

Circuit Court for Baltimore City
Case No. 123012008

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1458

September Term, 2024

RUDOLPH RIDDICK

v.

STATE OF MARYLAND

Berger,
Kehoe, S.,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: May 4, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This case arises following the conviction of appellant, Rudolph Riddick (“Riddick”) in the Circuit Court for Baltimore City. On August 16, 2022, two men exited a vehicle and fired multiple shots at an individual, Dwayne Thompson. The driver of the vehicle then hit Thompson with the vehicle. Riddick was later identified as the driver of the vehicle after he was arrested following a separate incident on October 21, 2022. Riddick was charged with possession of a handgun and possession of controlled dangerous substances in relation to the October 2022 incident. The handgun from the October 2022 arrest was consistent with one of the firearms used during the August 2022 incident. In connection with the August 2022 incident, Riddick was charged with multiple offenses, including conspiracy to murder; conspiracy to wear, carry, transport of a handgun; and conspiracy to firearm use in a crime of violence. At trial, the circuit court admitted evidence of Riddick’s October 2022 arrest for possession of a handgun. Riddick was convicted and sentenced to sixty years, all but thirty years suspended, and five years’ probation. This appeal followed.

QUESTIONS PRESENTED

Riddick presents one question for our review, which we have rephrased as follows:¹

Whether the circuit court abused its discretion in admitting evidence of Riddick’s October 2022 arrest for possession of a handgun at his trial relating to the August 2022 incident.

Finding no error, we affirm.

¹ Riddick phrased the question as follows:

Did the court err in admitted other crimes evidence?

BACKGROUND

The August 2022 incident

On August 16, 2022, a shooting occurred in Baltimore and was captured on security video. A white Toyota Corolla was driving, suddenly stopped, and two men exited the vehicle and began shooting at Dwayne Thompson. The two shooters were later identified as Dartagnan Smith and Antoine Mayo. At some point, a BMW drove up to the scene, and the driver opened fire, hitting Smith. The driver of the BMW was never identified. The driver of the Toyota remained in the vehicle throughout the shooting. After the shots fired by Smith and Mayo missed Thompson, the driver of the Toyota used the vehicle to chase and hit Thompson. The driver of the Toyota then fled from the vehicle. A bystander, James Daniels, was grazed during the exchange of gunshots. Thompson was taken via ambulance to a nearby hospital.

Police recovered camera footage of the incident and received additional footage from nearby residential cameras. The three individuals from the Toyota left the area on foot. The video footage purportedly showed them discarding items into bushes. Based on the clothing one of the men was wearing in the video footage, police deduced that the man was the driver of the Toyota. Police created flyers with still images from the surveillance footage in an effort to identify the individuals that fled from the Toyota.

Twelve cartridge cases and bullet fragments were recovered from the scene, and it was determined that three separate guns were used in the shooting. One of the guns was identified as a 40 caliber Smith & Wesson. Police also recovered 24 finger and palm prints from the Toyota. Three of the prints were matched to Riddick. No arrests were made.

The October 2022 incident

On October 21, 2022, Detective Alec O’Dell and his partner arrested Riddick in an unrelated incident. Detective O’Dell and his partner were patrolling an area in Baltimore City in an unmarked police car. Detective O’Dell saw an unnamed man “look[] in the direction of [the] car and appear[] to alert [Riddick] that police were in the area.” Riddick attempted to distance himself from the police vehicle, turning down an alley and running. Detective O’Dell observed that while Riddick was running, he was “holding his front waistband with his right hand.” Holding the waistband, to Detective O’Dell, is “a clear indication to [him] that an individual is armed, concealing a firearm in their waistband.” Detective O’Dell and his partner pursued Riddick. They lost sight of Riddick for a few seconds, and when he reappeared, Detective O’Dell observed that Riddick was “no longer displaying characteristics of an armed person.” On Detective O’Dell’s body camera footage of the incident, he is heard stating, “I think he threw it.” Riddick was apprehended, and although a search of his person did not uncover a firearm, police did find drugs.

