

Circuit Court for Anne Arundel County
Case No.: C-02-CR-23-000696

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2129

September Term, 2023

ADAM S. MCPHERSON

v.

STATE OF MARYLAND

Arthur,
Reed,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

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

A jury in the Circuit Court for Anne Arundel County found Appellant, Adam S. McPherson, guilty of carjacking, robbery, motor vehicle theft, theft of property valued between \$1,500 and \$25,000, and fleeing and eluding. After merging certain offenses, the court sentenced him to a total term of thirty years' imprisonment, suspending all but twelve years, to be followed by a five-year term of supervised probation. McPherson appeals, raising two questions¹ which we have slightly rephrased:

1. Did the circuit court abuse its discretion by admitting into evidence still images taken from surveillance video when the video itself was unavailable at the time of trial?
2. Did the circuit court err in overruling the defense's objection to a State witness's testimony that, after obtaining screenshots of certain images taken from surveillance video, she posted the images on a social media site "called Shore Moms" because the name "Shore Moms" was irrelevant and unfairly prejudicial?

For the reasons to be discussed, we shall affirm the judgments.

BACKGROUND

The events giving rise to the charges in this case took place on Easter Sunday, April 9, 2023. Cynthia Lauer left home for work that morning just after 7:00AM. She stopped at a Royal Farms store located at 5573 Shady Side Road in Churchton, a short distance from her home, to get gas in her 2017 red Dodge Journey. After putting the gas pump nozzle

¹ McPherson phrased his questions presented as follows:

1. Did the circuit court err by admitting purported images from surveillance video that was unavailable at the time of trial?
2. Did the circuit court err by permitting a witness for the State to testify about the name of a local Facebook group with which she interacted because the name was irrelevant and unfairly prejudicial?

into her gas tank and running her credit card through the system, Ms. Lauer leaned into her car, over the driver's seat, to return the credit card to her wallet, which was on the passenger seat. As she was doing so, Ms. Lauer heard a "voice behind" her and then "felt a hand behind" her, and a male said, "I don't want to hurt you, I just want your car." She then turned as the man "was trying to squeeze into the car, and [she's] trying to block him, and he's pushing harder." The man made his way into the driver's seat, displayed a "canister," and said to her, "I don't want to hurt you, but I'll mace you[.]" After struggling for a bit with him—he shoved her into the steering wheel causing a broken rib—Ms. Lauer decided it was not "worth getting injured" and she asked him to just give her her wallet, which the man did. When Ms. Lauer then "stepped back," she related that the man "slammed the door, and he took off. He squealed wheels, he went around and then out, and up Muddy Creek Road."

At trial, Ms. Lauer described her assailant as a young ("20's maybe"), thin, white male, with dark hair. He had "facial hair" and "was real scruffy." She recalled that he was wearing a "[s]weatshirt" with a "hood." Ms. Lauer was not asked to make an in-court identification of her assailant.

When the assailant fled in her vehicle, Ms. Lauer related that she looked over at another patron parked "two, maybe three pumps down" and said, "He just stole my car" and the gentleman "went running into the store, and someone called the police." Police officers arrived several minutes later. She told the police what happened and gave them a description of her vehicle.

Dee Anderson, a “customer service manager” at the Churchton Royal Farms, testified that she began her shift the morning of April 9th at 4:30AM. Her daily duties include taking a “gas walk,” which she described as walking over to “every pump, every trash can, and tak[ing] pictures” to send “to corporate.” She ensures that the prices on the pumps match the sign in front of the store; the machines have paper; the hoses are connected correctly; and the like. There are twelve gas pumps and Ms. Anderson related that this “outside walk” typically takes her about thirty-five to forty minutes.

Ms. Anderson began the outside walk the morning of April 9th “around 6:45 to 7:00.” She observed “a car that just pulled up at a gas pu[m]p, and one customer just pulled up in front of the store in a pickup truck.” She also saw a man walking around the outside of the store.² The man walked by slowly; he “had gloves on and he . . . just walked by, he didn’t go into the store, he walked past the front entrance, and went around on to the side, and sat at the table.” Ms. Anderson testified that she “looked at him and paid attention to what he was doing” because she found it unusual that he did not go into the store for coffee or something.

² On direct examination, when asked “where” she “first” observed this man, Ms. Anderson testified that it was when she was “heading out to do the gas walk.” She observed him walking “in front of the ice machine,” as she “was walking to pump number one.” In discussing what she later viewed on the surveillance video, Ms. Anderson testified, among other things, that the footage showed the man she had personally viewed walking through the parking lot “being dropped off from a pickup truck.” On cross-examination, when asked about the time she “saw this individual get out of a pickup truck,” Ms. Anderson could not confirm the exact time but said it was either on her “gas walk or when [she] was loading all the paper into the gas pumps.” Defense counsel elicited that she did not see the truck leave the premises.

