

Circuit Court for Baltimore County
Case No. C-03-CV-20-2092

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1459

September Term, 2022

THERESA MOCK

v.

CLARE ELIZABETH PATTERSON,
PERSONAL REPRESENTATIVE OF THE
ESTATE OF THEODORE PATTERSON

Beachley,
Shaw,
Killough, Peter K.
(Specially Assigned),

JJ.

Opinion by Beachley, J.

Filed: September 8, 2023

*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).

On September 27, 2022, a Baltimore County jury found appellant Theresa Mock liable for conversion of personal property owned by Theodore Patterson (“Mr. Patterson” or “decedent”). Ms. Mock noted this timely appeal and presents the following question for our review:

Whether the circuit court committed reversible error by allowing appellee’s witnesses to testify as to hearsay from Theodore Patterson?

We answer this question in the negative and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Ted Patterson was a well-known sportscaster who owned an extensive collection of sports memorabilia. On May 13, 2020, his daughter Clare Patterson, acting under a power of attorney, filed a complaint against Ms. Mock and Gary Bittner, alleging that one or both of them took a portion of her father’s baseball card collection and refused to return it.¹ Ms. Mock and Mr. Patterson were friends, and she assisted him with grocery shopping and cleaning around the house when his health declined. Prior to trial, Mr. Patterson died as a result of complications from dementia and Parkinson’s disease. The Estate of Theodore Patterson (“appellee” or “Estate”) was substituted as the plaintiff, with Clare Patterson serving as personal representative of the Estate.

The evidence presented by appellee included the testimony of Mr. Patterson’s children, Clare Patterson and Michael Patterson, and Al Crisafulli, a sports collectibles

¹ The claims against Gary Bittner were dismissed at the close of appellee’s case-in-chief.

dealer. Each of these witnesses testified that, at some point in the fall of 2018, Ms. Mock took possession of several boxes of Mr. Patterson's baseball cards from the 1950s for safekeeping. They also testified that, to their knowledge, Ms. Mock never returned the cards.

The principal dispute between the parties concerned whether Ms. Mock returned the baseball cards to Mr. Patterson. In response to the court's questions, Ms. Mock acknowledged that "about three" boxes were placed in her car's trunk at Mr. Patterson's request for "safekeeping." She stated that the baseball cards were in her possession "[n]ot even 24 hours" because she needed room in her car for her son's and niece's "cap and gown and all the [graduation] stuff." Ms. Mock explained that Mr. Patterson "wasn't concerned at all" when she returned the boxes to him the next day, noting that she told him why she needed more room in her car. Thus, Ms. Mock's defense focused on her claim that within 24 hours of placing the boxes in her car, she returned all of the boxes containing baseball cards to Mr. Patterson. As we shall explain, Ms. Mock's version of the relevant events—including her acknowledgment that she possessed the disputed baseball cards—is integral to our resolution of this appeal.

The jury determined that Ms. Mock was liable for conversion of the baseball cards, and awarded appellee \$50,000 in damages. Because the parties stipulated before trial that pre-judgment interest would be added to any jury award, the court entered a judgment against Ms. Mock in the amount of \$61,219.18. We shall provide additional facts as necessary to resolve the issues raised on appeal.

DISCUSSION

The central focus of Ms. Mock’s appellate brief—and indeed the only issue raised in her “Question Presented”—is whether the court committed reversible error in admitting hearsay evidence. She directs us to ten separate places in the transcript where she avers hearsay testimony was improperly admitted. We shall examine each of these contentions in turn.

The Maryland Rules define hearsay as “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Rule 5-801(c). Hearsay is not admissible unless it meets the requirements of one of the numerous exceptions to the hearsay rule, including statements made by party-opponents, present sense impressions, and statements made for the purpose of medical treatment. *See* Rule 5-803; Rule 5-804. Where inadmissible hearsay evidence “tends to prove the same point as other evidence presented during the trial,” it is cumulative and its admission is likely to be harmless error. *State v. Simms*, 420 Md. 705, 739–40 (2011) (quoting *Dove v. State*, 415 Md. 727, 743–44 (2010)); *see also Konover Prop. Trust, Inc. v. WHE Assocs., Inc.*, 142 Md. App. 476, 493 (2002) (applying harmless error analysis in civil case).