Police retraced Riddick’s flight path, and found drugs discarded in the middle of the street. The drugs were matched to the drugs found on Riddick’s person following his arrest. On a different street, but still along Riddick’s flight path, police recovered a handgun from under a parked vehicle. Riddick was charged with possession of controlled dangerous substances and possession of a handgun. Riddick ultimately pleaded guilty to the drug possession, and the State did not pursue the firearm possession charge.

The handgun recovered from the October 2022 incident was entered into the National Integrated Ballistic Information Network (“NIBIN”), which prompted a hit

linking the gun to cartridge casings recovered from the scene of the August 2022 shooting. On January 6, 2023, Detective O’Dell was shown still shots from the surveillance footage gathered during the investigation of the August 2022 shooting. Detective O’Dell identified one of the individuals from the August 2022 surveillance footage as Riddick, who Detective O’Dell was familiar with following the October 2022 incident.

Regarding his alleged participation as the driver in the August 2022 shooting, Riddick was charged with attempted first-degree murder; attempted second-degree murder; first-degree assault; wear, carry, transport of a handgun; firearm use in a crime of violence; conspiracy to first-degree murder; conspiracy to first-degree assault; conspiracy to wear, carry, transport of a handgun; and conspiracy to firearm use in a crime of violence.

The Circuit Court proceedings

Riddick filed a motion in limine to preclude the introduction of the October 2022 handgun offense at his trial for the August 2022 shooting. On June 24, 2024, the circuit court heard arguments on the motion in limine. The following ensued:

THE COURT: Right, I think I understand what the issue is. There’s this three-part test that first, it has to be shown that it’s being used for one of the exceptions provided for in 404(b). It sounds like the Defense is not contesting that the State is not using that for one of the permissible purposes, which is identity. You would agree that if your client is linked to that gun, the State could use that, assuming they can get over the third prong, to show your client’s identity, subject to whatever you would make of it in cross-examination.

[COUNSEL FOR RIDDICK]: I think that’s the only flight path they could take.

Before hearing arguments from the parties regarding the admissibility of the October 2022 handgun arrest, the circuit court conducted voir dire. Following the selection of the jury, the circuit court heard arguments on the motion in limine. The circuit court again articulated its understanding of the evidentiary issue as follows:

As I understand, the events at issue in this trial occurred in August of 2022 and involved, among other things, the discharging of a firearm. There were also charges brought against Mr. Riddick in relation to -- I think there were handgun and related CDS charges stemming from events that occurred in October of 2022.

In May of 2023, Mr. Riddick plead to time served for a CDS possession charge before Judge Barmore, he didn't plead to any handgun charges. The plea was to CDS possession. The State is presumably intending to put on evidence suggesting that the gun used in the October 2022 events was consistent with, or the bullets recovered from, were consistent with the gun used in the August 2022 events that are at issue in this trial.

So again, tell me what I'm missing, if anything. But the issue for purposes of this 404(b) hearing is whether there's clear and convincing evidence linking Mr. Riddick to the gun used in the October 2022 events. Because if there is, then I understand that what the State wants to do is to use that to show that he was also involved -- it's identity. He is the one who -- he was at least somehow involved with the August 2022 shooting and events.

The State responded: "From the State's perspective, Judge, yes, that is, as far as the exceptions that are listed in the [*Cross*] case, identity would be the exception that the State is proffering applies here to establish his involvement in the August 16th shooting." Riddick did not argue that the evidence was being offered for an impermissible purpose.

The parties each proceeded to make arguments regarding whether the State could establish by clear and convincing evidence that Riddick possessed the handgun in relation

to the October 2022 incident. Riddick argued that he could not be linked to the firearm at all because it was not found on his person, no witnesses ever saw the firearm on his person. Riddick further argued that there was no reasonable articulable suspicion to stop Riddick at all. The State argued that Detective O’Dell’s observation of Riddick as displaying characteristics of an individual carrying a firearm, then suddenly no longer displaying those characteristics, in conjunction with the later recovery of the firearm from the flight path, was sufficient to surmount the clear and convincing evidence threshold. Although Riddick contended that “all handgun related counts were dropped due to the inability of the State that established that Mr. Riddick possessed a handgun,” the State argued that the decision to drop the charge was likely due to an arranged agreement to get Riddick to plead guilty to the drug possession charge.

