

Circuit Court for Baltimore County
Case No. C-03-CR-19-003914

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1594

September Term, 2022

TERRENCE EDWARD HAMMOCK

v.

STATE OF MARYLAND

Beachley,
Ripken,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Beachley, J.

Filed: April 11, 2024

*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).

Terrence Hammock was convicted by a jury in the Circuit Court for Baltimore County of multiple crimes, including home invasion, robbery with a dangerous weapon, four separate counts of first-degree assault, use of a firearm in the commission of a felony, and the unlawful taking of a motor vehicle. Mr. Hammock noted this timely appeal and presents the following questions for our review, which we have slightly recast as:

1. Was Mr. Hammock’s constitutional right to confront witnesses against him violated by the introduction of Officer Masters’s body-worn camera video?
2. Was the evidence sufficient to prove the first-degree assault convictions against three minor victims who did not testify at trial?

We hold that both issues are unpreserved for appellate review and shall therefore affirm.

BACKGROUND

On August 22, 2019, three individuals broke into Latoya White’s home at 1220 Damsel Road in Essex, Maryland, while Ms. White and four children were home. The men held Ms. White and the children at gunpoint in the living room while they searched the house for valuables. Several items were stolen from the house, including shoes, a watch, a Samsung tablet, and a key fob for a Mercedes-Benz. The Mercedes-Benz was stolen a few days after the robbery.

A month later, lead Detective Christopher Podgurski received a call from Officer Shane Masters concerning evidence relevant to the August 2019 home invasion. Officer Masters testified that on September 18, 2019, he responded to a domestic violence call at 1237 Damsel Road in Essex, Maryland. Officer Masters then spoke to Ms. Andrea Bratcher and identified Mr. Hammock as a suspect for domestic violence.

According to Officer Masters, Ms. Bratcher invited him into the house and he followed her into the dining room. Ms. Bratcher then retrieved a bag and dumped the contents onto the ground in front of Officer Masters. Officer Masters put the items back into the bag and took them to the police precinct where they were packaged and brought to the attention of Detective Podgurski. The items included a pair of shoes, a watch, and a broken tablet. The items were admitted into evidence at trial along with a photo of the items stored at the police precinct. Body-worn camera footage of Ms. Bratcher dumping the items, as well as a photo of the items from the footage without Ms. Bratcher in the frame, were also admitted during trial.¹ The admitted police camera footage contained no audio.

Detective Podgurski subsequently interviewed Ms. Bratcher. Ms. Bratcher provided information as to the location of Ms. White's stolen Mercedes, which the police immediately recovered. Detective Podgurski then contacted Ms. White, who identified many of the stolen items at the police precinct.

Following a three-day jury trial, Mr. Hammock was found guilty of seventeen counts related to the home invasion and robbery. Mr. Hammock was sentenced to twenty years' imprisonment for the home invasion, a concurrent twenty years for the use of a firearm in commission of a felony, four consecutive twenty-year sentences for each of the

¹ In a pre-trial motion in limine, Mr. Hammock argued that the body-worn camera footage was inadmissible because it was testimonial in nature and constituted hearsay. The court denied the motion, ruling that Ms. Bratcher's actions in the video did not constitute a statement.

first-degree assaults, and a five-year concurrent sentence for the unauthorized removal of a motor vehicle, for a total executed sentence of 100 years' imprisonment. The remaining convictions were merged for sentencing. Mr. Hammock then noted this timely appeal.

DISCUSSION

Mr. Hammock argues that the introduction of the body-worn camera footage of Ms. Bratcher dumping items onto the dining room floor violated his Sixth Amendment right to confront witnesses against him because he was unable to cross-examine her.² According to Mr. Hammock, the video is testimonial in nature and contains inadmissible hearsay. Separately, Mr. Hammock argues that the evidence was insufficient to convict him of assault against three of the victims because none of the three named victims testified that they were frightened during the armed robbery.

In response, the State argues that both issues were waived. The State notes that appellant failed to lodge a contemporaneous objection to the video when it was admitted into evidence at trial. The State further highlights that Mr. Hammock did not object to either Officer Masters's testimony describing Ms. Bratcher's actions or the photographs documenting the stolen items. In the State's view, because appellant first objected to the camera footage when the prosecutor offered to publish it to the jury, appellant waived any challenge to its admissibility. On the merits, the State contends that the body-worn camera video is neither testimonial nor hearsay because the action of Ms. Bratcher dumping items onto the floor does not constitute an assertion or a statement. Furthermore, the State asserts

² Ms. Bratcher was uncooperative and in Montana at time of trial.

that Mr. Hammock’s sufficiency of the evidence argument is waived because his appellate argument was not a ground presented to the trial court in his motion for judgment of acquittal.