(i)

In her brief’s “Statement of Facts,” Ms. Mock provides the following “sample illustration” of the court’s “erroneous attitude towards the admissibility of alleged hearsay testimony from the decedent”:

[APPELLEE'S COUNSEL]: Can you explain how Theresa Mock entered into Theodore Patterson's life?

[MS. MOCK'S COUNSEL]: Objection.

THE COURT: Overruled.

[CLARE PATTERSON]: Overruled. Okay. So my understanding was that my dad knew Theresa's --

[MS. MOCK'S COUNSEL]: I'm going to object now, Your Honor. It looks like it's based on something other than her direct knowledge.

[CLARE PATTERSON]: Well, this is what my father told me.

THE COURT: Overruled.

[CLARE PATTERSON]: My father told me that --

[MS. MOCK'S COUNSEL]: I object to what her father told her, Your Honor.

THE COURT: Well, it's the Estate of Theodore Patterson and if Mr. Patterson were living that would be -- as Plaintiff, he would be -- she would be permitted to say what was told to her. So I'm -- it's the Estate, so I'm overruling the objection.

Go ahead, ma'am.

[CLARE PATTERSON]: My father told me that he had known Theresa's parents through one of his jobs many years prior and that he had run in to Theresa at a funeral and reconnected with her in that way.

We agree that Clare Patterson's testimony concerning how her father became acquainted with Ms. Mock constituted inadmissible hearsay evidence. Nevertheless, we have no difficulty concluding that the error was harmless because Ms. Mock's testimony on this

point was substantively identical, *i.e.*, that Ms. Mock became acquainted with Mr. Patterson through her parents, and that she reconnected with him when she saw him at her stepfather's funeral in 2008. *See Williams v. State*, 231 Md. App. 156, 194–95 (2016) (where the same evidence is later admitted without objection, the original objection is waived); *Konover Prop. Trust, Inc.*, 142 Md. App. at 493 (holding that, where a different ruling would not have affected the outcome of the trial, any error in the ruling is harmless).

(ii)

Ms. Mock cites the following colloquy for her next hearsay argument:

[APPELLEE'S COUNSEL]: Can you describe how Gary Bit[t]ner entered Theodore Patterson's life?

[CLARE PATTERSON]: So I was told by Theresa that Gary was --

[MS. MOCK'S COUNSEL]: I'm going to object to that too, your Honor.

[CLARE PATTERSON]: Gary was -- oh --

THE COURT: Objection, why?

[MS. MOCK'S COUNSEL]: Hearsay, Your Honor.

[APPELLEE'S COUNSEL]: Party opponent, Your Honor.

THE COURT: Yeah, I'm going to overrule the objection. Go ahead, ma'am.

[CLARE PATTERSON]: Gary was Theresa's friend's husband and he also began helping my father and mainly it seemed like Gary's role was that he would call my father to remind my father to take his medications.

Also I know that they went to the ballpark together. Gary is also in to sports and I kind of felt like Gary probably respected my dad

and knew him as a broadcaster and wanted to befriend him. That was my sense anyways.

...

[APPELLEE'S COUNSEL]: Do you know what Mr. Bit[t]ner did for work at one point?

[CLARE PATTERSON]: He -- my dad told me that he had a sports store but that it had gone under.

[APPELLEE'S COUNSEL]: Okay.

[MS. MOCK'S COUNSEL]: Your Honor, if I might have a continuing objection to all of the hearsay that's coming in so I don't have to --

THE COURT: You may do that. You may do that, counsel. They are party opponents.

