been admitted to allow the jury to visualize the atrociousness of the crime—a circumstance of much import where the factfinder must determine the degrees of murder.” Moreover, as the State suggests, this is a case in which “the grisliness of the evidence . . . is probative.” It reasons that “the jury must evaluate the number and nature of the specific wounds, as well as the circumstances surrounding their infliction, to determine the presence vel non of premeditation, willfulness and deliberation.”

In this case, at a bench conference, the defense objected to the prosecutors playing the entire surveillance video for the jury, asserting that Hicks’ “moaning and crying for help” “for about an hour” was “extremely prejudicial.” The prosecution proffered the video was probative of three different things. *First*, the prosecution argued the video showed Warrick’s intent to kill Hicks. *Second*, the video showed Warrick knew Hicks was dying, as he claimed in his statement to the police he tried to get her in the car to get her help but was unable to do so. But the video also shows Warrick left Hicks wounded and bleeding

in someone’s front yard and did not return with aid. *Finally*, the prosecution proffered that the video showed no other person harmed Hicks. After considering the arguments, the court allowed the jury to view the surveillance video in its entirety.

We perceive no error. The court properly balanced the potential for undue prejudice with the probative value of the jury viewing the video in its entirety. The video is probative of Warrick’s state of mind when he argued with and ultimately stabbed Hicks. He suspected she had stolen certain guns from him. She denied doing so, but he did not believe her and exacted retribution by stabbing her repeatedly with a knife. Hicks’ reaction to being stabbed, recognizing that she was dying, is clearly captured on the surveillance video. Further, Warrick’s effort to lift Hicks into the car is evident on the video, corroborating a key portion of his testimony to Detective Ryan Johnson, in which Warrick said that he tried to take Hicks to the hospital but could not lift her because she was “too slippery.” And, further, as the State argued at trial, playing the video in its entirety shows no other person caused Hicks’ demise but Warrick.

We conclude the court’s admission of the entire video was not arbitrary but based on the video’s accurate depiction of what transpired between Hicks and Warrick. Although prejudicial to Warrick, the video was not unfairly so. *See Mason v. Lynch*, 388 Md. 37, 52 (2005) (“[I]t is extremely difficult to find cases in which [the Supreme Court of Maryland] has held that the trial court’s ruling, as to the admission or exclusion of photographs, constituted reversible error. The very few cases finding reversible error are ones where the

trial courts admitted photographs which [that] Court held did not accurately represent the person or scene or were otherwise not properly verified.”).

II. The Circuit Court Properly Declined to Give Instructions to the Jury on (a) Voluntary Intoxication, (b) Hot-Blooded Response to Legally Adequate Provocation, and (c) Imperfect Self-Defense.

A. Preliminary Considerations

Warrick contends that under the Supreme Court of Maryland’s decision in *Hollins v. State*, 489 Md. 296 (2024), he generated “some evidence” to support jury instructions on (a) voluntary intoxication, (b) hot-blooded response to legally adequate provocation, and (c) imperfect self-defense. Before turning to an analysis of each of these sub-claims of error, it is helpful to understand what “some evidence” means in this context.

Hollins concerned two men, Hollins and his co-worker, Alexander Alvarenga, who got into a fight while both men were working at a McDonald’s restaurant. *Id.* at 300. The State charged Hollins with attempted first-degree murder, among other charges, after Hollins stabbed Alvarenga multiple times in the head. *Id.* At trial, Hollins asserted self-defense and requested a non-pattern jury instruction regarding Alvarenga’s propensity for violence that would allow the jury to consider that Alvarenga was the initial aggressor. The court denied that request and a jury subsequently convicted Hollins of second-degree assault only. *Id.*

On direct appeal, this Court, with a divided panel, affirmed the circuit court in an unreported opinion. *Hollins v. State*, No. C-15-CR-22-206, 2023 WL 8641392, at *2 (Md. App. Ct. Dec. 14, 2023). The majority concluded the court erred in not exercising its

discretion by refusing to give non-pattern jury instructions. *Id.* at *10. But, relying on *Bazzle v. State*, 426 Md. 541, 550 (2012), the majority ultimately concluded Hollins failed to generate “[the] minimum threshold of evidence necessary to establish a prima facie case that would allow a jury to rationally conclude that the evidence supports the application of the legal theory desired.” *Id.*