I. APPELLANT WAIVED ANY CHALLENGE TO THE ADMISSION OF THE BODY-WORN CAMERA FOOTAGE AND RELATED PHOTOGRAPH

Maryland Rule 4-323 provides that “objections to the admission of evidence . . . must be made when the evidence is offered for admission This Rule is . . . designed for on-the-spot objections and rulings. The failure to timely object results in a waiver.” *Huggins v. State*, 479 Md. 433, 446 (2022) (citation and footnotes omitted). Furthermore, “if the same or similar evidence is admitted without objection at another point in the trial, the objection is waived.” *Francois v. State*, 259 Md. App. 513, 523 (2023) (citing *DeLeon v. State*, 407 Md. 16, 32-33 (2008)) (holding that an objection to the witness’s improper expert testimony was waived after multiple similar questions were asked without objection); *see also Jackson v. State*, 230 Md. App. 450 (2016) (holding that an objection to the Detective’s position within a homicide unit was waived where the Detective testified that she worked in the homicide unit twice without objection); *Benton v. State*, 224 Md. App. 612 (2015) (holding that an objection to an informant’s hearsay statement was waived where the subject matter of the statement was admitted without objection through a different witness).

The record demonstrates that Mr. Hammock waived any objection to the body-worn camera footage when he failed to object when it was admitted at trial. Although Mr. Hammock objected to the body-worn camera footage through a pre-trial motion in limine,

“the issue of the admissibility of the evidence that was the subject of the motion is not preserved for appellate review unless a contemporaneous objection is made at the time the evidence is later introduced at trial.” *Morton v. State*, 200 Md. App. 529, 540-41 (2011) (quoting *Klaunberg v. State*, 355 Md. 528, 539 (1999)).

Here, the court admitted the body-worn camera footage without objection. The State then returned to its direct examination of Officer Masters and offered a still photograph taken from the body-worn camera. Mr. Hammock interposed an objection only after the State requested publication of the video and photograph to the jury. We therefore conclude that Mr. Hammock waived his objection to the body-worn camera footage because his objection did not occur “at the time the evidence [was] offered.” Rule 4-323(a). “Th[is] requirement of a contemporaneous objection at trial applies even when the party contesting the evidence has made his or her objection known in a motion in limine[.]” *Fone v. State*, 233 Md. App. 88, 113 (2017) (quoting *Wimbish v. State*, 201 Md. App. 239, 260 (2011)) (alterations in original).³

In addition to violating the contemporaneous objection rule, we hold that this issue was waived when similar evidence—Officer Masters’s testimony describing Ms. Bratcher dumping items in the dining room—was admitted without objection. Officer Masters’s

³ Mr. Hammock also argues, without explanation, that the admitted photograph from the body-worn camera violated his Sixth Amendment right to confrontation. Because we conclude that Mr. Hammock waived any objection to the admission of the body-worn camera footage, he likewise waived any objection to any still photographs derived from the camera footage.

detailed description of the body-worn camera footage is reflected in the following colloquy:

[PROSECUTOR]: And did you, in fact, go inside [Ms. Bratcher's] house?

[OFFICER MASTERS]: I did.

[PROSECUTOR]: Okay. Now, while inside that house, was there a dining room area?

[OFFICER MASTERS]: Yes.

[PROSECUTOR]: Okay. What did you see Ms. Bratcher do in that dining room area?

[OFFICER MASTERS]: Ms. Bratcher was in like a semi squatted position with what appeared to be maybe an Aldi bag and she was dumping the contents out of that bag.

[PROSECUTOR]: And where did she dump those contents?

[OFFICER MASTERS]: Onto the floor.

...

[PROSECUTOR]: Okay and upon dumping those items on the floor, were you able to observe those items?

[OFFICER MASTERS]: Yes.

[PROSECUTOR]: Okay. Now based on your investigation, what did you do with those items?

[OFFICER MASTERS]: Those items were obtained for possible evidence.

[PROSECUTOR]: And did you, and, and how did you take them?

[OFFICER MASTERS]: I took them back in the bag that she took them out of.

Because the unobjected-to testimony of Officer Masters described “similar evidence . . . without objection” as the body-worn camera footage that appellant claims was improperly admitted, any objection to the camera footage is waived. *Francois*, 259 Md. App. at 513 (2023) (citing *DeLeon* 407 Md. at 32-33).

II. APPELLANT’S SUFFICIENCY OF EVIDENCE ARGUMENT IS NOT PRESERVED FOR APPELLATE REVIEW

We also hold that Mr. Hammock waived his insufficiency of the evidence claim. Maryland Rule 4-324(a) provides that when moving for a judgment of acquittal, the “defendant shall state with particularity all reasons why the motion should be granted.” Mr. Hammock acknowledges that his motion for judgment of acquittal was based on grounds unrelated to the sufficiency of the evidence for the assault charges that he now raises on appeal. Despite acknowledging that the issue is unpreserved, Mr. Hammock urges us to address the issue because trial counsel’s failure to raise the argument below “denied Mr. Hammock his constitutional right to the effective assistance of counsel.”

We decline Mr. Hammock’s invitation. “[G]enerally a post-conviction proceeding is the ‘most appropriate way’ to raise a claim of ineffective assistance of counsel[.]” *Testerman v. State*, 170 Md. App. 324, 335 (2006) (quoting *Mosley v. State*, 378 Md. 548, 558-59 (2003)). We are cautious to address a post-conviction claim on direct appeal because “ordinarily, the trial record does not illuminate the basis for the challenged acts or omissions of counsel.” *Id.* (quoting *In re Parris W.*, 363 Md. 717, 726 (2001)). We

conclude that any ineffective assistance of counsel claims are best left for resolution at a post-conviction proceeding.

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