Circuit Court for Calvert County
Case No. C-04-CR-23-000024

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1821

September Term, 2023

LYNDE ELAINE TWILLEY-GLEESON

v.

STATE OF MARYLAND

Graeff,
Leahy,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Graeff, J.

Filed: June 27, 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 persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

Appellant, Lynde Twilley-Gleeson, was convicted in the Circuit Court for Calvert County of theft over $25,000 and theft over $1,500.[1] The court sentenced appellant to ten years of imprisonment for the conviction of theft over $25,000, suspending all but four years, five years for the conviction of theft over $1,500, all suspended, and five years of supervised probation. The court also ordered appellant to pay restitution.

On appeal, appellant presents four questions for this Court's review, which we have modified slightly, as follows:

1. Did the circuit court err when it admitted hearsay to prove the value of the stolen property?

2. Was the evidence sufficient to support the conviction of theft over $25,000?

3. Did the circuit court err in calculating restitution?

4. Did the circuit court abuse its discretion in denying appellant's request to enter into evidence the complete video recording of her interview with the police?

For the reasons set forth below, we shall affirm, in part, and vacate, in part, the judgments of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

In August 2022, appellant began working as a housekeeper for Carmen Gambrill, initially cleaning her Airbnb property and art gallery. On September 27, 2022, Mrs. Gambrill asked appellant to clean her personal residence as well.

[1] Appellant also was convicted of burglary, but that conviction and sentence subsequently were vacated by the circuit court.

On Thanksgiving Day in 2022, Mrs. Gambrill noticed that one of the two gold necklaces she kept in a ceramic jewelry box, necklaces that her mother-in-law left her, was missing. Mrs. Gambrill testified that it was a 23-inch, 18-karat-gold necklace. She wore the second necklace that day and then placed it back into the ceramic box.

Appellant cleaned the Gambrill residence again, the next week, on November 30, 2022. On December 18, 2022, Mrs. Gambrill discovered that the necklace she had worn on Thanksgiving, as well as a gold Piaget watch from her mother-in-law, which also was stored in the ceramic box, were missing.

On December 19, 2022, Mrs. Gambrill and her husband contacted the Calvert County Sheriff's Office. Deputy Cody Shoemaker responded to the home and took a report, noting that money, two gold necklaces, and a gold watch were missing. While Deputy Shoemaker was present, Mrs. Gambrill called appellant to ask whether she had moved or seen the items; appellant denied any such knowledge.[2]

On December 27, 2022, during their investigation, officers discovered that a gold watch and a gold necklace matching the descriptions provided by Mrs. Gambrill had been sold to JW Jewelers. The jeweler's records indicated that appellant had sold the items to the store on December 2, 2022, for $5,100, using her name and Maryland driver's license.

[2] Appellant did not come back to Mrs. Gambrill's home to clean again after that.

Mrs. Gambrill identified those items as hers at trial.[3] The other necklace was never recovered.

On January 5, 2023, appellant met with Detective Wyatt McDowell for an interview. Appellant denied stealing any jewelry. When confronted with evidence of the sale, she explained that an acquaintance known as "Dre" had borrowed her vehicle and left items inside, including the jewelry. Upon discovering the items, she attempted to return them to Dre, but he refused. She thought he had stolen the jewelry, and she did not want to hold onto it, so she sold the jewelry to JW Jewelers. The police executed a search warrant at appellant's home, but they did not find the second gold necklace or any other stolen property belonging to Mrs. Gambrill.

A jury trial began on August 22, 2023. At trial, Mrs. Gambrill testified regarding the facts set forth, *supra*, and she stated that each of her gold necklaces was worth $21,000, and the value of the Piaget watch was $22,848.44.

Appellant testified that she had worked as a housekeeper for 28 years and had been employed by "probably 50" people to clean houses. In August 2022, she began working for Mrs. Gambrill, initially cleaning her Airbnb property. A few weeks later, appellant also began cleaning Mrs. Gambrill's art gallery, and eventually, she began cleaning Mrs. Gambrill's home.

[3] The gold necklace that was sold and recovered was the one Mrs. Gambrill wore on Thanksgiving.

