Circuit Court for Frederick County
Case No. C-10-CR-24-000244

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1962

September Term, 2024

CHRISTOPHER KRAFT

v.

STATE OF MARYLAND

Berger,
Tang,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: July 13, 2026

A jury in the Circuit Court for Frederick County found the appellant, Christopher Kraft, guilty of assault in the first degree of his nine-year-old daughter (the "child") and related offenses. In this appeal, he raises three questions, which we quote:

1. Is the evidence sufficient to sustain the conviction for first-degree assault?
2. Did the court err in admitting prior bad acts evidence?
3. Did the court err in considering evidence of a "road rage" incident at sentencing?

For the reasons that follow, we affirm.

BACKGROUND

Late in the afternoon on Sunday, March 3, 2024, Carmen Renzi, the appellant's housemate and former co-worker, called 911 requesting a welfare check on the appellant and the child. Mr. Renzi informed the dispatcher that the appellant was yelling at the child and that "[s]omebody just smacked her quite a few times." Officers from the Frederick County Sheriff's Office responded to the appellant's home.

Upon arrival, one officer observed that the child appeared dirty, had red marks on her face and arm, and seemed upset and scared. The home was in disarray and dirty. The appellant told an officer that he had spanked the child three or four times on the bottom as discipline for taking a phone he had confiscated from her. An officer noticed a strong smell of alcohol on the appellant, who admitted to consuming orange juice mixed with vodka. Multiple liquor bottles were observed in the appellant's bedroom. Following further investigation, officers arrested the appellant, and the child's former daycare provider took custody of the child.

Two days later, on March 5, a social worker from the Frederick County Child Advocacy Center interviewed the child and conducted a follow-up interview on March 19. The child recounted the events that culminated in the March 3rd 911 call. She explained that the appellant entered her room and began yelling at her for no reason. He pushed her into a corner and started throwing things at her. The appellant hit the left side of her face as hard as he could with his hand and "whack[ed]" her with a towel. At one point, she was on the ground when the appellant, wearing shoes, placed his foot on her stomach and told her he had "all the rights to crush [her]." The appellant told her to "shut the F-U-C-K up. Screw you. Go to H-E-L-L. You're a little B-I-T-C-H." He continued kicking and hitting her.

The child disclosed another prior incident in February when the appellant pointed a gun at her. She explained that the appellant woke up screaming her name, demanding water. She noticed ten bottles of alcohol in his bedroom. Either she or the appellant got the water, but the appellant then splashed it on her, causing her to cry and scream.[1] He then grabbed his gun, went to her bedroom, pointed it at her bed, and threatened to shoot her if she did not stop crying. The child described the appellant as "really mad and not thinking. Like, it felt like he wasn't thinking." The next day, the child did not go to school because the appellant "went back to sleep from drinking too much."

[1] At trial, the child testified that the appellant was in the kitchen when he woke her up early in the morning and demanded that he get her water. When she refused to get him water, he fetched the water himself and then splashed it on her. The inconsistency between her statements to the social worker and her trial testimony is not material to the appellant's arguments on appeal.

The child also described other prior incidents of neglect and abuse. She said that the appellant had moved the lock on her bedroom door from the inside to the outside, locking her in the room at times. To cope, she would gather snacks and drinks in her bedroom to have something to eat. One of the times he locked her in the room, she started screaming that she needed to go to the bathroom. On another occasion, when she was "starving," and there was no food in the house, she went to Mr. Renzi for help because she did not know what to eat. She also recounted that "one time [the appellant] threw batteries at [her]."

On March 5, after the initial interview with the social worker, the child was examined by a doctor who noted an injury to her head. The child told the doctor that the injury occurred when the appellant pulled her down from her loft bed and hit her. During the examination, the child recounted other instances of physical abuse, some of which overlapped with the incidents she had earlier described to the social worker.

On March 22, the appellant was indicted on seven counts: assault in the first degree with a firearm, assault in the second degree (throwing water on the child), child abuse in the second degree, assault in the second degree (for the March 3rd incident), reckless endangerment, intoxicated endangerment, and neglect of a minor.