The man she observed was white, with dark hair, he had gloves on, and he was wearing “black tennis shoes that also had white on them.” Although Ms. Anderson had not seen this man previously at Royal Farms, she testified that she had seen him once before at the Chesapeake Yacht Club. Ms. Anderson had gone to the yacht club a month or two prior to the carjacking to pick up some signs, and she saw this man working behind the bar. At the time of the carjacking, Ms. Anderson did not connect the man at Royal Farms with the bartender at the yacht club, but it came to her later, and she informed the Assistant State’s Attorney of that fact about two weeks prior to trial. At trial, Ms. Anderson identified a photo of Appellant—taken by police the afternoon of the incident—as the person she had observed during her outside walk at Royal Farms the morning of the carjacking. The photo depicts a white male with dark hair and a moustache and beard.

After she completed her outside walk and was heading back into the store, Ms. Anderson saw the man “walking towards pump number one.” Specifically, she related that she “saw him walking by when [she] was coming from pump twelve. He was walking across the parking lot towards pump one and two, and about the time [she] made it to the front of the store,” before she reached the doors, “there was a young lady hollering . . . that her car was taken.” Ms. Anderson testified that “there was a pickup truck in the parking lot with a guy hollering for me to call the police[.]” She observed the woman’s vehicle “pulling out and taking off” and exiting the parking lot. Ms. Anderson then went inside the store and called the police.

Harold Judge testified that, on April 9th, he was living at a home located on Baskin Street in Churchton. Appellant’s mother was the landlady. Appellant and another man also

resided in the home. At the time of the carjacking, Mr. Judge had lived there a couple of months. He worked as an electrician at the time for Absolute Electrical Systems and drove a company truck. He did not know “exactly where” Appellant worked, but he knew “it was one of the local like yacht clubs in like the service restaurant, bartending[.]”

On the morning of April 9th, Mr. Judge related that Appellant (whom he identified in court) came into his bedroom, crawling across the floor, and “sprung up” by his bed to “surprise” him. Appellant asked for a ride to Royal Farms where he said a friend would pick him up. Although vague on the time, Mr. Judge believed it may have been “around 5 or so in the morning[.]” but he “wasn’t really tracking” the time.

Although Mr. Judge thought Appellant’s behavior waking him up was “strange,” he agreed to give him the ride because he was trying to “keep things cool” with his “landlady and her son[.]” Mr. Judge drove Appellant to the Royal Farms in Churchton in his company’s vehicle. Mr. Judge related that while enroute to Royal Farms, Appellant “made a point of like pulling on these gloves and saying, you like my gloves?” That struck Mr. Judge as odd, and it stuck with him. After dropping off Appellant at Royal Farms, Mr. Judge drove home and went back to bed. He did not give Appellant any other rides that day.

Corporal Patrick Madera, assigned to the patrol unit of the Anne Arundel County Police Department, responded to the Royal Farms in Churchton at about 7:19AM on April 9, 2023 after a dispatch call “for a stolen vehicle in progress.” Upon arrival, Cpl. Madera encountered Ms. Anderson and Ms. Lauer.

Together, Ms. Anderson and Cpl. Madera viewed Royal Farms’ surveillance video from a computer located in the “back office.” (The surveillance video was not available at trial, as it had been destroyed, without bad faith, in the normal course of business.)³ Cpl. Madera identified three photographs that he had taken while watching the surveillance video: State’s Exhibits 4A, 4B, and 4C. Exhibit 4A is a photo of a person outside in dark clothing wearing a hoody (with the hood on the head) and walking by tables, whom Cpl. Madera described as “our suspect from the carjacking on April 9th outside of the Royal Farms.” Exhibit 4B is a photo of what appears to be the same person (viewed from the rear) walking towards the gas pumps and, as described by Cpl. Madera, “approaching the victim’s vehicle.” Exhibit 4C is a photo, which Cpl. Madera described as “another angle of the suspect approaching the victim’s vehicle.” Cpl. Madera testified that these photos fairly and accurately depict images from the surveillance video from April 9th that he had viewed that morning with Ms. Anderson. The subject’s face is not identifiable in any of these three photos.

Ms. Anderson also testified about State’s Exhibits 4A, 4B, and 4C. She testified that these three photos fairly and accurately depict what she viewed on the surveillance video with Cpl. Madera on April 9th. She further related that what she viewed on the surveillance video “was the same thing that happened when [she] was walking through the parking lot.”

³ Cpl. Madera was not able to obtain a copy of the surveillance video the day of the incident as that is something that must come from “their corporate.” Although he had “asked one additional time for the video,” he never received it.