Appellant cleaned Mrs. Gambrill's home every other week. She performed a variety of tasks, including doing laundry, vacuuming, mopping, cleaning carpets, organizing closets, and "straighten[ing] everything up." Although other individuals also cleaned for Mrs. Gambrill on alternating weeks, appellant testified that she never met or saw them, and they never cleaned at the same time. Appellant cleaned for Mrs. Gambrill for "a couple months," stopping in November, "the Tuesday of the week of Thanksgiving." During her time cleaning the home, appellant knew where Mrs. Gambrill kept her jewelry.

On two occasions, appellant had someone in her car when she went to Mrs. Gambrill's home. One time, her husband accompanied her to Mrs. Gambrill's house. Another time she went to pick up a vacuum, and her son's friend, Dre, was in the car. Dre sat in the passenger seat while appellant "got out and went to go into the house."

Appellant testified that she "just walked in" the house to clean, as the side door was "always unlocked." Appellant did not realize that Mrs. Gambrill did not have "any security" at the home until the last time she cleaned. Mrs. Gambrill was "in and out" of the house during cleaning, and she had friends over a "couple of times" while appellant worked.

After she stopped working for Mrs. Gambrill, appellant sold the jewelry that she found to JW Jewelers. Appellant testified that she did not "know what all was in the bag of jewelry," because she "didn't look at it real close." She recalled removing her grandmother's earrings from the bag, but she noted that the bag "had a bunch of different stuff in it, like a [gold-plated] necklace."

Appellant testified that she found some of the jewelry in her Ford Mustang and some in her Toyota Camry while emptying the cars. She had not put the items there and did not see anyone else do so. After her Mustang was vandalized and totaled on September 28, she cleaned it out and discovered clothing and a bag of jewelry inside. She also removed items from her Camry "either Wednesday night, the day before Thanksgiving, or . . . Thursday morning, Thanksgiving day."

Between September and November, appellant's husband, son, daughter, and Dre all had access to the two vehicles. Dre had driven the Mustang in September, "a couple of weeks before it was totaled."

Dre lived with appellant "off and on for probably like six months, seven months," until they got into "a big hoopla over him driving the Mustang." Dre wanted to drive her other car, but she did not allow it. Nevertheless, Dre took her Camry without permission to buy cigarettes.

Appellant testified that all of the items she took from her cars belonged to Dre. She tried to return the items to him, but Dre would not come back to her home because she had "made it very clear [that she] didn't want [him] around." Appellant stated that Dre had "jewelry in the bag, in like a Ziploc baggie" inside the Mustang. She also found a pair of her grandmother's earrings that had been missing, as well as other items. After Dre refused to retrieve the items, appellant donated some of them and sold the jewelry to JW Jewelers.

Appellant testified that she spoke with officers several times, and law enforcement searched her home in connection with the case. She stated that "[t]here was nothing found at the house."

The jury sent multiple notes to the court during deliberations, questioning the value of the stolen items and the applicable legal standard for "theft over $25,000." As indicated, the jury ultimately found appellant guilty of theft over $25,000 and theft over $1,500.

This appeal followed.

DISCUSSION

I.

Hearsay

Appellant contends that the court erred in admitting Mrs. Gambrill's testimony regarding the value of the jewelry. She asserts that it was inadmissible hearsay used "to prove that the value of the stolen property exceeded $25,000—a necessary element of [appellant's] theft conviction." Appellant argues that the record makes clear that Mrs. Gambrill was not personally familiar with the value of the jewelry, which she inherited, and therefore, the sole basis for the value of the jewelry was an appraisal.

The State contends that appellant's contention is not preserved for this Court's review. It asserts that plain error review is not appropriate.

A.

Proceedings Below

In discussing the value of the missing jewelry, Mrs. Gambrill testified that she was familiar with the value of those items. The following colloquy then occurred:

> [STATE]: Have you conducted research in relation to those items?
>
> [MRS. GAMBRILL]: I had them appraised. I even had the watch appraised by the Piaget company.
>
> [STATE]: And can you tell the jury -- first the gold necklaces -- what is the value of each of the gold necklaces?
>
> [MRS. GAMBRILL]: Based on today's gold rate, they are $21,000 each.
>
> [DEFENSE]: Objection.
>
> THE COURT: Basis?
>
> [DEFENSE]: May we approach?
>
> THE COURT: You may.
>
> (Counsel approached the bench and the following occurred.)
>
> THE COURT: Yes.
>
> [DEFENSE]: If she is referring to something that is on a document, that would be hearsay, an out-of-court statement for the truth of the matter asserted. I don't think she's qualified to refer to something that is on a document that's not in front of her.
>
> [STATE]: Well, Your Honor, she's familiar with the value. She's had it appraised. I think it's the same with any item or any object. The only value to that object is what someone else is willing to pay for it or what it's appraised for. That's what she knows to be the value based on her previous encounters.