Detective O’Dell offered testimony at the motions hearing regarding the October 2022 incident as described above. Detective O’Dell also testified regarding various characteristics that would indicate to him that an individual is carrying a firearm, and stated: “individuals running while concealing a firearm in their waistband, oftentimes run holding the firearm with one -- more often than not, it’s with their dominant hand that they are holding a firearm with while the other arm swings freely.” When asked by the court, Detective O’Dell estimated that 30% of the time when he sees someone displaying the characteristics of an armed person, the person turns out not to be armed.

The circuit court found as follows:

All right, I do find by clear and convincing evidence that Mr. Riddick is connected to the handgun at issue in the October events. I take note of the fact that it seems undisputed that Mr.

Riddick was -- law enforcement lost sight of Mr. Riddick for a handful of seconds. I don't need to enumerate exactly how many, but a handful of seconds, covering only a limited period -- only a limited amount of real estate. And it is in that real estate that the handgun is found.

If that were all that I had, it would be a close call. But we also have drugs that were recovered, that matched the drugs that were recovered from Mr. Riddick, discarded in the middle of the road. I think any reasonable fact finder would determine that Mr. Riddick discarded those drugs, which then makes it significantly more likely that the person who discarded the drugs is the one who discarded the handgun.

This may well highlight some delta between clear and convincing evidence and evidence beyond a reasonable doubt, but I don't need to find beyond a reasonable doubt. I only need to find by clear and convincing evidence, which I do find.

The circuit court then gave defense an opportunity to argue that evidence of the October 2022 handgun charge was unfairly prejudicial to Riddick. Defense argued that the evidence would only demonstrate Riddick's criminal propensity and failed to establish his identity as a participant in the August 2022 shooting and was therefore unduly prejudicial. The circuit court acknowledged that the evidence could be prejudicial, stating: "But there's no doubt that it's prejudicial, the same way that any prior bad acts evidence is prejudicial." The circuit court however disagreed that the evidence was unfairly prejudicial to Riddick and allowed the State to introduce evidence of the October 2022 arrest for possession of a handgun.

Trial began the following day. The parties stipulated to a set of facts regarding the October 2022 incident, and the jury heard as follows:

On October 21st, 2022, the Defendant was charged with the possession of a Sig Sauer, P250, 40-caliber Smith & Wesson

pistol in the 1600 block of Cole Street in Baltimore City, Maryland. Officers observed the Defendant exhibiting characteristics of an armed person. And while making further observations of the Defendant, he ran, and the officers pursued him on foot, down the sidewalk of the 1600 block of Cole Street.

There came a time during the pursuit that the officers no longer observed the Defendant displaying characteristics of an armed person. Moments later, he was apprehended in the nearby alley and taken into custody. The officers lost [sight] of the Defendant for a few seconds and the Defendant was not observed throwing anything from his person. After tracing the Defendant's path of travel and canvassing the area where the Defendant stopped displaying characteristics of a[n] armed person, officers recovered the firearm underneath the rear right bumper of a parked vehicle, next to the right tire.

Zoe Krohn, a Forensic Scientist in the Firearms Analysis Unit for the Baltimore City Police Crime Lab, was then admitted as an expert in firearms identification, ammunition, and comparison. Ms. Krohn testified that there were “12 cartridge cases, one bullet fragment and one gun” recovered from the scene of the August 2022 shooting. Ms. Krohn further testified that from the evidence recovered from the August 2022 shooting, “there were three cartridge cases and one bullet fragment that were consistent with having been fired from the Sig Sauer” later recovered from the October 2022 incident.