Judge Irma Raker, in dissent, argued Hollins had, indeed, produced “some evidence” of Alvarenga’s character trait for violence and, thus, concluded the circuit court erred in not giving the requested non-pattern instruction. *Id.* at *13. The dissent noted Alvarenga: (1) admitted that he had been in three or four fights in the past; (2) believes that everybody fights; and (3) had two second-degree assault convictions. *Id.* The dissent also noted that Hollins testified that Alvarenga asked him to step outside and fight “like men do.” According to the dissent, although the evidence was “perhaps underwhelming,” it was nonetheless “some evidence of a propensity for violence, and meets the low bar required.” *Id.*

The Supreme Court of Maryland granted Hollins’ petition for certiorari in part to answer the question of whether this Court applied a sufficiency of the evidence standard, rather than the “some evidence” standard in upholding the denial of Hollins’ non-pattern jury instruction for Alvarenga’s propensity for violence.²

² The second question Hollins posed was:

Did the trial court violate the Confrontation Clause of the U.S. Constitution when it prohibited Petitioner from cross-examining the alleged victim about visible injuries

The Court first concluded that because the circuit court did not even consider whether to give the non-pattern instruction, the failure to exercise discretion was alone an abuse of discretion. *Hollins v. State*, 489 Md. 296, 310 (2024). The Court then considered whether there was some evidence in the record to support the requested instruction. *Id.* “In connection with our de novo review of the evidence, we must determine whether Hollins generated ‘some evidence’ to permit a jury to find that Alvarenga had a propensity for violence thereby providing the trial judge with a basis for giving the instruction.” *Id.*

Our Supreme Court, relying on its discussion of the same topic in *Dishman v. State*, 352 Md. 279, 292 (1998), explained:

The determination of whether an instruction must be given turns on whether there is any evidence in the case that supports the instruction ... The task of this Court on review is to determine whether the criminal defendant produced that minimum threshold of evidence necessary to establish a prima facie case that would allow a jury to rationally conclude that the evidence supports the application of the legal theory desired.

Id. As long as the relied-upon evidence, if believed by a rational juror, supports the proponent’s claim, the proponent has met the burden of showing the requested jury instruction applies to the facts of the case. *See, e.g., Lee v. State*, 193 Md. App. 45, 55 (2010) (noting the defendant “has the burden of initially producing some evidence on the issue of mitigation or self-defense (or relying upon evidence produced by the State)

to rebut the claim raised on direct examination that the victim had outgrown any violence in his past?

sufficient to give rise to a jury issue with respect to these defenses”) (internal quotation marks omitted).

The Court went further, dispelling a notion Hollins advanced that there was a conflict in its case law over the amount or “quantum” of evidence a party must produce to generate an instruction. Hollins phrased it as a conflict over the “prima facie standard” and the “some evidence” standard. 489 Md. at 311. The Court explained:

We have consistently used the term ‘prima facie standard’ to describe the quantity of evidence sufficient to raise a jury issue regarding an asserted defense, or pertinent theory, *i.e.*, when in a trial judge’s assessment, the defendant has provided enough evidence to instruct the jury on an asserted defense or theory. . . . Such evidence can be slight and even overwhelmed by the opposing evidence. . . . As long as the relied-upon evidence, if believed by a rational juror, supports the proponent’s claim, the proponent has met the burden of showing that the requested jury instruction applies to the facts of the case.

Id. at 311–12 (citations omitted).

With this framework in mind, we turn to each of Warrick’s sub-claims of error.

1. Voluntary Intoxication

Warrick claims he produced “some evidence” to require the circuit court to give a voluntary intoxication instruction. He claims the evidence showed that “hours” before the homicide he smoked PCP. Additionally, it was shown at trial that he had PCP on his person when he was arrested. Further, he points to the fact that after the murder, he crashed his car into a tree. When one of the officers arrived on the scene of the crash, he thought Warrick “was under the influence and not in his right mind.” [Yellow Brief at 9].

At trial, when discussing jury instructions, the defense raised the issue of Warrick's supposed PCP intoxication, and requested the court give Maryland Criminal Pattern Jury Instruction (MPJI (Crim.)) 4:17.1A-D, which are the instructions for: (A) first-degree murder, (B) second-degree murder, (C) voluntary intoxication,³ and (D) depraved heart murder.