THE COURT: All right. So I'm going to -- I agree that the victim can testify to the value of their property. Just ask her what she believes their value to -- all right?

[STATE]: I thought that's what I did, but I'll reask.

THE COURT: You did, but to some extent. But her answer was they were appraised by someone else, but ask her what her -- so I'll sustain the objection to that point, but I'll let you ask her based on what her -- what her research is, what she believes the value is, which I believe she can answer. All right.

[DEFENSE]: I think that's appropriate.

THE COURT: Okay. Thank you.

[DEFENSE]: Thank you.

(Counsel returned to trial tables and the following occurred in open Court.)

[STATE]: Now, M[r]s. Gambrill, do you know the value of each of the gold necklaces?

[MRS. GAMBRILL]: Yes.

[STATE]: What is the value of each of the gold necklaces?

[MRS. GAMBRILL]: $21,000 each.

[STATE]: Okay. And the watch, the Piaget watch from your mother-in-law, what is the value of that item?

[MRS. GAMBRILL]: $22,848.44.

B.

Preservation

We begin with the State's argument that the issue is not preserved for review. "It is well-settled that an appellate court ordinarily will not consider any point or question 'unless it plainly appears by the record to have been raised in or decided by the trial court.'"

Robinson v. State, 404 Md. 208, 216 (2008) (quoting Maryland Rule 8-131(a)). The purpose of the preservation rule is to "prevent[ ] unfairness and requir[e] that all issues be raised in and decided by the trial court[.]" *Vanderpool v. State*, 261 Md. App. 163, 188 (alterations in original) (quoting *Peterson v. State*, 444 Md. 105, 126 (2015)), *cert. denied*, 487 Md. 461 (2024). Specifically, with respect to evidentiary issues, Rule 4-323(a) provides: "An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived."

Here, defense counsel initially objected to Mrs. Gambrill's testimony regarding the value of the necklaces based on an appraisal, and the court sustained the objection. The court stated, however, that Mrs. Gambrill could testify to her belief, as the owner of the property, regarding its value. Counsel for appellant responded that she thought the court's ruling on her objection was appropriate.

Despite her position below that the court properly responded to her objection, appellant now contends that the court erred in: (1) failing to instruct the jury to strike the testimony regarding the appraisal; and (2) admitting Mrs. Gambrill's subsequent testimony. Appellant, however, never made a request for an instruction or any further objection to Mrs. Gambrill's subsequent testimony. Under these circumstances, appellant's contention is not preserved for review. *See Klauenberg v. State*, 355 Md. 528, 545 (1999) (where defendant "received the remedy for which he asked, appellant has no grounds for appeal"); *Ball v. State*, 57 Md. App. 338, 358-59 (1984) (no error where

appellant's objection was sustained, and appellant did not request further relief, because "appellant . . . got everything he asked for"), *aff'd in part, rev'd in part on other grounds sub nom.*, *Wright v. State*, 307 Md. 552 (1986), *abrogated on other grounds by Price v. State*, 405 Md. 10 (2008).

Recognizing that this Court may conclude that the issue is not preserved for review, appellant argues that we should review the issue for plain error. The State contends that this Court should not engage in plain error review.

As this Court has stated: "[A]ppellate invocation of the 'plain error doctrine' 1) always has been, 2) still is, and 3) will continue to be a rare, rare phenomenon." *Winston v. State*, 235 Md. App. 540, 567 (alteration in original) (quoting *Morris v. State*, 153 Md. App. 480, 507 (2003)), *cert. denied*, 458 Md. 593 (2018). More recently, we explained that plain error review

> is "reserved for those errors that are compelling, extraordinary, exceptional or fundamental to assure the defendant of a fair trial." *Newton v. State*, 455 Md. 341, 364, 168 A.3d 1 (2017) (quoting *Robinson v. State*, 410 Md. 91, 111, 976 A.2d 1072 (2009)).
>
> > Before we can exercise our discretion to find plain error, four conditions must be met: (1) "there must be an error or defect—some sort of 'deviation from a legal rule'—that has not been intentionally relinquished or abandoned, *i.e.*, affirmatively waived, by the appellant"; (2) "the legal error must be clear or obvious, rather than subject to reasonable dispute"; (3) "the error must have affected the appellant's substantial rights, which in the ordinary case means he must demonstrate that it 'affected the outcome of the district court proceedings'"; and (4) the error must "seriously affect the fairness, integrity or public reputation of judicial proceedings."