To the extent that Clare Patterson's testimony related what Ms. Mock told her, those statements fall under the hearsay exception for statements of a party-opponent. Rule 5-803(a)(1). On the other hand, Clare Patterson's testimony that her father told her that Mr. Bittner owned a sports store is hearsay that does not appear to fall under any exception. However, the case against Mr. Bittner was dismissed, and Ms. Mock has failed to articulate how this statement was prejudicial to her. We therefore conclude that any error was harmless.

(iii)

Ms. Mock next argues that the following colloquy representing Clare Patterson's testimony that her father occasionally paid Ms. Mock small amounts of cash constituted hearsay:

[APPELLEE'S COUNSEL]: As time progressed, did you ever become

suspicious of Defendant Mock?

[CLARE PATTERSON]: So initially when my dad was telling me that she was providing him with all this -- with help, you know, coming to the house to do things. I was saying, so you're paying her, right? I mean, why is she doing this? And he said that he --

[MS. MOCK'S COUNSEL]: Objection, Your Honor.

THE COURT: Overruled.

[CLARE PATTERSON]: He said that he was paying her small amounts of cash not on any sort of official basis. That's when, you know, I started talking to him about we should make this more official and have checks so that we can track this sort of thing and know how many hours she's spending helping you and that sort of thing.

I wanted to be a little bit more involved in that part of things. But he did not want that. He was just -- really did not want me interfering with her helping him at all. And so, yeah, I feel like initially it was a bit of a head scratcher but I, you know, kind of reassured myself, well she is getting paid. I mean, he's paying her some money.

Although we agree with appellee's characterization of this testimony as "background material," it appears that the statements were offered for their truth and, as such, constitute hearsay. However, we fail to see how the testimony elicited here—that Mr. Patterson was paying Ms. Mock small amounts of cash for her services and that he did not want his daughter involved in those transactions—relates to the alleged conversion of baseball cards. Ms. Mock has not provided any explanation of the nexus of this testimony to the alleged conversion, and we note that Ms. Mock addressed the issue directly when

she denied that she received any payments from Mr. Patterson. Any error in the admission of this testimony was harmless.

(iv)

Ms. Mock objects to the admission of hearsay in the following colloquy:

[APPELLEE'S COUNSEL]: Okay. The cards in question, did you ever -- did you or [the decedent] ever inventory like do a list, an inventory list of all of his collection?

[CLARE PATTERSON]: Yes. So after we realized -- after he and I sort of realized what had happened with these cards that we weren't getting them back, he went through and told me every -- there were several years of these cards and they were dating from the 1940s up until about 1950. And he went through and told me how many exact -- I mean, they're random numbers, like 206 cards that were in the Topps set for 1943, things like that.

Like details of these sets of cards that were just unbelievable. Exactly what type of artwork was done on each card for each year. And I was talking with Al, somebody who --

THE COURT: Who is Al?

[CLARE PATTERSON]: Al is somebody who was --

THE COURT: What is his name?

[CLARE PATTERSON]: Al Crisafulli.

THE COURT: Okay.

[CLARE PATTERSON]: And he know [sic] a lot about my dad's cards so I let him know these are what -- I mean sort of fact checking my dad just out of curiosity on like how many -- if he was right

when he was giving me all these facts, factoids, I guess, about these baseball card sets.

Because he was confused about certain things with life, but those baseball card sets he knew like the back of his hand. They were his prized possession of his whole entire memorabilia collection because he got them when he was a kid in the 1940s and they were -- you know, when people found out that he had parted what he felt was temporarily with those cards, they sort of couldn't believe it because they were the best part of his collection. What he treasured the most because he had had them since childhood.

[APPELLEE'S COUNSEL]: I want you to clarify something. You said what happened with the cards earlier. Can you give me detail about what you're referring to as to what happened?

[CLARE PATTERSON]: So he had it in his mind that he needed to protect those cards and in order to protect those cards he and Theresa decided that Theresa would take the cards to her home or I'm not sure home, for safe keeping, with the understanding that he was going to get the cards back.