³ Relevant to this discussion, that subsection states:

VOLUNTARY INTOXICATION

You have heard evidence that the defendant acted while intoxicated by [alcohol] [drugs]. You must now consider [his] [her] mental state at the time of the act that caused the death. Generally, voluntary intoxication is not a defense and does not excuse or justify criminal conduct. However, when charged with an offense requiring a specific intent, the defendant cannot be guilty if [he] [she] was so intoxicated at the time of the act that [he] [she] was unable to form the necessary specific intent. A specific intent is a state of mind in which the defendant intends that [his] [her] act will cause a specific result. In this case, the defendant is charged with [one] [two] [three] specific intent [variety] [varieties] of the murder of (name), as follows: [first degree premeditated specific intent to kill murder] [second degree non-premeditated specific intent to kill murder], and [second degree specific intent to inflict serious bodily harm murder].

If the defendant was so intoxicated, at the time of the act causing the death, that [he] [she] was unable to form the necessary specific intent, then you cannot find the defendant guilty of any specific intent variety of murder. In order to convict the defendant of a specific intent murder, the State must prove, beyond a reasonable doubt, that the degree of the intoxication did not prevent the defendant from forming the specific intent. A person can be [drinking alcoholic beverages] [taking drugs] and can even be intoxicated, but still have the necessary mental ability to form a specific intent.

If the State proved, beyond a reasonable doubt, that the defendant killed (name), and did so with the necessary specific intent, even though intoxicated, then you should find the defendant guilty of specific intent murder. If you find the defendant guilty of specific intent murder, do not address depraved heart murder or involuntary manslaughter. If, on the other hand, in light of the defendant's intoxication, the State did not prove, beyond a reasonable doubt, that the defendant had the necessary specific intent when [he] [she] did the act that caused the death, then you should go on to consider depraved heart murder.

In denying the request, the court noted the only evidence of voluntary intoxication heard at trial was that one of the detectives had testified about the effects PCP had on an individual, and there was some evidence Warrick used PCP before Hicks’ murder. Significantly, the court noted “there doesn’t seem to be evidence that the defendant was unable to form a specific intent” to commit murder.

In reviewing this specific claim of error, *Bazzle*, previously cited, is instructive. There, Kohlya Eggleston claimed Chaz Bazzle repeatedly stabbed him while Eggleston sat in his truck at a gas station. *Bazzle*, 426 Md. at 546. Eggleston said that Bazzle demanded he get out of the truck and began stabbing him before he could comply. *Id.* Both Eggleston and Bazzle were at a local hospital when Eggleston identified Bazzle as his attacker. *Id.*

Bazzle denied that he attacked Eggleston. *Id.* He claimed he could not remember what happened on the night of the attack and requested a voluntary intoxication instruction because he said he’d been drinking heavily that night. *Id.* at 547. The circuit court denied his request and a jury convicted him of the attempted second-degree murder of Eggleston, among other charges. *Id.* We affirmed his convictions on direct appeal. *Id.* The Supreme Court of Maryland granted Bazzle’s request for a writ of certiorari to resolve, in part, whether the circuit court abused its discretion in declining to give a voluntary intoxication instruction. *Id.*

After reviewing appellate decisions about requested jury instructions and the requirement that the instruction must be a correct statement of the law, which neither side disputed, the only question for the Supreme Court of Maryland was “whether the

instruction was applicable under the facts of the case.” *Id.* at 549. Noting past precedent in *Dishman*, 352 Md. at 292–93, *Bennie v. State*, 321 Md. 572, 580 (1991), *Smith v. State*, 302 Md. 175, 183 (1985), and *Dykes v. State*, 319 Md. 206, 216–17 (1990), the Court acknowledged “the threshold is low, as a defendant needs only to produce ‘some evidence’ that supports the requested instruction.” *Bazzle*, 426 Md. at 551.