> *Id.* (quoting *State v. Rich*, 415 Md. 567, 578, 3 A.3d 1210 (2010)) (cleaned up).

Turenne v. State, 258 Md. App. 224, 257 (2023), *aff'd on other grounds*, 488 Md. 239 (2024).

Plain error review is rare because "considerations of both fairness and judicial efficiency ordinarily require that all challenges that a party desires to make to a trial court's ruling, action, or conduct be presented in the first instance to the trial court." *Ray v. State*, 435 Md. 1, 23 (2013) (quoting *Chaney v. State*, 397 Md. 460, 468 (2007)). Under the circumstances here, we decline to overlook the lack of preservation, and we will not exercise our discretion to engage in plain error review of the issue. *See Morris v. State*, 153 Md. App. 480, 506-07 (2003) (noting that the five words, "[w]e decline to do so," are "all that need be said, for the exercise of our unfettered discretion in not taking notice of plain error requires neither justification nor explanation"), *cert. denied*, 380 Md. 618 (2004).

II.

Sufficiency of the Evidence

Appellant contends that the evidence was insufficient to support her conviction for theft over $25,000. She asserts that the State failed to prove: (1) that she was ever in possession of the second necklace; and (2) the value of the stolen jewelry.

The State contends that appellant failed to preserve these arguments for appellate review. In any event, it argues that the contentions are without merit. It asserts that a reasonable jury could infer, based on appellant's control over the necklace and watch that

she sold, which was stored in the same box as the second necklace, that appellant possessed the second necklace. It further asserts that there was sufficient evidence to establish the value of the stolen jewelry based on Mrs. Gambrill's testimony that each necklace was valued at $21,000 and the watch had a value of approximately $23,000. The State argues that this testimony was sufficient for the jury to find that the total value of the stolen items exceeded $25,000.

We begin by addressing the State's contention that appellant failed to preserve for appellate review the claim that the evidence was insufficient to support the conviction of theft over $25,000. Maryland Rule 4-324(a) requires that a motion for judgment of acquittal "state with particularity all reasons why the motion should be granted." "[O]ur review of claims regarding the sufficiency of evidence is limited to the reasons which are stated with particularity in an appellant's motion for judgment of acquittal." *Claybourne v. State*, 209 Md. App. 706, 750, *cert. denied*, 432 Md. 212 (2013). "[A] defendant 'is not entitled to appellate review of reasons stated for the first time on appeal.'" *Arthur v. State*, 420 Md. 512, 523 (2011) (quoting *Starr v. State*, 405 Md. 293, 302 (2008)).

Here, at the close of the State's case, appellant made a motion for judgment of acquittal, arguing that, as to the theft charges, "the State has not met its burden. It has not shown that there was the requisite intent." The court denied the motion, stating that "the State has shown enough relative to the elements of each of the charges that are before the Court." At the close of appellant's case, counsel renewed the motion for judgment of acquittal, stating that the argument was the "same as before." The court again denied the

motion. Because appellant argued below only that the State had failed to prove the requisite criminal intent, and she did not raise below the issues she raises on appeal, appellant's sufficiency claims are not preserved for appellate review.

In any event, even if preserved, we would conclude that the evidence was sufficient to support the conviction of theft over $25,000. The standard for reviewing the sufficiency of the evidence is whether, "after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Shivers v. State*, 256 Md. App. 639, 648 (2023) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). This standard is highly deferential, and circumstantial evidence alone can support a conviction. *See Turenne*, 258 Md. App. at 255-56. *See also Williams v. State*, 231 Md. App. 156, 199 (2016) ("[P]roof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts.") (quoting *State v. Suddith*, 379 Md. 425, 430 (2004)). "It must afford the basis for an inference of guilt beyond a reasonable doubt." *Beckwitt v. State*, 477 Md. 398, 429 (2022) (quoting *Smith*, 415 Md. at 185).

Applying this standard, we conclude that the evidence was sufficient to support appellant's conviction of theft over $25,000. With respect to the argument that the State failed to prove that she was in possession of the second necklace, we note that appellant does not argue, for good reason, that the evidence was insufficient for the jury to find that appellant possessed the one necklace and watch that she sold to JW Jewelers. This

evidence, by itself, was sufficient to support the conviction based on the evidence that the necklace had a value of $21,000 and the watch had a value of approximately $23,000.

