

Circuit Court for Baltimore City
Case No: C-24-CR-24-001412

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1752

September Term, 2024

DANIEL SCOTT CROPPER

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: July 10, 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 persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Following a disagreement of contested origin, Daniel Scott Cropper struck Craig Gilbert, his roommate and friend, with a baseball bat. A Baltimore City jury convicted Cropper of second-degree assault but acquitted him of reckless endangerment. The court sentenced Cropper to ten years of incarceration with all but nine months suspended, followed by two years of probation.

In this appeal, Cropper contends that the circuit court erred by permitting Gilbert to testify that he believed that Cropper had been drinking alcohol on the evening of the incident.

For the reasons set forth below, we shall affirm.

BACKGROUND

Cropper and Gilbert became friends in 1982, when they served together in the United States Navy. They had lived together in Cropper's house for approximately 15 years. Gilbert paid rent.

On the evening of June 28, 2024, Cropper and Gilbert had an altercation. At trial, they provided conflicting accounts of the events giving rise to the altercation.

According to Gilbert, he returned home from work on June 28, 2024, and prepared chili for dinner, using grocery items that were out on the kitchen counter. He then went upstairs to his room. He returned to the kitchen a few hours later and discovered that the chili had been thrown onto the back porch. Gilbert said that he asked Cropper why he had thrown out his dinner. Gilbert explained that Cropper was upset because Gilbert had prepared dinner when Cropper wanted to do it himself.

Gilbert returned to his room. He testified that Cropper entered the room, pushed

him against the wall a few times, and made a fist, threatening to punch him. Gilbert managed to retrieve a small hatchet that he stored under the bed, and, he said, “flashed it for a second” before throwing it back under the bed. Gilbert did not want to use the hatchet, nor did he want Cropper to get it away from him.

Gilbert escaped Cropper’s hold and went downstairs. He was attempting to leave the house when Cropper struck him on the left bicep and the back of the head with a baseball bat. Cropper pushed Gilbert outside, dropped the bat, and grabbed him by the throat for approximately one minute. Cropper eventually released Gilbert, and the altercation ended.

Gilbert claimed that he never attempted to strike Cropper with the hatchet. He testified that he was surprised by the escalation of the dispute, that he was in fear during the incident, and that he did not consent to the assault. He sustained bruising and a laceration to the back of his head as a result of being hit with the bat.

Over objection, Gilbert testified that Cropper had been drinking alcohol on the night of the incident. Gilbert later explained that he did not actually see Cropper drink alcohol that evening but believed that Cropper had been drinking because his demeanor changes and “he can get nasty” when intoxicated. Gilbert specifically testified that he believed that Cropper had been drinking because he forced his way into Gilbert’s room and pushed him around.

Cropper testified in his own defense. He said that he owned his home and that he and Gilbert had a month-to-month agreement that required Gilbert to pay rent of \$400 per month. According to Cropper, Gilbert had stopped paying rent about six months earlier,

creating financial strain and tension between them. Two weeks before the incident, Gilbert had promised Cropper that he would pay him at least \$300 by June 28, 2024. Cropper needed Gilbert’s rent money to register his car.

On the night of the incident, Cropper had taken a nap after work and planned to make chili for dinner. Cropper expected to find the money that Gilbert owed him in the usual place on the computer table. He did not see any money, but he did see Gilbert in the kitchen making chili with the ingredients that he (Cropper) had left on the counter.

Cropper testified that he approached Gilbert about the unpaid rent and that Gilbert was unresponsive. Cropper said that he then retrieved an aluminum baseball bat and asked Gilbert to leave the house. According to Cropper, Gilbert refused to leave, took the bat from Cropper, and struck him on the leg with it. Cropper said that he regained possession of the bat and struck Gilbert in the arm and on the head. He denied choking Gilbert. He testified that he intended to use the bat as “a little intimidation factor[,]” but that he was also using it to support his bad knee. Cropper acknowledged that he had stated, in the presence of a police officer, that he would have liked to kill Gilbert. He claimed, however, that he intended the remark “euphemistically,” i.e., that he did not mean it literally.

Officer Luis Matos testified that he responded to a call for service at Cropper’s residence on June 28, 2024. Upon arrival, Officer Matos encountered Cropper and Gilbert.

The State introduced footage from Officer Matos’s body-worn camera. The court admitted a photograph, taken by Officer Matos, of an injury on the back of Gilbert’s

head. The court also admitted an aluminum baseball bat that Officer Matos recovered in the backyard. Officer Matos observed no physical injuries to Cropper.

DISCUSSION

Cropper argues that Gilbert’s testimony that he was drinking alcohol was irrelevant, speculative, lacked an adequate foundation, and was unfairly prejudicial. The State responds that Gilbert’s testimony that Cropper had been drinking alcohol was relevant to explain Cropper’s violent reaction to such a trivial issue as Gilbert cooking dinner with Cropper’s groceries.

During Gilbert’s direct examination, the prosecutor asked him if he knew whether Cropper had been drinking on the night of the incident. Over objection, Gilbert testified that he usually could tell when Cropper had too much to drink. When asked how he can tell, he responded, over objection, “Because his demeanor changes.”