THE COURT: When was this? When was that arrangement or decision come to?

[CLARE PATTERSON]: That happened in the fall of 2018 but I don't know exactly when because I didn't find out about it until after it happened.

THE COURT: All right. All right.

[APPELLEE'S COUNSEL]: So you're aware that Defendant Mock in your words, had possession of them. How did you know what items were taken?

[CLARE PATTERSON]: The way I know what items were taken is because -- well, I have a general idea of those binders of cards. I know where he kept them. There was a certain place in his closet. And as far as the specifics of the cards, I would say that I would defer to Al on that as well as when we realized that the cards were gone, we started calling auction houses to let them know to keep an eye out for them.

And I talked to people who knew my dad and they also knew about -- I mean, they knew that he had those cards as well.

THE COURT: Now we're getting -- again, we're getting into a lot of hearsay potential.

Although Ms. Mock fails to specifically identify the objectionable aspects of this lengthy colloquy, we deduce from her brief that she principally objects to the testimony to the extent that it “formed the basis of the decedent’s ownership and control of the disputed baseball card collection, as well as the alleged circumstances of its alleged taking by [Ms. Mock].” But Ms. Mock’s appellate argument is undermined by her own trial testimony that substantially corroborated Clare Patterson’s version of events. Ms. Mock confirmed that in the Fall of 2018 Mr. Patterson wanted to protect his baseball cards and that he wanted her to hold them for safekeeping. Indeed, Ms. Mock was even more specific than Clare Patterson, testifying that Mr. Patterson gave her three boxes of baseball cards “to keep them in safe keeping,” and that she placed the boxes in the trunk of her car. Thus, to the extent that Clare Patterson’s statements on this subject were improperly admitted, their admission was harmless because Ms. Mock essentially confirmed Clare Patterson’s testimony on this point.

Similarly, although the statements that “people . . . couldn’t believe” the decedent parted with his baseball cards, and that “people who knew [the decedent] . . . knew that he had those cards,” were arguably hearsay, Ms. Mock herself confirmed that the decedent gave the cards to her for safekeeping because they were very important to him. The only relevant point of disagreement between the parties was whether Ms. Mock returned the cards to the decedent, a fact that none of the allegedly improperly admitted statements address. Accordingly, any error in the admission of these statements is harmless because their admission could not have influenced the jury’s verdict.²

(v)

Ms. Mock next references the following part of Clare Patterson’s testimony:

[APPELLEE’S COUNSEL]: Did you ask for [the cards] to be returned?

[CLARE PATTERSON]: Yes. So I asked -- soon after I found out that she had them, I asked for them to be returned, yes.

Q: And were they returned to the Estate?

A: No, they were never returned. Al came over to the house and looked all throughout the house. And he knows exactly what, you know, to be looking for too and he never found -- he never could turn up anything.

The statement “I found out that she had them” could be construed as hearsay in that it implies that someone else told Clare Patterson that Ms. Mock had the cards. In fact,

² Although Ms. Mock does not expressly argue that Clare Patterson’s reference to “206 cards that were in the Topps set for 1943” constituted hearsay, we note that appellee did not claim that Ms. Mock converted that set of cards.

Clare Patterson’s prior testimony makes clear that her father told her that he gave the cards to Ms. Mock. Once again, however, Ms. Mock acknowledged that the cards were placed in the trunk of her car. To the extent this statement is hearsay, it is cumulative, and its admission was harmless.