Moreover, the evidence supported a finding by a rational jury that appellant also possessed the second necklace with the intent to deprive Mrs. Gambrill of the property. Mrs. Gambrill testified that all three items were stored together in the same ceramic jewelry box kept in her hallway, and appellant had regular unsupervised access to the home. Evidence was presented that appellant sold two of the items shortly after the thefts occurred. Under these circumstances, where appellant was in possession of some of the stolen jewelry, the jury could infer that she possessed the third item of jewelry. *Henderson v. Commonwealth*, 213 S.E.2d 782, 784 (Va. 1975) (a factfinder may infer from possession of three tires of a set of four stolen tires, that defendant took all four).

We next turn to the contention that the State failed to prove the value of the jewelry. This Court has stated that an "owner of property is presumed to be qualified to testify as to his [or her] opinion of the value of property he [or she] owns." *Abdullahi v. Zanini*, 241 Md. App. 372, 413 (2019) (alteration in original) (quoting *Colonial Pipeline Co. v. Gimbel*, 54 Md. App. 32, 44 (1983)). Mrs. Gambrill's testimony at trial regarding the value of the jewelry was, therefore, sufficient to establish its value.

Appellant contends, however, that Mrs. Gambrill was not qualified to give testimony regarding value. She quotes *Barber v. State*, 23 Md. App. 655, 657 (1974), for the proposition that, "when the record shows that [the owner] does not in fact know the market value, his or her opinion, even though perhaps in some cases admissible, ***is not***

alone sufficient to establish value." In *Barber*, however, the owner of a ring initially stated that the ring was a gift, and she did not know its fair market value. *Id.* at 656.

Here, by contrast, the jury heard Mrs. Gambrill's uncontroverted testimony regarding the value of the jewelry. The evidence was sufficient to support appellant's conviction for theft over $25,000.

III.

Restitution

Appellant contends that the circuit court erred in calculating and ordering restitution in the amount of $23,400, including $400 for a bracelet, $2,000 in cash, and $21,000 for the missing necklace that was not recovered. She asserts several grounds of error in this regard. First, she argues that the bracelet and cash were not mentioned at trial. Second, she asserts that the State failed to connect her to the second necklace, which was never recovered. Third, appellant contends that the appraisal for the second necklace was not reliable or admissible.

The State concedes that that the court erred in ordering restitution in the amount of $400 for the bracelet because it was not mentioned at trial. We agree, and therefore, we shall remand for a recalculation of the amount of restitution owed.

With respect to the remaining two items of restitution, however, the State argues that there was competent evidence supporting the order of restitution. As discussed below, we agree.

A.

Standard of Review

We review a restitution order for abuse of discretion. *Johnson v. State*, 264 Md. App. 230, 238 (2024); *see also Wiredu v. State*, 222 Md. App. 212, 228 (2015) ("The decision to order restitution pursuant to [Md. Code Ann., Crim. Proc. ("CP")] § 11-603 and the amount lie within the trial court's sound discretion and we review the trial court's decision on the abuse of discretion standard."). In doing so, we "give due regard to the fact finder's finding of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses." *Angulo-Gil v. State*, 198 Md. App. 124, 151 (2011) (quoting *Ashton v. State*, 185 Md. App. 607, 613 (2009)). Accordingly, "[f]irst-level findings of fact are reviewed for clear error." *In re A.B.*, 230 Md. App. 528, 531 (2016).

B.

Proceedings Below

At the sentencing hearing, the prosecutor requested restitution of $21,000 to Mrs. Gambrill for the unrecovered necklace and $5,100 to JW Jewelers. The prosecutor had an appraisal for the necklace. Mrs. Gambrill testified that, although she knew that she would never see "[t]he $3,000 cash that [appellant] took," she "really want[ed] [her] jewelry back."

Defense counsel requested a separate restitution hearing where a witness would "testify as to what they did" to calculate the amount listed in the appraisal. The court

denied the request and ordered appellant to pay $21,000 restitution to Mrs. Gambrill and $5,100 restitution to JW Jewelers. It stated "that there is more than sufficient evidence for the Court to make these findings relative to the restitution issue" based on the appraisal and the trial and sentencing testimony.