Detective O'Dell testified that he was shown the surveillance footage taken of Riddick following the August 2022 shooting and identified the individual in the photo as Riddick. O'Dell testified that he was familiar with Riddick because he had encountered Riddick on several occasions. O'Dell testified that he was involved in a handgun arrest on October 21, 2022, and that Riddick was “arrested and associated with the handgun [O'Dell]

recovered” which was a Sig Sauer P250 handgun. No further testimony or evidence was offered in relation to the October 2022 incident.

Riddick was convicted of conspiracy to commit first-degree murder of Thompson, conspiracy to wear, carry and transport a handgun on a person, and conspiracy to use a firearm in the commission of a felony or a violent crime. For conspiracy to murder, Riddick was sentenced to sixty years, all but 30 years suspended, followed by five years of supervised probation. This appeal followed.

DISCUSSION

I. Relevant law and standards of review

Maryland Rule 5-404(a) generally prohibits the introduction of character evidence “to prove that the person acted in accordance with the character or trait on a particular occasion.” Maryland Rule 5-404(b) provides:

Evidence of other crimes, wrongs, or acts . . . is not admissible to prove the character of a person in order to show action in the conformity therewith. Such evidence, however, may be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity, absence of mistake or accident, or in conformity with Rule 5-413.

“The ‘overarching concern’ of the rule is to prevent conclusions that a ‘defendant is a “bad person” and, therefore, should be convicted of the charges for which the defendant is on trial for that reason, rather than based on evidence specific to those charges.’” *Crawford v. State*, 265 Md. App. 374, 393 (2025) (quoting *Browne v. State*, 486 Md. 169, 187-88 (2023)). In *State v. Faulkner*, the Supreme Court of Maryland laid out the three-part analysis for admitting other crimes evidence pursuant to Maryland Rule 5-404(b). For

the other crimes evidence to be admissible, “(1) the evidence must be specially relevant; (2) the defendant’s involvement must be proved by clear and convincing evidence; and (3) the necessity for and probative value of the evidence must not be substantially outweighed by the risk of unfair prejudice.” *Browne*, 486 Md. 169, 190 (2023) (citing *State v. Faulkner*, 314 Md. 630, 634-35 (1989)).

To satisfy the “specially relevant” requirement, the evidence must have “substantial relevance to a contested issue other than propensity[.]” *Browne*, 486 Md. at 190. In other words, the evidence must fit into an exemption, such as the non-propensity exceptions provided in Maryland Rule 5-404(b): “proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity, [or] absence of mistake or accident.” Evidence may be admitted under the identity exception if the evidence shows, for example, “that on another occasion the defendant was wearing the clothing worn by or was using certain objects used by the perpetrator of the crime at the time it was committed.” *Cross v. State*, 282 Md. 468, 477 (1978). The evidence must be introduced solely for addressing a non-propensity exception, however, as “even where a purpose identified in the Rule is implicated, a court may not admit other bad acts evidence if the primary inference to be drawn from it depends on propensity reasoning.” *Browne*, 486 Md. at 191. “Whether bad act evidence demonstrates one of these alternate purposes is a legal determination and does not involve any exercise of discretion by the trial court; we review this determination *de novo*.” *Smith v. State*, 218 Md. App. 689, 710 (2014) (internal quotations omitted).

Next, the circuit court must consider “whether the accused’s involvement in the other crimes is established by clear and convincing evidence.” *Faulkner*, 314 Md. at 634.

We review the trial judge’s finding of clear and convincing evidence of the accused’s involvement in other bad acts for sufficiency of the evidence.” *Browne*, 486 Md. at 194 (citing *Faulkner*, 314 Md. at 635). “In conducting this review on appeal, we look only at the legal question of whether there was some competent evidence which, if believed, could persuade the fact finder as to the existence of the fact in issue.” *Thomas v. State*, 213 Md. App. 388, 411 (2013) (internal quotations omitted).