The Court concluded mere evidence of drunkenness was insufficient to negate specific intent. *Id.* at 555 (“A defendant is not entitled to an instruction on voluntary intoxication unless he can point to ‘some evidence’ that ‘would allow a jury to rationally conclude’ that his intoxication made him incapable of ‘form[ing] the intent necessary to constitute the crime[.]’”) (quoting *Lewis v. State*, 79 Md. App. 1, 13 n.4 (1989)). *See also Hook v. State*, 315 Md. 25, 31 n.9 (1989) (“Evidence of drunkenness which falls short of a proven incapacity in the accused to form the intent necessary to constitute the crime merely establishes that the mind was affected by drink so that he more readily gave way to some violent passion and does not rebut the presumption that a man intends the natural consequence of his act.”).

After reviewing the record, we conclude the circuit court was correct. While indeed there was some evidence of Warrick’s PCP use, there was no evidence showing Warrick used PCP (1) close enough in time to the murder, (2) in sufficient quantity, and, most importantly to generate this particular instruction, (3) in such a way that would have rendered Warrick so impaired at the time of the murder that he could not form the intent to kill Hicks. The evidence Warrick relies on—an unsworn police officer’s statement in body-

cam video that Warrick appeared high a day after the killing—is not relevant to the inquiry about the effect of his supposed intoxication at the time Jasmine Hicks was slain hours earlier. The same may be said of the fact that Warrick was arrested with PCP on his person the next day. Similarly, Warrick’s admission that he had ingested PCP at an unspecified time before Hicks’ murder does not constitute “some evidence” to require an instruction on voluntary intoxication as there was no evidence on how the ingestion of the drug affected his capacity to form the intent to kill.

2. Hot-Blooded Response to Legally Adequate Provocation

Next, Warrick argues the circuit court erred in denying his request for an instruction on voluntary manslaughter as a result of a hot-blooded response to legally adequate provocation, found at MPJI (Crim.) 4:17.4. At trial, the defense articulated its rationale for the instruction, contending the surveillance video shows Warrick believed Hicks had stolen “his shit” which the defense acknowledges was “a gun, drugs, money, whatever” and Warrick attacked Hicks after becoming enraged because she would not produce them. (Tr. Day 4, page 11 lines 17- 21). Relying on *Dykes v. State*, previously cited, and MJPI (Crim.) 4:17.4 (C), the defense argued the evidence showed: (1) adequate provocation, (2) Warrick acted in the heat of passion, (3) the act occurred immediately, (4) there was a link between the provocation and the fatal act, and (5) Hicks provoked the rage.

The trial judge denied this request. The judge asked the prosecution their theory of why Warrick was angry. The prosecution theorized Warrick was angry with Hicks’ brother, Justin Johnson, for taking his property, but Warrick believed Hicks had something to do

with it. (Tr. Day 4, at 17, lines 1-10). The judge, relying on *Tripp v. State*, 36 Md. App. 459 (1977), noted the theory of hot-blooded provocation is limited to situations where the victim is the provocateur. (Tr. Day 4, at 19, lines 3-9). The court recalled the evidence was that Johnson took Warrick’s property and Warrick might have believed Hicks had a hand in its taking. Regardless, the court found there had to be adequate provocation and theft has not been recognized as legally adequate provocation, even if Hicks was part of the taking.

Maryland Pattern Jury Instruction (Crim.) 4:17.4 (C), in pertinent part, states:

Killing in hot blooded response to legally adequate provocation is a mitigating circumstance. In order for this mitigating circumstance to exist in this case, the following five factors must be present:

(1) **the defendant reacted to something in a hot-blooded rage**, that is, the defendant actually became enraged;

(2) **the rage was caused by something the law recognizes as legally adequate provocation**, that is, something that would cause a reasonable person to become enraged enough to kill or inflict serious bodily harm. The only act that you can find to be adequate provocation under the evidence in this case is [a battery by the victim upon the defendant] [a fight between the victim and the defendant] [an unlawful warrantless arrest of the defendant by the victim, which the defendant knew or reasonably believed was unlawful];

(3) **the defendant was still enraged when [he] [she] killed the victim**, that is, the defendant’s rage had not cooled by the time of the killing;

(4) **there was not enough time between the provocation and the killing for a reasonable person’s rage to cool**; and

(5) **the victim was the person who provoked the rage**.