A three-day jury trial was held in September 2024. The State called several witnesses, including the child and Mr. Renzi. The appellant exercised his constitutional right not to testify, and the defense rested its case without offering any evidence.

After the State rested its case, the appellant moved for judgment of acquittal on all counts. The court granted the motion only as to reckless endangerment and intoxicated endangerment. The jury found the appellant guilty of the remaining five counts. The court sentenced the appellant to twenty-five years' imprisonment for first-degree assault, with all but seventeen years suspended. The court suspended all the remaining sentences and imposed four years' probation.

Additional facts are included where pertinent to the discussion of the issues.

DISCUSSION

I.

Sufficiency of Evidence

The appellant contends that the evidence is insufficient to sustain his conviction for first-degree assault.[2] To determine if the State has provided sufficient evidence to sustain a conviction, we ask "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." *Smith v. State*, 415 Md. 174, 184 (2010) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). Our role is not to retry the case, *Koushall v. State*, 479 Md. 124, 148 (2022), but only to determine "whether the verdict was supported by

[2] The State argues that the challenge was not preserved because the appellant did not renew his motion for judgment of acquittal after the defense rested its case. The State is correct that the appellant did not renew his motion for judgment of acquittal but is incorrect in its assertion that his sufficiency argument is not preserved as a result. "[I]n a jury trial, where a defendant does not offer any evidence after his motion made at the end of the State's case, that motion is necessarily transformed into one made at the close of all the evidence." *Simpson v. State*, 77 Md. App. 184, 189 (1988), *aff'd on other grounds*, 318 Md. 194 (1989) (citing Md. Rule 4-324(a)). Consequently, the sufficiency argument the appellant made regarding the first-degree assault, at the close of the State's case, was made at the close of "all evidence" presented at this trial. The appellant did not withdraw the motion. *See* Maryland Rule 4-324(c). We conclude the argument was preserved for appeal.

sufficient evidence, direct or circumstantial." *State v. McGagh*, 472 Md. 168, 194 (2021) (citation omitted). Therefore, we defer to all reasonable inferences drawn by the jury, even if we might have drawn a different inference. *Cox v. State*, 421 Md. 630, 657 (2011).

First-degree assault requires proof of all the elements of second-degree assault, along with at least one statutory aggravating factor. *Snyder v. State*, 210 Md. App. 370, 380 (2013); *see also* Md. Code Ann., Crim. Law § 3-202(b). In turn, "second-degree assault encompasses three types of common law assault and battery: (1) the 'intent to frighten' assault, (2) attempted battery and (3) battery." *Snyder*, 210 Md. App. at 380. Here, the trial court instructed the jury only on the intent-to-frighten modality of assault, requiring the State to prove that: (1) the defendant committed an act with the intent to place another in fear of imminent physical harm; (2) at the time of the act, the defendant had the apparent ability to bring about the physical harm; and (3) the victim was reasonably aware of the harm. *Jones v. State*, 440 Md. 450, 455 (2014).

The trial court further instructed the jury on the defense of voluntary intoxication, in accord with pattern instruction MPJI-Cr 5:08 ("Voluntary Intoxication–Specific Intent"):

> [Y]ou've heard evidence that the defendant acted while intoxicated by alcohol. Generally, voluntary intoxication is not a defense and does not excuse or justify criminal conduct. However, when charged with an offense requiring specific intent, the defendant cannot be guilty if the defendant was so intoxicated at the time of the act that he was unable to form the necessary specific intent.
>
> A specific intent is a state of mind in which the defendant intends that his act will cause a specific result. In this case, the defendant is charged with first-degree assault, which requires the State to prove that the defendant acted with the specific intent to frighten. In order to convict the defendant of

> first-degree assault, *the State must prove beyond a reasonable doubt that the defendant's degree of intoxication did not prevent the defendant from acting with that specific intent.*
>
> A person can be drinking and can even be intoxicated, but still have the necessary mental faculties to act with a specific intent.

(emphasis added.)

In challenging his first-degree assault conviction, the appellant contends that there was ample evidence that he was intoxicated at the time of the "gun incident." The appellant claims that the State failed to show any evidence that his degree of intoxication did not prevent him from acting with specific intent to frighten the child, and therefore, the conviction for first-degree assault should be vacated.