Finally, the circuit court must “weigh the necessity for and probative value of the evidence against the danger of unfair prejudice that would result from its admission.” *Browne*, 486 Md. at 193. Unfair prejudice involves more than damage to a party’s case. *Weiner v. State*, 55 Md. App. 548, 555 (1983). Rather, it means “an undue tendency to persuade the jury to decide the case on an improper basis, usually an emotional one.” *Id.* “We review the circuit court’s balancing of probative value against undue prejudice for abuse of discretion.” *Vigna v. State*, 241 Md. App. 704, 727 (2019). “Reversal of the circuit court is reserved only for the ‘rare and bizarre exercises of discretion that are, in the judgment of the appellate court, not only wrong but flagrantly and outrageously so.’” *Crawford*, 265 Md. App at 394 (quoting *Cousar v. State*, 198 Md. App. 486, 517-18 (2011)).

II. The circuit court did not err in permitting the State to introduce evidence of Riddick’s October 2022 arrest for possession of a firearm.

Riddick argues on appeal that the circuit court erred in permitting the State to introduce evidence regarding his October 2022 arrest for possession of a firearm. Riddick contends that this constituted impermissible other crimes evidence and alleges that the

court erred all three steps of the Maryland Rule 5-404(b) analysis. First, he contends that the State failed to show by clear and convincing evidence that Riddick possessed the gun recovered in October 2022. Riddick further argues that the gun was not specially relevant to proving Riddick’s identity because it was not sufficiently tied to the August 2022 shooting, and even so, the State never alleged that Riddick was one of the August 2022 shooters. Finally, Riddick argues that any probative value of the October 2022 arrest was significantly outweighed by the unfair prejudice to Riddick. We shall address each of these contentions below.

A. The court did not err in finding that the October 2022 handgun arrest had special relevance to the August 2022 shooting.

First, we shall address Riddick’s contention that the circuit court erred in determining that the October 2022 handgun arrest was specifically relevant to proving Riddick’s identity in the August 2022 shooting. As noted above, during his argument before the circuit court on the motion in limine, Riddick acknowledged that the State was offering the evidence to establish his identity as a participant in the August 2022 shooting, and acknowledged that introduction of the evidence would establish Riddick’s identity. On appeal, Riddick argues that the handgun was not specially relevant to prove his identity as an individual involved in the August 2022 shooting because the State failed to prove that the gun recovered from the October 2022 incident was one of the guns used in the August 2022 shooting. Even so, Riddick contends that the State never claimed that Riddick was one of the shooters or possessed the handgun in August 2022. The State responds that it was not required to prove, however, that the gun recovered in October 2022 was the same

gun as was used in the August 2022 shooting. Rather, the State argues, the evidence was merely required to be relevant to proving Riddick’s identity.

Evidence is relevant if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Maryland Rule 5-401. Special relevance, however, “requires more than being ‘technically or minimally relevant’; in addition to pertaining to an issue other than propensity, the issue must be genuinely contested and the evidence must be substantially relevant to it.” *Browne*, 486 Md. at 192 (quoting *Emory v. State*, 101 Md. App. 585, 602 (1994)). “What matters is that the evidence of the ‘other crimes,’ however it might be categorized or labeled, enjoyed a special or heightened relevance in helping to establish the identity of the appellant as the perpetrator of the crimes on trial.” *Oesby v. State*, 142 Md. App. 144, 163 (2002). As noted above, however, if the evidence is ostensibly offered for non-propensity purposes, such as identity, but in actuality tends to suggest the defendant’s criminal propensity, the evidence is not admissible. *Browne*, 486 Md. at 191. See also *Harris v. State*, 324 Md. 490, 498 (1991) (noting that although intent is a permissible non-propensity exception, this “does not mean, however, that whenever intent is an issue in a case, evidence of a prior bad act that is relevant to intent is automatically admissible. If the relevance of the prior bad act is limited to a showing of general criminal propensity, the evidence should be excluded.”).