Appellant subsequently filed a Motion to Correct an Illegal Sentence, arguing that she "was not given reasonable notice about the restitution that was sought or the amount being requested," "she was not given an opportunity to defend against the request," and "there was insufficient evidence to support the request." Although the State disagreed, asserting that appellant had notice of the restitution request, the court ordered a restitution hearing.

On January 22, 2024, the court held a restitution hearing. Mrs. Gambrill testified that two 18-karat gold necklaces, an 18-karat gold watch, a bracelet, and cash were missing from her home. Based on an appraisal that Mrs. Gambrill received, the replacement value of the unrecovered necklace was $21,000. A picture of Mrs. Gambrill wearing the necklaces was admitted into evidence.

Mrs. Gambrill testified that she paid $400 for the missing bracelet. With respect to the cash that was missing, she testified that it was "a lot of cash." She explained that she did not know how much because she put $100 dollar bills in a box for when she needed travel money, but she "would guess at least $2,000 was in there."

Heather Maertens, a jeweler who owned Maertens Jewelry, prepared an appraisal for the necklace. She was familiar with the necklace because she had known Mrs. Gambrill for years. Based on this familiarity, and after looking at a picture of the necklace and doing "all the research," she determined that the value of the necklace was $21,000.

The court credited the testimony that was given. With respect to the cash, the court stated that the victim

> consistently testified at this hearing as she did in the trial as to the cash that was -- that was taken. And that was in the amount of $2,000. She says at least $2,000, and, quite frankly, as I heard her testimony, I believe she felt it was more, and she said it's only $2,000.

Accordingly, the court ordered restitution to Mrs. Gambrill in the amount of $23,400.[4]

C.

Analysis

Pursuant to Md. Code Ann., Crim. Law ("CR") § 7-104(g)(ii)(2) (2021 Repl. Vol.), a person convicted of theft "shall restore the property taken to the owner or pay the owner the value of the property or services." Restitution proceedings are governed by CP § 11-603(a), which provides, in pertinent part, as follows:

> A court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if:
>
> (1) as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased.

[4] The court also ordered appellant to pay restitution in the amount of $5,100 to JW Jewelers. That award is not challenged on appeal, so we did not discuss the testimony in that regard.

CP § 11-603 (a)(1). A victim is presumed to have a right to restitution if:

> (1) the victim or the State requests restitution; and
> (2) the court is presented with competent evidence of any item listed in subsection (a) of this section.

CP § 11-603(b). "Competent evidence" is evidence that is "reliable, admissible, and established by a preponderance of the evidence." *McDaniel v. State*, 205 Md. App. 551, 559 (2012). *Accord Juliano v. State*, 166 Md. App. 531, 540 (2006).

The Supreme Court of Maryland has stated that: "As a matter of both constitutional due process and Maryland criminal procedure, restitution orders may be entered" if certain conditions exist. *Ingram v. State*, 461 Md. 650, 669 (2018). Those conditions are as follows:

> (1) the defendant is given reasonable notice that restitution is being sought and the amount that is being requested, (2) the defendant is given a fair opportunity to defend against the request, and (3) there is sufficient admissible evidence to support the request - evidence of the amount of a loss or expense incurred for which restitution is allowed and evidence that such loss or expense was a direct result of the defendant's criminal behavior.

Id. (quoting *Chaney*, 397 Md. at 470).

Here, in challenging the restitution order with respect to the missing cash and the necklace, appellant relies solely on the third requirement. We similarly shall limit our discussion to whether there was sufficient evidence: (1) that the loss was the direct result of appellant's behavior and (2) of the amount of the loss.

1.

Cash

With respect to the award of $2,000 for the stolen cash, appellant contends that cash was not discussed at trial "by any witness in live testimony." She contends, therefore, that there was no evidence establishing missing cash as a "direct result" of the crime.

The record disputes appellant's assertion in this regard. Deputy Shoemaker testified that Mrs. Gambrill reported missing cash. [5]

Appellant further argues that the State failed to establish that the amount of missing cash was $2,000. In support, she states that Mrs. Gambrill told the police that the missing cash was "probably $1,000." The portion of the record she cites for that proposition, however, was played outside the presence of the jury; it was not evidence.