Clare Patterson’s discussion of Mr. Crisafulli’s search of the house is not hearsay because both Clare Patterson and Mr. Crisafulli testified that, while he was searching the house, Clare Patterson was also present. She therefore properly testified about matters within her personal knowledge.³

(vi) and (vii)

The sixth and seventh parts of the transcript that Ms. Mock argues contain hearsay are not rulings that Ms. Mock can appeal because the court sustained her objections to this

³ In her brief Ms. Mock asserts that the admission of statements identified in parts (i) through (v) of this opinion violate the Dead Man’s Statute, Md. Code (1974, Repl. Vol. 2020) § 9-116 of the Court and Judicial Proceedings Article. We initially note that Ms. Mock’s “Question Presented” asserts error based solely on hearsay. *Peterson v. Evapco, Inc.*, 238 Md. App. 1, 62 (2018) (“Appellants can waive issues for appellate review by failing to mention them in their ‘Questions Presented’ section of their brief.” (quoting *Green v. N. Arundel Hosp. Ass’n, Inc.*, 126 Md. App. 394, 426 (1999), *aff’d*, 366 Md. 597 (2001))). Moreover, although we recognize that a general objection preserves for review all potential bases for the objection, context matters. Here, appellant’s counsel made numerous objections based on hearsay, but never so much as mentioned the Dead Man’s Statute. We note that as Clare Patterson began to testify how her father met Ms. Mock, appellant’s counsel objected “to what her father told her.” To us, that objection sounds like a quintessential hearsay objection. Similarly, the court could reasonably conclude that appellant’s counsel was invoking the hearsay rule when he objected to Clare Patterson’s attempt to testify what her father told her about paying Ms. Mock for her services. Under these circumstances, we are not persuaded that Ms. Mock preserved her claims based on the Dead Man’s Statute. Even if preserved, however, any error in the admission of these statements was harmless for the same reasons stated in parts (i) and (ii) of this opinion.

testimony. *See Rush v. State*, 403 Md. 68, 95 (2008) (“[O]ne cannot appeal from a favorable ruling.”).

(viii)

The next allegation of error appears during the testimony of Mr. Crisafulli:

[APPELLEE’S COUNSEL]: Did Defendant Mock ever inquire to obtain your services to sell any sports memorabilia?

[AL CRISAFULLI]: So we had a discussion once in October or November of 2018. Would you like me to describe that discussion.

Q: Yes.

THE COURT: Wait for a question, please. Ask the question.

[APPELLEE’S COUNSEL]: I would like you to explain that conversation.

[AL CRISAFULLI]: Okay. At the time Ted was very concerned because he was under the impression that his kids were trying to steal his collection and sell it for the money.

And in that conversation he told me that he had given his 1950s cards to Theresa. And when I was trying to understand why that would be, because it didn’t make any sense to me, my understanding was that Theresa was Ted’s caretaker. Theresa got on the phone and told me that Ted had given her the cards for safe keeping.

And when I tried to understand why, she said to me when the time comes for me to sell these cards, you’re my guy. I don’t know anything about these. And that was the discussion that we had.

Ms. Mock did not object to this testimony. To the extent that she relies on the continuing objection noted during Clare Patterson’s testimony, her reliance is misplaced. A continuing objection’s effectiveness is limited to only those questions “clearly within its scope.” *Jordan v. State*, 246 Md. App. 561, 586 (2020) (quoting Rule 4-323(b)). Furthermore, “[c]ontinuing objections do not exist in perpetuity” and must be raised again if there is an interruption in the line of questioning during the testimony of a witness. *Choate v. State*, 214 Md. App. 118, 150–51 (2013). In *Choate*, this Court held that a continuing objection raised during a witness’s testimony did not apply to that same witness’s testimony that was separated by five pages of transcript wherein the witness was asked a different line of questions. *Id.* We have uncovered no legal authority allowing for a continuing objection in this context, where a different witness’s testimony is being challenged. Because Ms. Mock failed to raise an objection to Mr. Crisafulli’s testimony, this issue is not preserved for our review.

In any event, Ms. Mock’s statements to Mr. Crisafulli were admissible as statements by a party-opponent, and Mr. Patterson’s statements that he had given the cards to Ms. Mock for safekeeping were uncontroverted.

(ix) and (x)

The final two hearsay arguments are set forth in the colloquy below and relate to Mr. Patterson’s son’s testimony:

[APPELLEE’S COUNSEL]: Okay. Can you explain how Theresa Mock entered into your father’s life?