We conclude that the evidence was sufficient to sustain the first-degree assault conviction. As the jury was instructed, "[a] person can be drinking and can even be intoxicated, but still have the necessary mental faculties to act with a specific intent." Indeed, the Supreme Court of Maryland has emphasized that a "high degree of intoxication [is] required to negate a specific intent," and "that the mere consumption of alcohol, with no evidence as to the effect of that alcohol on the defendant, would not permit a jury reasonably to conclude that he had lost control of his mental faculties to such an extent as to render him unable to form the intent." *Bazzle v. State,* 426 Md. 541, 555 (2012) (citation modified) (quoting *Lewis v. State*, 79 Md. App. 1, 12–13 (1989)); *see also Hook v. State*, 315 Md. 25, 31 n.9 (1989) (stating that "the degree of intoxication required to negate specific intent was substantial" and that "[e]vidence of drunkenness which falls short of a proven incapacity in the accused to form the intent necessary to constitute the crime merely establishes that the mind was affected by drink so that he more readily gave way to some violent passion and does not rebut the presumption that a man intends the natural consequence of his act" (quoting *State v. Gover*, 267 Md. 602, 607–08 (1973))).

Viewing the evidence in the light most favorable to the State, we conclude that the jury could have found from the evidence that the appellant's level of intoxication did not prevent him from acting with the specific intent to frighten the child. Despite his intoxication, the appellant demonstrated the mental faculties to demand water from the child, fetch his own water, throw it at her, retrieve a gun, point it at her bed while she was nearby, and threaten her by saying, "I'll shoot you if you don't stop crying." Moreover, the jury could have credited the child's testimony during cross-examination when, after defense counsel asked about the appellant's intoxication, she stated that he "wasn't as drunk as . . . he usually was." The evidence is sufficient to sustain the conviction for first-degree assault.

II.

Evidence of Prior Slapping, Fighting, and Verbal Abuse

The appellant contends that the trial court erred in admitting evidence of prior bad acts through Mr. Renzi's testimony. Mr. Renzi testified that in the late afternoon of March 3, 2024, he heard the child "coming down the hallway," "crying . . . 'ohh daddy that hurts.'" According to Mr. Renzi, the appellant "responded with, 'It's supposed to hurt. You're being punished.'" Shortly afterward, Mr. Renzi heard the child's bedroom door close, and, from behind his own closed bedroom door, he could hear "a slapping noise" at least three times. Based on what he heard, he decided to call 911. The recording of the 911 call was admitted into evidence and played for the jury.

After playing the call, the prosecutor asked Mr. Renzi why he decided to call 911, especially given his concern that doing so might disrupt his "home life." The defense objected to the question. The court held a bench conference during which the following ensued:

> THE COURT: Why can't he say why he called 911?
>
> [DEFENSE COUNSEL]: I mean, I would like a proffer of what he's going to say if it's going to open it up to some prior.
>
> THE COURT: I mean, the proffer is probably going to be because he was concerned for her welfare.
>
> [PROSECUTOR]: I mean –
>
> THE COURT: That he can say.
>
> [PROSECUTOR]: I mean, he disclosed the fact that there were – I mean, first of all, there are issues that happened before this that are charged, right? And he's going to – he made a – and we disclosed that he made a CPS complaint prior to this incident and that he was concerned that things were escalating.
>
> THE COURT: Yes, I think that's all fine. I think she's just – I mean, if it looks like it's getting into . . . hearsay or something, just try to object. I'll try to stop it. Obviously, I can make it curative, but we'll try to keep that from even happening. But the question is fine. The answer you might be objecting to.

The court overruled the defense objection, and direct examination of Mr. Renzi resumed:

> [PROSECUTOR]: Okay. Mr. Renzi, you had said you didn't want to disrupt home life. Then why did you call 911?
>
> [MR. RENZI]: That was for the safety of [the child]. I was concerned for her. I was – I had noticed that pattern leading up to that point.

[DEFENSE COUNSEL]: Objection.

THE COURT: Sustained.