This Court’s recently reported opinion in *Jordan v. State* is particularly instructive on the issue of identity. *Jordan v. State*, 268 Md. App. 432 (2026). In *Jordan*, a United States Postal Service (“USPS”) worker was robbed at gunpoint, and her unique USPS

“arrow key” was stolen and later used in a series of mailbox thefts. *Id.* at 442. Investigators recovered video footage of thefts from a large mailbox at a post office, and identified three vehicles being used in the thefts, two of which were rented to or registered by individuals related to Jordan. *Id.* at 443-44. Both vehicles were abandoned. *Id.* at 445. Police found one vehicle on a dead-end street, recovered the stolen arrow key from the passenger seat, and located stolen mail in a nearby dumpster. *Id.* The second vehicle was abandoned at a grocery store, and two additional arrow keys were recovered. *Id.* Jordan was charged with multiple crimes arising from the armed robbery of the USPS worker, and at trial, the State introduced evidence of the two additional arrow keys.² *Id.* at 445-46. Jordan appealed, arguing that the introduction of the other arrow keys was impermissible criminal propensity evidence. *Id.* at 441-42.

We rejected Jordan’s contentions. Indeed, we agreed with the circuit court that the evidence of the other arrow keys was “specially relevant to prove Jordan’s identity, by establishing his motive for the robbery” *Id.* at 464. We further noted that the identity of Jordan as a participant in the crime was contested, as all the evidence of his participation was circumstantial. *Id.* Further, we observed that the evidence that Jordan abandoned the vehicle with the other arrow keys tended to establish his identity as it related to the robbery

² Jordan was not the individual who robbed the USPS worker at gunpoint; the State’s theory was that Jordan was the driver of a vehicle that followed the USPS worker. *Jordan*, 268 Md. App at 446. The passenger of the vehicle pleaded guilty to robbery with a deadly weapon. *Id.*

of the USPS worker because it made it more likely Jordan was the link between the two vehicles rather than his accomplices.³ *Id.* at 471.

Similarly, the identity of Riddick as a party involved in the August 2022 shooting was contested. The charges Riddick faced related to the August 2022 shooting necessarily required proving that he was present at the scene. Riddick’s defense emphasized throughout the trial that the charges relating to the August 2022 shooting relied heavily on circumstantial evidence, and argued that the State’s evidence was insufficient to prove that Riddick was the driver of the Toyota Corolla. Defense counsel acknowledged that the State was offering evidence of the October 2022 arrest for possession of a handgun for the purpose of establishing Riddick’s identity. The introduction of the October 2022 handgun possession arrest was solely for the purpose of connecting the gun to Riddick, and permitting the jury to make the inference that Riddick was therefore also connected to the August 2022 shooting.

Riddick emphasizes on appeal that the State was unable to prove that the gun used in the August 2022 was the same gun that was recovered in October 2022. As the State points out, however, it was not required to definitively prove that Riddick possessed the gun. Under *Abruquah v. State*, 483 Md. 637 (2023), the firearms expert, Ms. Krohn, testified that the casing recovered from the scene of the August 2022 shooting were consistent with the handgun recovered in October 2022. Although not absolute proof, this

³ One accomplice assisted Jordan in the armed robbery. *Jordan*, 268 Md. App. at 446. A different accomplice participated in the mail theft with Jordan. *Id.* The accomplices did not know each other. *Id.* at 447.

evidence was probative that Riddick was involved in the August 2022 shooting, and was sufficiently probative to be relevant evidence for the purposes of Maryland Rule 5-401 because it tended to make it more probable that Riddick was connected to the August 2022 shooting. *See also Smith v. State*, 423 Md. 573, 590–91 (2011) (“An item of evidence, being but a single link in the chain of proof, need not prove conclusively the proposition for which it is offered. . . . It is enough if the item could reasonably show that a fact is slightly more probable than it would appear without the evidence.”).

Accordingly, the circuit court did not err in concluding that evidence of the October 2022 arrest was admissible for the non-propensity exception of demonstrating Riddick’s identity.

B. The court did not err in finding that the State established Riddick’s October 2022 possession of the handgun by clear and convincing evidence.