Again, defense counsel objected, arguing that questions about drinking alcohol were not relevant. After an extended colloquy, the court said that it would allow Gilbert’s testimony that he could usually tell whether Cropper had been drinking.

The prosecutor asked, again, whether Cropper had been drinking that night. Gilbert testified, over objection, that Cropper had been drinking alcohol.

On cross-examination, Gilbert acknowledged that he did not actually see Cropper drinking that night.

On redirect examination, Gilbert testified, over objection, to the basis for his belief that Cropper had been drinking alcohol that night: “[S]ometimes when he drinks too much, like a lot of people, his demeanor changes. And he can get nasty.” On the night of

the incident, Gilbert said, Cropper was “mad” and “upset.” When asked what, if anything, Cropper did to lead Gilbert to believe that he had been drinking alcohol that night, Gilbert responded, “The way he came into my room, started pushing me around.”

Relevant evidence is generally admissible. Md. Rule 5-402. The question of whether evidence is relevant is an issue of law that this Court reviews without deference to the trial court. *See, e.g., Montague v. State*, 471 Md. 657, 673 (2020). 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.” Md. Rule 5-401. “Having ‘any tendency’ to make ‘any fact’ more or less probable is a very low bar to meet.” *Williams v. State*, 457 Md. 551, 564 (2018) (quoting *State v. Simms*, 420 Md. 705, 727 (2011)).

A court may exclude relevant evidence if “its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” Md. Rule 5-403; *Akers v. State*, 490 Md. 1, 25 (2025). The determination of whether relevant evidence should be excluded under Rule 5-403 is left to the discretion of the trial court. *Id.* In the context of Rule 5-403, “[a]n abuse of discretion occurs where no reasonable person would take the view adopted by the circuit court.” *Montague v. State*, 471 Md. at 674 (quoting *Williams v. State*, 457 Md. 551, 563 (2018)).

Here, Gilbert’s testimony that Cropper was drinking alcohol provided context for the altercation and an explanation for Cropper’s unprovoked attack on Gilbert. The

testimony had some “tendency” to make the existence of a fact “of consequence to the determination of the action more probable . . . than it would be without the evidence[.]” (Md. Rule 5-401), because it gave the jury some insight into why Cropper might have lost his composure and assaulted his friend and roommate. The testimony, therefore, was relevant.

In addition, Gilbert’s testimony that Cropper was drinking alcohol was supported by an adequate foundation. A lay witness, like Gilbert, may testify “in the form of opinions or inferences . . . which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue.” Md. Rule 5-701. We review the decision to admit this type of lay opinion testimony for abuse of discretion. *Moreland v. State*, 207 Md. App. 563, 568-69 (2012).

The court did not abuse its discretion in permitting Gilbert to testify that Cropper appeared to have been drinking. In general, a lay witness may testify that someone is intoxicated, “because ‘the condition of intoxication and its common accompaniments are . . . a matter of general knowledge.’” *Warren v. State*, 164 Md. App. 153, 167-68 (2005) (quoting *State v. Magaha*, 182 Md. 122, 130 (1943)). And in this particular case, Gilbert’s testimony that Cropper was intoxicated was based on his observations of Gilbert’s behavior and his experience observing changes in Cropper’s demeanor over the 40 years in which they had known one another and the 15 years in which they had lived together.

Finally, the court did not abuse its discretion in tacitly concluding that the probative value of Gilbert’s testimony was not “substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” Md. Rule 5-403.

Gilbert’s testimony evidence was prejudicial, but that is not the governing standard. “[T]hat evidence prejudices one party or the other, in the sense that it hurts [their] case, is not the undesirable prejudice referred to in Rule 5-403.” *Odum v. State*, 412 Md. 593, 615 (2010) (quoting Lynn McLain, *Maryland Evidence, State & Federal* § 403:1(b) (2d ed. 2001)). “‘If prejudice were the test, no evidence would ever be admitted.’” *Moore v. State*, 84 Md. App. 165, 172 (1990) (quoting Joseph F. Murphy, Jr., *Maryland Evidence Handbook* § 509, at 160 (1st ed. 1989)).

The correct inquiry is whether the probative value of the evidence was *substantially* outweighed by the danger of *unfair* prejudice. “‘Probative value is outweighed by the danger of “unfair” prejudice when the evidence produces such an emotional response that logic cannot overcome prejudice or sympathy needlessly injected into the case.’” *Moore v. State*, 84 Md. App. at 172 (quoting Joseph F. Murphy, Jr., *Maryland Evidence Handbook, supra*, § 509, at 160). To be unfairly prejudicial, “[t]he inflammatory nature of the evidence must be such that the ‘shock value’ on a layperson serving as a juror would prevent the proper evaluation or weight in context of the other evidence.” *Urbanski v. State*, 256 Md. App. 414, 434 (2022).

A reasonable person could readily conclude that Gilbert’s testimony, that Cropper appeared to have been drinking, was not so inflammatory that it would undermine the jurors’ ability to evaluate the evidence in a rational manner or prevent them from properly evaluating or weighing the other evidence. *See Warren v. State*, 164 Md. App. at 169. Consequently, we discern no abuse of discretion in the decision to admit Gilbert’s testimony that Cropper appeared to have been drinking. *See Montague v. State*, 471 Md. at 674.

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