At the restitution hearing, Mrs. Gambrill testified that "at least" $2,000 in cash was stolen. The court, as the finder of fact, weighed that testimony, in addition to her testimony in prior proceedings, and found her estimate of $2,000 cash to be credible. We cannot

[5] Deputy Shoemaker's relevant testimony was, as follows:

Q. And let's talk about the items that you were investigating. You were investigating two necklaces?
A. That's correct.
Q. And a missing watch?
A. Yes, ma'am.
Q. And money?
A. Yes, ma'am.

conclude that the court abused its discretion in making this finding and awarding $2,000 restitution for the missing cash.

2.

Necklace

With respect to the necklace that was not recovered, we have already addressed and rejected appellant's argument that, because the necklace had not been recovered, the State failed to show that Appellant took it. We need not elaborate on that point.

Appellant further argues, however, that the State failed to offer competent evidence of its value. We disagree.

As indicated, "[c]ompetent evidence of entitlement to, and the amount of, restitution need only be reliable, admissible, and established by a preponderance of the evidence." *McDaniel*, 205 Md. App. at 559. Here, the State introduced into evidence an appraisal of the necklace, which was completed by Heather Maertens, a jeweler and the owner of Maertens Jewelry. Ms. Maertens testified that she was familiar with Mrs. Gambrill's jewelry, and based on information provided to her by Mrs. Gambrill, she was able to estimate the fair market value of the missing necklace. In appraising the necklace with a value of $21,000, she "did all the research," "estimated the millimeter width on [the] chain," and reviewed comparable chains. Based on this evidence, the court did not abuse its discretion in ordering restitution of $21,000 for the necklace.

IV.

Video

Appellant contends that the circuit court abused its discretion in denying her request to admit the complete video recording of her police interview. She argues that, because the State admitted select portions of the video, the court should have permitted her to introduce the remainder of the video under Maryland Rule 5-106 and the common law rule of completeness. She argues that the omitted portions of the interview were directly relevant to the State's impeachment of her credibility and would have clarified or rebutted the State's misleading implication that she had commented on the value or significance of specific jewelry items.

The State contends that the circuit court properly exercised its discretion in declining to admit the entirety of the police interview under the "rule of completeness." It asserts that the doctrine of completeness permits the admission of evidence only if it explains an incorrect or misleading impression left by evidence already introduced. It argues that appellant did not proffer below which statements she wanted to introduce or how they clarified evidence already introduced.

A.

Proceedings Below

The State admitted excerpts of appellant's recorded police interview. The admitted excerpts included the following statements:

- Appellant stated that the jewelry sold at JW Jewelers was not hers, and she found it in her vehicle. She stated that her vehicle had been broken into, and after cleaning out the car, she found a backpack full of jewelry, none of which was hers.
- Appellant admitted to selling the watch and necklace to JW Jewelers.
- Appellant stated that she thought her son's friend "Dre" most likely stole the jewelry, and she did not want to "hold onto" it if it was stolen.
- Appellant stated that she donated the money she received from the sale of the jewelry.

Following the State's introduction of these excerpts, appellant moved to admit the entire interview so the jury could "see the full context." The State objected, stating that the entire two-hour video was not admissible, and appellant could not admit "her own out-of-court statement in lieu of testifying." Defense counsel stated that, under the "Rule of Completeness," she was entitled to provide the jury with the full interview. The prosecutor stated that the video contained inadmissible character evidence involving another person's prior record. The court, after noting that it had not seen the video, ruled as follows:

> This is what I'm going to do. I'm going to reserve on a ruling as far as the admissibility of the entirety of the document. I'm going to let you cross examine this witness based on the testimony that he's provided here, and if you believe there are portions that need to be played in order to either refresh his recollection or to clarify or to -- as far as putting some of the comments that were made here in context, I'll allow you to do that, but right now, I'm not admitting it. I'm just going to reserve on a final ruling on that, but right now, I'm going to deny you -- deny admitting it into evidence right now, given that there might be these other issues that would prevent its admissibility.

The prosecutor indicated that was fair, and if defense counsel could point to specific things that were needed to provide context, that was fine, but the entirety of the video was not admissible.[6]

Defense counsel then cross-examined Detective McDowell.[7] Counsel did not, at that time or any other time, ask to admit any additional portions of the interview for context, or any other reason, during the remainder of the trial.

After the defense rested, and just prior to defense counsel's closing argument, defense counsel inquired: "[W]here do we stand with respect to Defense Exhibit 2 with (inaudible) as to the entire video." The court responded: "All right. Well, the case is over with. I wasn't asked to move the video back into evidence. It was never admitted into evidence, so it's not in evidence." Defense counsel responded: "Just checking. Thank you."