(emphasis supplied). Chief Judge Alan Wilner, writing for this Court, noted the “austerely limited scope of the defense”:

[T]he provocation must be one the law is prepared to recognize as minimally sufficient, in proper circumstances, to overcome the restraint normally expected from reasonable persons. There are many “slings and arrows of

outrageous fortune” that people either must tolerate or find an alternative way, other than homicide, to redress.

Dennis v. State, 105 Md. App. 687, 695 (1995), *cert. denied*, 340 Md. 500 (1995). Theft of one’s property by another has not been recognized as a legally adequate basis for provocation. We can find no such case that supports its recognition as legally adequate, and Warrick does not point to one. We agree with the State, in that as far as we can tell, legally adequate provocation to support the instruction of hot-blooded mitigation may be found in cases of mutual affray, assault, injury to relatives (*Dorsey v. State*, 29 Md. App. 97, 103, 105 (1975) (in dicta), *aff’d*, 278 Md. 221 (1976)), unlawful arrest, and “anything the natural tendency of which is to produce passion in ordinary [people].” *Johnson v. State*, 256 Md. App. 518, 524 (2025); *Christian v. State*, 405 Md. 306, 322–23 (2008).

Here, putting aside the factual issue of whether Warrick was angry at Johnson or Hicks for taking his property, no reasonable person could endorse the notion that the theft of one’s property should permit someone to kill the suspected thief. Maryland law has rejected that proposition. In related settings, appellate decisions have recognized that a person may use reasonable force, but not death or serious bodily harm, to prevent the theft of property. *Dashiell v. State*, 214 Md. App. 684, 701–02 (2013) (citing *Vancherie v. Siperly*, 243 Md. 366, 371 (1966)) (quoting Restatement (Second) of Torts § 77 (1965)). We cannot condone expanding legally adequate provocation to include theft and allow the intentional killing of a human being to be reduced to manslaughter.

3. Imperfect Self-Defense

In his final sub-claim of error, Warrick maintains the circuit court fatally erred in denying him an imperfect self-defense instruction. His theory, more clearly articulated in his brief than during the trial, is that he was fearful of imminent death or serious bodily harm from Hicks who was “armed and about to shoot him.” [Yellow Brief at 12]. He adds that he stabbed Hicks with a knife to defend himself against Hicks’ imminent use of a gun. Warrick asserts that although his belief may objectively be unreasonable, he subjectively believed it, as reflected in Warrick’s statement to Detective Johnson, discussed later. Warrick contends his subjective belief constitutes “some evidence” to generate an imperfect self-defense instruction.

Perfect self-defense requires the following:

- (1) The accused must have had reasonable grounds to believe himself in apparent imminent or immediate danger of death or serious bodily harm from his assailant or potential assailant;
- (2) The accused must have in fact believed himself in this danger;
- (3) The accused claiming the right of self-defense must not have been the aggressor or provoked the conflict; and
- (4) The force used must have not been unreasonable and excessive, that is, the force must not have been more force than the exigency demanded.

Porter v. State, 455 Md. 220, 234–35 (2017). If each element is proven, then the accused is legally excused for the killing; it is an absolute defense. *Jarvis v. State*, 487 Md. 548, 555 (2024).

Imperfect self-defense is not a complete defense to the crime charged; it mitigates what would be an intentional crime to an unintentional one. As the Supreme Court of Maryland stated in *Jarvis*:

Where perfect self-defense requires a defendant’s subjective belief regarding imminent danger to be reasonable, imperfect self-defense obviates that requirement, mandating a defendant to show “that he [or she] actually believed that he [or she] was in danger, even if that belief was unreasonable.” Furthermore, while perfect self-defense requires that the force used be objectively reasonable, imperfect self-defense allows for an unreasonable amount of force, so long as the defendant subjectively believed such force was necessary.

Id. at 556 (citations omitted).