Next, we address Riddick’s argument that the circuit court erred in finding by clear and convincing evidence that Riddick possessed the handgun in October 2022. Riddick argues that he was never seen with a gun or throwing a gun in relation to the October 2022 incident. Riddick argues that although the drugs found on his person matched drugs discarded along his flight path, the gun was recovered from a different street than the drugs. Riddick further contends that although he was charged with possession of a handgun in relation to the October 2022 incident, the State declined to pursue the charge. As a result, “the State, on its own, decided that the evidence of Mr. Riddick’s gun possession was too weak to move forward.” The State contends that the testimony that Riddick was first observed presenting characteristics of an armed person and was later observed no longer

presenting such characteristics, and the recovery of the handgun along his flight path were sufficient to establish Riddick’s possession of the handgun during the October 2022 incident by clear and convincing evidence.

“Clear and convincing evidence means that the witness to a fact must be found to be credible, and that the facts to which [he] ha[s] testified are distinctly remembered and the details thereof narrated exactly and in due order, so as to enable the trier of the facts to come to a clear conviction, without hesitance, of the truth of the precise facts in issue.” *Cousar*, Md. App. at 514 (quoting *Goroum v. Rynarzewski*, 89 Md. App. 676, 684-85 (1991)) (second alteration in original).

Detective O’Dell did just that. Detective O’Dell testified that he first witnessed Riddick displaying characteristics of an armed person, by holding his front waistband when Riddick fled from police during the October 2022 incident. Detective O’Dell testified that he lost sight of Riddick for a very brief period, and when he spotted Riddick again, he was “no longer displaying characteristics of an armed person.” Audio from Detective O’Dell’s body camera footage of the incident recorded Detective O’Dell stating “I think he threw it” when he observed Riddick again, indicating that Detective O’Dell believed Riddick threw the handgun so that it would not be found on his person. When officers retraced Riddick’s flight path, they found drugs discarded in the middle of the street which matched the drugs found on Riddick’s person, and close by also found the handgun at issue under a car. Although the discarded drugs and handgun were not found in exactly the same spot, they were nearby enough that a reasonable factfinder could find that Riddick discarded

both the drugs and the handgun. The circuit court found this was established by clear and convincing evidence.

Riddick takes issue with Detective O’Dell’s testimony, in which Detective O’Dell estimated that when he has seen an individual that he believes is displaying characteristics of an armed person, a handgun has not been recovered approximately 30 percent of the time. Riddick argues that a 70 percent “accuracy rate cannot reasonably be considered clear and convincing proof.” In this instance, however, a handgun was recovered along Riddick’s flight path. As the circuit court noted, however, the clear and convincing standard is a lower threshold than beyond a reasonable doubt. The circuit court found by clear and convincing evidence that Riddick was “connected to the handgun at issue in the October events.” The court specifically found that “any reasonable factfinder would determine that Mr. Riddick discarded those drugs, which then makes it significantly more likely that the person who discarded the drugs is the one who discarded the handgun.”

We review the circuit court’s determination that there was clear and convincing evidence that the defendant was involved in the other crime for sufficiency of the evidence. *Faulkner*, 314 Md. at 634. Thus, we only inquire “whether there was some competent evidence which, if believed, could persuade the fact finder as to the existence of the fact in issue.” *Thomas*, 213 Md. App. 411 (cleaned up). We are in complete agreement with the circuit court that the State presented clear and convincing evidence that Riddick was in possession of the handgun during the October 2022 incident.

Notably, Riddick argues that because the State dropped the handgun possession charges, it implicitly admitted that the evidence of possession was “too weak to move

forward.” The State disagrees, contending that the charges may have been dropped as part of Riddick’s plea deal when he pleaded guilty to the drug possession charges from the October 2022 incident. As the circuit court noted, clear and convincing evidence is a lower standard than beyond a reasonable doubt. Perhaps the State determined that it would not be able to prove beyond a reasonable doubt that Riddick possessed the handgun; there is no suggestion, however, that the State acknowledged that it could not meet the clear and convincing standard. The State’s trial strategy in deciding not to pursue the handgun possession charge is not evidence that Riddick never possessed the handgun. Accordingly, the circuit court did not err in determining that there was clear and convincing evidence that Riddick was in possession of the handgun on October 21, 2022.

