

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2787

September Term, 2015

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IGNATIUS KEYEH

v.

STATE OF MARYLAND

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Krauser, C.J.,  
Nazarian,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: February 8, 2017

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Convicted by a jury, in the Circuit Court for Harford County, of assault in the second degree, Ignatius Keyeh, appellant, noted this appeal, contending that the trial court erred in admitting a recording of a 911 call. Finding no error, we affirm.

In July of 2013, Harford County Police Corporal Nicholas Petrozzino responded to appellant's home after receiving a report of a "domestic in progress." Upon arriving at the home, Corporal Petrozzino was met by appellant at the door. The officer asked appellant what happened, and appellant responded that "it was just an argument." After entering the home, the officer "heard a lot of people crying" and observed a female, later identified as appellant's wife, Queentar Keyeh, with "injuries to her face." Appellant was ultimately arrested.

At trial, Ms. Keyeh did not testify, instead choosing to invoke her marital privilege. In lieu of Ms. Keyeh's testimony, the State offered into evidence a recording of a 911 call she purportedly made on the night in question. During that call, the caller identified herself as "Queentar" and stated that her "husband" had been "playing music real loud." She stated that when she told him to turn down the music, he "started hitting [her]...so hard." She then pleaded: "Please somebody come here."

Throughout the call, which lasted approximately 10 minutes, the operator asked the caller to provide various information, including what happened and whether anyone else was present. The operator also stated that she was sending help and asked for the caller to stay on the line until the police arrived. Toward the end of the call, the caller stated: "Oh, my God, I'm dead." The operator again stated that she was "sending help" and, after a

pause, the caller stated that she could “hear the police.” The call concluded a short time later.

Appellant contends that the trial court erred in admitting the 911 call for two reasons. First, appellant maintains that the State failed to establish that Ms. Keyeh was the person who made the 911 call and, as a result, the call was not properly authenticated. Second, appellant contends that admission of the call violated the Confrontation Clause.

Neither of appellant’s arguments have merit. Maryland Rule 5-901(a) states that authentication “as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.” *Id.* It then provides a non-exhaustive list of the ways in which evidence may be authenticated, including by means of circumstantial evidence, “such as appearance, contents, substance, internal patterns, location, or other distinctive characteristics[.]” Md. Rule 5-901(b)(4). Nevertheless, “the burden of proof for authentication is slight, and the court ‘need not find that the evidence is necessarily what the proponent claims, but only that there is sufficient evidence that the *jury* ultimately might do so.’” *Dickens v. State*, 175 Md. App. 231, 239 (2007) (emphasis in original) (internal citations omitted). Whether the court erred in admitting such evidence is reviewed for abuse of discretion. *Donati v. State*, 215 Md. App. 686, 715 (2014).

Here, the caller identified herself as “Queentar” and referred to her attacker as her “husband,” whom the caller stated had hit her. When the police responded to the caller’s home, they observed Queentar Keyeh with injuries to her face. They also spoke with Ms. Keyeh’s husband, appellant, who admitted that the couple was having an argument. Based

on these circumstances, a reasonable inference could be drawn that Ms. Keyeh was the caller. Thus, the 911 recording was properly authenticated, and the trial court did not abuse its discretion in admitting the recording into evidence.

As for appellant’s claim that the 911 call violated the Confrontation Clause, it did not. “We review the ultimate question of whether the admission of evidence violated a defendant’s constitutional rights without deference to the trial court’s ruling.” *Taylor v. State*, 226 Md. App. 317, 332 (2016). The Sixth Amendment’s Confrontation Clause precludes the State from admitting out-of-court statements by a non-testifying witness if the statements are testimonial in nature. *Davis v. Washington*, 547 U.S. 813, 821 (2006). If, however, the statements are non-testimonial, then the Confrontation Clause is not implicated. *Id.* Whether a statement is testimonial or non-testimonial is determined by the statement’s primary purpose:

Statements are nontestimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency. They are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.

*Id.* at 822.

Here, the circumstances objectively indicate that the primary purpose of the 911 call was “to enable police assistance to meet an ongoing emergency.” First, the operator continually urged Ms. Keyeh to stay on the line until the police arrived, and the call ended almost immediately upon this happening. Moreover, at no time during the call did Ms. Keyeh indicate that the threat, or at least the perceived threat, had concluded. In fact,

towards the end of the call, she stated: “Oh, my God, I’m dead.” Finally, although the operator sought, and Ms. Keyeh provided, some information relevant to appellant’s subsequent prosecution, namely that appellant had hit her and that she had feared for her life, there is no indication that this information was elicited for any reason other than to enable the police to meet the ongoing emergency. Because the 911 call’s primary purpose was non-testimonial, the trial court did not err in admitting it.

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