[MICHAEL PATTERSON]: So my understanding is that my dad -- well, my dad worked at WMAR Channel 2 news, he was the sports anchor I believe from 1979 until 1982. And there was a couple who worked there and Theresa was their daughter. And he somehow met them through that interchange.

And then he -- they reconnected at a funeral some years ago.

Q: Okay. Did your father -- were you aware that Defendant Mock referred to your father as Teddy bear?

A: I heard that in passing and couldn't really understand how that came to be. Yes.

Q: As your father's Parkinson's disease became worse, did he become confused?

A: He did, yes. And based on the, exactly what Parkinson's is and he had associated dementia, it became worse and worse as time went on.

Q: Did he ever become paranoid.

A: He was paranoid. I took him to his appointments with Dr. Weiss, his neurologist very often. I'd pick him up at his house and take him to the appointments at Sinai. And Dr. Weiss would ask him or because paranoia is actually a side effect from --

[MS. MOCK'S COUNSEL]: I'm going to object, Your Honor, as to --

THE COURT: Sustained.

[APPELLEE'S COUNSEL]: So in your lay opinion --

[MICHAEL PATTERSON]: Yes.

Q: -- he was paranoid?

- A: Correct. Yes.
- Q: Were you aware that Defendant Mock took possession of approximately eight boxes of baseball cards that belonged to your father?
- [MS. MOCK'S COUNSEL]: Objection, Your Honor.
- THE COURT: Overruled.
- [MICHAEL PATTERSON]: I did not find that out until the day we were moving my dad to Springwell.
- [APPELLEE'S COUNSEL]: Okay. What did you find out?
- Q: I found out that he had given the cards or put the cards in Theresa's trunk for safe keeping. That she basically coerced him in to thinking --
- [MS. MOCK'S COUNSEL]: Objection, Your Honor.
- THE COURT: Sustained.
- [MS. MOCK'S COUNSEL]: Move to strike.
- THE COURT: I will strike the last comment made by Mr. Patterson.
- [APPELLEE'S COUNSEL]: Did you have any communications with Defendant Mock about the baseball cards?
- [MICHAEL PATTERSON]: I did not personally, no.
- Q: Did you request to have them returned?
- A: I did not personally.
- Q: Did your sister Clare request for them to be returned?
- [MS. MOCK'S COUNSEL]: Objection.
- THE COURT: Overruled. If he knows.

[MICHAEL PATTERSON]: Yes, she did.

[APPELLEE'S COUNSEL]: All right. Based on your knowledge, were they returned?

A: They were not.

As with Mr. Crisafulli's testimony, discussed above, Ms. Mock's continuing objection to hearsay was no longer effective during Michael Patterson's testimony. Therefore, the only issues preserved for appellate review in the course of Michael Patterson's testimony are those where Ms. Mock timely interposed an objection. We note that two of her objections were sustained, and therefore are not reviewable. This leaves two objections in this part of the transcript that were overruled.

First, the court overruled Ms. Mock's objection to the question "Were you aware that Defendant Mock took possession of approximately eight boxes of baseball cards that belonged to your father?" As noted multiple times above, Ms. Mock admitted to taking possession of the baseball cards when they were placed in her car's trunk.⁴ Any error in admitting this testimony was therefore harmless.

Second, the court overruled Ms. Mock's objection to the question "Did your sister Clare request for them to be returned?" Unless Michael Patterson overheard Clare Patterson ask for the cards to be returned, which is not established, his knowledge of this fact could only be based on statements by others. However, even if this question elicited

⁴ Ms. Mock makes no argument that the reference to eight boxes of cards, as compared to her acknowledgment of receiving approximately three boxes, is legally significant.

hearsay from Michael Patterson, his testimony on this point is identical to Clare Patterson's own testimony that she asked for the return of cards. Any error here is therefore harmless.

CONCLUSION

For the reasons stated, we affirm the judgment of the Circuit Court for Baltimore County.

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