C. The court did not err in determining that introducing the October 2022 handgun arrest did not subject Riddick to unfair prejudice.

Finally, we consider Riddick’s contention that he was unfairly prejudiced by the introduction of the October 2022 handgun arrest, and that this prejudice outweighed any probative value that would result from its introduction. Riddick argues that the jury heard that Riddick ran from police and may have been in possession of a handgun. Accordingly, Riddick argues, the jury “perhaps convicted him based on the improper thinking that he is a bad person with criminal propensity,” rather than because the State proved beyond a reasonable doubt that he committed any crimes in relation to the August 2022 shooting. The State argues that the circuit court properly found that the probative value of the October 2022 incident outweighed any prejudice to Riddick. The State maintains that the statement was minimally prejudicial because the jury only heard that Riddick was charged with

possessing a handgun “consistent with” the gun used in the August 2022 shooting. The statement did not conclude that Riddick possessed the handgun, nor did it mention that it was the same gun that was used in the August 2022 shooting.

It is well settled that after the circuit court determines that the other bad acts evidence is relevant, the court may admit the evidence unless it determines that the probative value of the evidence is substantially outweighed by the danger of unfair prejudice to the defendant. *Browne*, 486 Md. at 193. Almost all evidence introduced against a defendant is prejudicial in some way. In discussing other bad acts evidence, this Court has noted:

The “unfair” component of the prejudice is not the tendency of the evidence to prove the identity of the defendant as the perpetrator of the crimes. What is “unfair” is only the incremental tendency of the evidence to prove that the defendant was a “bad man.” As we balance, therefore, the emphasis must be not on the noun “prejudice” but on the qualifying, and limiting, adjective “unfair.”

Oesby, 142 Md. App. at 166. “Under our established framework for admitting evidence under Maryland Rule 5-404(b), courts must ‘carefully weigh the *necessity for* and probativeness’ of the other bad acts against the unfair prejudice.” *Crawford*, 265 Md. App. 397 (quoting *Faulkner*, 314 Md. at 640-41). Thus, the major considerations of the circuit court must be the necessity of the introduction of the other criminal acts evidence to proving the State’s case, weighed against the danger of the evidence unfairly prejudicing the defendant to the jury as a “bad man” who commits crimes.

Here, the circuit court disagreed with Riddick that evidence of the October 2022 handgun possession was unfairly prejudicial. In doing so, the circuit court again addressed

identity, and emphasized Riddick’s concession that the October 2022 handgun arrest established Riddick’s identity in connection with the August 2022 shooting. The evidence of Riddick’s October 2022 arrest for possession of the handgun was necessary because it indicated that Riddick was connected to a handgun consistent with one of the firearms used in the August 2022 shooting. The evidence did far more than indicate that Riddick was a “bad man.” Instead, it was the evidence that necessarily linked Riddick to the August 2022 shooting.

As the State emphasizes in its brief, the statement made to the jury regarding the October 2022 arrest was “succinct and unremarkable.” The statement only indicated that Riddick was charged with possession of a handgun that was consistent with one of the handguns used in the August 2022 shooting. The statement did not mention that Riddick actually possessed the handgun, or that it was definitively the same handgun used in the August 2022 shooting or make any mention of the drug possession charge to which Riddick pleaded guilty. The circuit court properly deduced that the October 2022 arrest was not being introduced to unfairly persuade the jury that Riddick was a “bad man” with a criminal propensity. Accordingly, the circuit court did not abuse its discretion in finding that the probative value of introducing evidence of the October 2022 arrest for possession of a handgun was not substantially outweighed by any unfair prejudice to Riddick as a result.

CONCLUSION

We hold that the circuit court did not err in admitting the evidence of Riddick’s October 2022 arrest for possession of a firearm. The arrest was specially relevant to the offenses charged in relation to the August 2022 shooting; the State proved by clear and

convincing evidence that Riddick possessed the firearm in October 2022; and the probative value of the October 2022 handgun arrest outweighed any undue prejudice to Riddick that may have resulted from its admission. We, therefore, affirm.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**