[6] The court then clarified that it was allowing the exhibit to be marked for evidence, but it was not admitting it at that time, and defense counsel would have to reference any issues that came up. Defense counsel responded: "Thank you, Judge."

[7] The court sustained the State's objection to the following questions regarding what Detective McDowell learned during the interview or what appellant had said: (1) whether he learned that Mrs. Gambrill had made a prior false accusation; (2) who appellant thought took the items appellant was missing; (3) whether appellant said Dre had been to Mrs. Gambrill's house once before, (but the State subsequently stipulated that appellant said she brought Dre to the home one time); and (4) whether Dre knew that Mrs. Gambrill's house was unlocked. The court did allow Detective McDowell to listen to the recorded interview to refresh his recollection whether appellant told him that Dre, her son's friend who she thought had taken things from her house, had been living in her house at the time Mrs. Gambrill's items went missing.

B.

Analysis

"Determining whether separate statements are admissible under the doctrine of verbal completeness is . . . a discretionary act, to be reviewed for an abuse of discretion." *Otto v. State*, 459 Md. 423, 446 (2018). "An abuse of discretion exists where 'no reasonable person would take the view adopted by the [trial] court, or when the court acts without reference to any guiding rules or principles.'" *Id.* (alteration in original) (quoting *Alexis v. State*, 437 Md. 457, 478 (2014)).

The doctrine of verbal completeness "finds its roots from two sources: the common law and Maryland Rule 5-106." *Id.* at 447. As the Supreme Court of Maryland has explained: "The application of the common law doctrine of verbal completeness requires that '[t]he offer in testimony of a part of a statement or conversation, upon a well-established rule of evidence, always gives to the opposite party the right to have the whole.'" *Id.* (alteration in original) (quoting *Smith v. Wood*, 31 Md. 293, 296-97 (1869)). Md. Rule 5-106 "allows certain writings or recorded statements to be admitted earlier in the proceedings than the common law doctrine of completeness." *Conyers v. State*, 345 Md. 525, 541 (1997).

There are, however, several limitations to admissibility of statements under the doctrine of verbal completeness, including: (1) "No utterance irrelevant to the issue is receivable;" (2) "No more of the remainder of the utterance than concerns the same subject,

and is explanatory of the first part, is receivable;" (3) "The remainder thus received merely aids in the construction of the utterance as a whole, and is not in itself testimony." *Otto*, 459 Md. at 449-50 (quoting *Feigley v. Balt. Transit Co.*, 211 Md. 1, 10 (1956)). "A party seeking to admit evidence pursuant to the doctrine of verbal completeness must" satisfy this test. *Id.* at 456.

There are further limits to the doctrine of verbal completeness:

> [W]here the remaining evidence, if otherwise inadmissible, is more prejudicial than probative, a trial court may exclude the evidence. A reading of *Conyers* dictates that a statement does not have to be independently admissible. However, evidence that is otherwise inadmissible does not become admissible purely because it completes the thought or statement of the evidence offered pursuant to the doctrine of verbal completeness. Inadmissible evidence will only be admitted by the rule of completeness if it is particularly helpful in explaining a partial statement and that explanatory value is not substantially outweighed by the danger of unfair prejudice, waste of time, or confusion.

Id. at 451-52.

Here, although appellant asserted below that the full two-hour video should be admitted for the jury to "see the full context," she did not specifically identify at trial any particular portions of the interview that were necessary to correct any misleading impression. Although appellant identifies reasons on appeal that the entire recording should have been admitted, she failed to do so below, even after the court suggested that it would allow the video to be played if defense counsel could point to specific things that were needed to provide context. Under the circumstances, where counsel failed to show that the remainder of the interview was properly admissible under the doctrine of verbal

completeness, the circuit court did not abuse its discretion in declining to admit the remainder if the interview.

ORDER OF THE CIRCUIT COURT FOR CALVERT COUNTY FOR RESTITUTION VACATED IN PART AND AFFIRMED IN PART. ON REMAND, THE CIRCUIT COURT SHALL ENTER AN AMENDED RESTITUTION ORDER, REDUCING THE AMOUNT OF RESTITUTION OWED BY $400. JUDGMENTS OTHERWISE AFFIRMED. COSTS TO BE PAID BY APPELLANT.