With regard to jury instructions on imperfect self-defense, the defendant bears the initial burden of “producing ‘some evidence’ on the issue of mitigation or self-defense” to entitle him or her to a jury instruction. *Dykes*, 319 Md. at 215 (quoting *Simmons v. State*, 313 Md. 33, 40 (1988)). The defendant must meet this burden as to each element of the defense, though appellate decisions have consistently held this burden is a “fairly low hurdle[.]” *Arthur v. State*, 420 Md. 512, 526 (2011). Indeed, the “some evidence” standard need not even rise to the level of a preponderance. *State v. Martin*, 329 Md. 351, 359 (1993). A determination of whether “some evidence” exists is viewed in the light most favorable to the requesting party, both the source of that evidence and its weight compared to the other evidence presented at trial are immaterial. *Id.*

Warrick declined to testify at trial. Consequently, we have no direct testimony from him as to his subjective belief about Hicks’ supposed dangerousness at the time of the encounter. A defendant’s state of mind “must be determined by a consideration of his [or

her] acts, conduct and words” but “[o]rdinarily,” the source of that evidence “will be testimony by the defendant.” *Martin*, 329 Md. at 361, 363 (cleaned up). The record is devoid of any direct testimony from any witness on this point.

Instead, Warrick asserts he articulated his concerns about Hicks’ supposed dangerousness in his statement to Detective Johnson. But Warrick seems to be talking about an event that occurred sometime before the murder at another location.

WARRICK: It was self-defense.

DET. JOHNSON: What’s self-defense about it? You’ve to tell me the self-defense part, you just can’t make it up. So you’re scared of Justin, is that right? Are you scared of her? It must be something at that point. What makes it self-defense? You’re the one that said self-defense, that’s why I’m asking. Explain to me how and why it is self-defense?

WARRICK: (Inaudible) at Dash In, (inaudible) at Dash In?

DET. JOHNSON: Which Dash In?

WARRICK: Bryans Road.

DET. JOHNSON: Bryans Road. So that’s the one across the street from McDonald’s?

WARRICK: And CVS.

DET. JOHNSON: Okay, what happened there?

WARRICK: (Static, inaudible) to get away from them, but they picked me back up.

DET. JOHNSON: Okay? What do you mean, they picked you back up?

WARRICK: I walked away.

DET. JOHNSON: Okay.

WARRICK: And it had them on camera that I was asleep and shit.

DET. JOHNSON: Okay, and what were they doing?

WARRICK: I don't know, (inaudible).

DET. JOHNSON: I will go there and go and get the camera from them, but what were they doing?

WARRICK: They was (inaudible).

DET. JOHNSON: Stealing inside or stealing outside?

WARRICK: (Inaudible.)

DET. JOHNSON: Okay.

WARRICK: And that's when (inaudible) driving me to their car.

DET. JOHNSON: Back to which car?

WARRICK: To their car.

DET. JOHNSON: Okay, and then what happened?

WARRICK: (Inaudible.)

DET. JOHNSON: They was trying to kill me.

WARRICK: Okay.

[discussion between prosecutor and witness omitted]

DET. JOHNSON: And how, what did they do to try to hurt you? What did they do?

WARRICK: I didn't do nothing

(inaudible).

DET. JOHNSON: Okay.

WARRICK: I was scared.

DET. JOHNSON: Okay, why were you scared?

WARRICK: Because (static, inaudible).

DET. JOHNSON: So after that, when you guys go back to your aunt's house, where is Justin at?

WARRICK: I don't know, I don't know where he at.

DET. JOHNSON: Okay, but just you and Jasmine [Hicks]?

WARRICK: Yeah, she drove me to the house.

DET. JOHNSON: Okay.

We agree with the State's assessment of this information. It seems Warrick is talking about a separate incident at a location different from the murder. It is hard to say when this incident occurred, but it happened at the Dash-In on Bryans Road—not at 2325 Woodberry Drive.

While this might not make a difference for an imperfect self-defense instruction, the fact Warrick cannot remember what happened afterwards does. According to Warrick, Hicks drove him to Woodberry Drive after which he says he did not remember what happened. Consequently, there is no evidence of his subjective state of mind once he and Hicks are together in the front lawn of the house. In contrast, the surveillance video depicts an enraged Warrick demanding Hicks give him his property. It is hard to square Warrick's supposed fear that Hicks would imminently shoot him at that moment with his actions and words as depicted in the video. We conclude Warrick did not produce some evidence of

his subjective and unreasonable fear sufficient to require the court give an imperfect self-defense instruction. Perceiving no abuse of discretion, we affirm.

**JUDGMENT OF THE CIRCUIT COURT
FOR CHARLES COUNTY AFFIRMED.
APPELLANT TO PAY THE COSTS.**