[PROSECUTOR]: Mr. Renzi, you indicated you were concerned for [the child's] safety?

[MR. RENZI]: Yes.

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[PROSECUTOR]: *Why did you have concern?*

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[MR. RENZI]: *It was not the first time I had heard the slapping.*

(emphases added).

The prosecutor then asked Mr. Renzi about a series of photographs he had taken depicting unsanitary conditions in the home. The following occurred:

[PROSECUTOR]: Okay. Why did you take those photographs?

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[MR. RENZI]: *The Monday prior to me calling 911 on March 3rd, I had made a report with CPS to tell them about –*

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[MR. RENZI]: *To tell them about the fighting and the verbal abuse that I had heard –*

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[MR. RENZI]: – *that morning.*

(emphases added).

The appellant argues that the court erred in admitting testimony regarding his prior bad acts of "slapping," "fighting," and "verbal abuse" of the child. He asserts two reasons why he believes the trial court erred: first, that none of the allegations were proven to have actually occurred, let alone by clear and convincing evidence; and second, that even if the State had established by clear and convincing evidence that these incidents took place, the evidence was unnecessary to the State's case and its probative value was outweighed by the unfair prejudice to him.

Maryland Rule 5-404(b) governs the admissibility of so-called "other bad acts" evidence and provides as follows:

> **(b) Other Crimes, Wrongs, or Acts.** Evidence of other crimes, wrongs, or acts, including delinquent acts as defined in Code, Courts Article § 3-8A-01, is not admissible to prove the character of a person in order to show action in the conformity therewith. Such evidence, however, may be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, common scheme or plan, knowledge, identity, absence of mistake or accident, or in conformity with Rule 5-413.

This Rule codifies the general common-law principle that "evidence of a defendant's other bad acts is inadmissible to prove the defendant's propensity to engage in criminal or wrongful acts." *Browne v. State*, 486 Md. 169, 178 (2023). It also sets out an exception to that general rule of inadmissibility, which is further explicated in case law:

> [E]vidence of a defendant's other bad acts is admissible if (and only if): (a) the evidence is offered for a non-propensity purpose that is relevant to a genuinely disputed issue in the case; (b) the defendant's involvement in the other bad acts is established by clear and convincing evidence; and (c) the

> need for and probative value of the evidence is not substantially outweighed by any unfair prejudice likely to result from its admission.

Id.

The Supreme Court of Maryland has explained, however, that the restrictions in Rule 5-404(b) "do not apply to evidence of crimes (or other bad acts or wrongs) that arise during the same transaction and are intrinsic to the charged crime or crimes." *Odum v. State*, 412 Md. 593, 611 (2010). "Intrinsic" means, "at a minimum, other crimes that are so connected or blended in point of time or circumstances with the crime or crimes charged that they form a single transaction, and the crime or crimes charged cannot be fully shown or explained without evidence of the other crimes." *Id.* Under this theory, "[a]cts that are part of the alleged crime itself, . . . or put in its immediate context, are not 'other acts' and thus do not have to comply with Md. Rule 5-404(b)." *Id.*; *see also Merzbacher v. State*, 346 Md. 391, 410 (1997) (stating that prior bad acts evidence is admissible where it is "so much a part of a setting of the case and its environment that their proof is appropriate in order to complete the story of the crime on trial by proving the immediate context" of the crime (citation modified)).

The evidence of prior slapping, fighting, and verbal abuse was introduced to explain why Mr. Renzi called 911, why he was concerned for the child's safety, and why he had taken photographs the week before. Additionally, this evidence was both factually and temporally connected to the charged crimes—first-degree assault, second-degree assault, second-degree child abuse, and neglect of a minor—and provided context for understanding the crimes and the escalation of incidents. In other words, it was relevant to present a complete and coherent story related to the child abuse and other offenses. Accordingly, the prior slapping, fighting, and verbal abuse are not "other acts" and thus do not have to comply with Md. Rule 5-404(b). *Odum*, 412 Md. at 611; *cf. State v. Ruiz*, 892 P.2d 962, 966 (N.M. Ct. App. 1995) (affirming admission of evidence concerning the defendant's abuse of his child to "provide[] the context" for why he was battering wife); *State v. Martucci*, 669 S.E.2d 598, 612 (S.C. Ct. App. 2008) ("The testimony regarding the prior bad acts was relevant to show the complete, whole story relating to the charge of homicide by child abuse."); *State v. Sanders*, 716 A.2d 11, 13 (Vt. 1998) (affirming admission of the defendant's prior physical abuse of the victim because it was relevant "to portray the history surrounding the abusive relationship, providing the needed context for the behavior in issue"). A trial court has considerable discretion in balancing the probative value against its potential unduly prejudicial impact. Under the circumstances, we cannot conclude that the admission of the evidence was unfairly prejudicial or that the court abused its discretion in admitting it.

III.

Sentencing

The appellant argues that the court impermissibly depended on unreliable information during his sentencing. During the appellant's sentencing hearing, the prosecutor referred to a previous "road rage incident" involving the appellant:

> [PROSECUTOR]: . . . Your Honor, with regard to sentencing, I also think it's very important for the Court to know about his prior criminal record. So he has a 2018 PBJ for a DUI, *and a conviction for having a loaded weapon*

> *in a vehicle for that offense. The facts in that case involved a road rage incident.*
>
> [DEFENSE COUNSEL]: Your Honor, I object to the facts of that case. *He wasn't charged with any road rage incident.*
>
> THE COURT: All right. The objection is overruled because the [c]ourt has wide latitude to consider everything at sentencing, but I assure you it will be given the proper weight.
>
> [PROSECUTOR]: He was convicted of having a firearm in the vehicle, and the report was that the defendant got out of his vehicle, donned a tactical vest, and chased the occupants of the vehicle on foot carrying a shotgun, and a shotgun was recovered from the vehicle. I also think it's important to the [c]ourt to note his dangerousness and his willing [sic] to change.

The appellant contends that the facts related to the "road rage incident" were not shown to be "reliable," and the court should not have considered them at sentencing.[3] In fashioning a sentence, "a sentencing judge is vested with almost boundless discretion." *Anthony v. State*, 117 Md. App. 119, 130 (1997). A "defendant's sentence should be premised upon both the facts and circumstances of the crime itself and the background of the individual convicted of committing the crime." *Id.* (citation modified). Not only can the sentencing judge consider prior convictions, but the judge can also consider the defendant's "uncharged or untried offenses, or even circumstances surrounding an acquittal." *Id.*

Certainly, when a sentencing judge considers such information, the information must be "reliable." But "[t]o be reliable is simply to be believable." *Robson v. State*, 257

[3] The State responds that the appellant advanced a different basis for his objection before the trial court—i.e., he was not "charged" with any road rage incident—and therefore, the challenge to his sentence is unpreserved. For purposes of this opinion, we shall assume without deciding that the appellant preserved the argument.

Md. App. 421, 448. So long as the information is "legally competent to be credited," the sentencing judge may consider it, even if it appears that the same evidence was not credited by a jury. *Id.* at 449 ("Evidence may be credible . . . even if nobody credits it."). Here, the proffer of the facts of the "road rage incident" was not merely a "bald accusation of criminal conduct." *Henry v. State*, 273 Md. 131, 147 (1974). Instead, it appears to have been derived from a record or report pertaining to a conviction for having a loaded weapon in a vehicle. We cannot say that the disputed information was so unreliable "that it raise[d] a substantial possibility that [the court's] judgment may be influenced by inaccurate or false information." *Id.*

Regardless, the court did not rely on the disputed information in sentencing the appellant. The court explained its reasons before imposing its sentence, which were based solely on the trial evidence:

> THE COURT: All right. *The [c]ourt[] did sit through this jury trial. It was difficult to listen to. And the facts sort of speak for themselves.* The sentence is going to be similar to what the State requested, not because the State requested. I do think there's some merit into having the victim in this case, being an adult by the time she has to worry about her safety again. So I think there's some merit to that.

(emphasis added). The court was not motivated by impermissible considerations when sentencing the appellant.

JUDGMENTS OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED. COSTS ASSESSED TO APPELLANT.