Ms. Anderson testified also about State’s Exhibits 5A and 5B, which were photos or screenshots taken from the surveillance video of a white pickup truck. She confirmed that they fairly and accurately depict what she observed on the surveillance video on April 9th. Specifically, she claimed that the pickup truck in the photos was the pickup truck she viewed on the surveillance video that dropped the suspect off at the Royal Farms store. According to Ms. Anderson, from the surveillance video, she could discern that this pickup truck had the words “Fire Protection” on it. (Those words, however, are not discernible, to us, on State’s Exhibits 5A and 5B.) She also viewed on the surveillance video the suspect—the same man she had viewed on her outside walk—“[w]alking from one side of the store to the other side. Sitting at the table. Then, . . . that person walking across the parking lot to pump number two” where Ms. Lauer was “getting ready to pump gas” into her vehicle.

Krystal Lamb testified that she is the “sole leader” at the Churchton Royal Farms and supervises the store employees. Because of her position, she has access to the store’s surveillance video at the store and from an app on her phone. Although she was not working on the day of the carjacking, she was immediately contacted about the incident, and she accessed the surveillance video footage from her phone app. (She also re-reviewed it on the computer in the store office on her next workday.) Ms. Lamb testified that she viewed the “carjacking take place” on the video footage. Specifically, she “observed the gentleman get out of a truck - - a work truck, in the back of the store, he got dropped off.” She “watched him go up to the vehicle, and steal the lady’s vehicle, and leave.” She took two

screenshots, State’s Exhibits 5A and 5B,⁴ which she described as “two of the best photos that [she] could find on the camera system, of the vehicle” that dropped off the suspect at Royal Farms. When asked what, if anything that she did “after observing these” images, Ms. Lamb testified that she then posted “these pics” on a social media site and subsequently passed to the police information she then obtained.⁵

Ms. Lamb also took a screenshot from the surveillance video of a white or light-skinned person wearing gloves and a hoody (with the hood on the head) and walking outside on the store premises by tables. This photo was marked as State’s Exhibit 10. The screenshot includes some identifying information: “Royal Farms #190 – Churchton, MD”; “190-Outside Front Left”; and a date and time stamp reading: “04/09/2023, EDT 6:50:44 AM.” Ms. Lamb took this screenshot because she claimed it was “the gentleman that [she] watched [on the video] get out of the truck.” Ms. Lamb saved the screenshot on her phone and sent it to Ms. Anderson, who was the “leader on duty” that day.

Cpl. Madera testified that he received a copy of State’s Exhibit 10 the afternoon of the incident from either Ms. Anderson or Ms. Lamb. He also had information about the white pickup truck, which had an “Absolute Fire Protection” decal on the side of it, that

⁴ The transcript indicates that Ms. Lamb was shown State’s Exhibits “1A and B.” From the context, however, it is clear that she was shown State’s Exhibits 5A and 5B. State’s Exhibits 1A and 1B are photos of Ms. Lauer’s vehicle when it was located, on the side of a road, after the carjacking.

⁵ In his brief, Appellant states Ms. Lamb “posted images of the man, obtained from the footage,” on social media. Based on our reading of the transcript, however, Ms. Lamb appears to have testified that she posted images of the truck (State’s Exhibits 5A and 5B) on social media, as those were the images she was then testifying about.

had dropped off the subject at Royal Farms. With that information, he began to canvas the area and located the pickup truck at 5518 Baskin Street in Churchton.

Detective Jason Blair, an officer with the Anne Arundel County Police Department, responded to 5518 Baskin Street about 3:30PM on April 9th. Upon arrival, he observed a male, whom he identified in court as Appellant. Appellant was outside doing yard work and wearing “dark-colored gloves with a yellow highlighter-type accents on them.” Det. Blair took a photograph of the gloves, which was admitted into evidence as State’s Exhibit 8A.

Corporal Troy Fulwiler, an officer with the Anne Arundel County Police Department, responded with Det. Blair to 5518 Baskin Street where they encountered Appellant. The conversation between the two officers and Appellant was recorded on Cpl. Fulwiler’s body-worn camera and played in court, without objection, for the jury. In that conversation, Appellant related that he was dropped off at Royal Farms that morning—he could not recall the time, but said it was “definitely early.” Appellant initially told the officers that, after dropping him off, his ride “splits off the other way to go to work.” But later in the conversation, he claimed that, after purchasing items, he got back into the truck and his ride drove him home. Appellant told the officers that he works at “CYC” and that he went there, by scooter, to “set up” the “Easter brunch[.]” After that, Appellant claimed he went home.⁶

⁶ Although the officer’s body-worn camera footage was admitted into evidence, it is not in the record before us. The record includes a transcription of the audio recording as it was played in court, but some portions of that appear incomplete. In discussing his ride (continued...)

When Cpl. Madera arrived at the Royal Farms, just after the carjacking, he obtained a description of Ms. Lauer’s vehicle and that description was relayed to other officers. The vehicle was spotted shortly thereafter traveling on Central Avenue. After pursuing the vehicle—which reached a maximum speed of about 120MPH—for about eighteen miles, command staff called off the pursuit. Officer Carly Harris, one of the officers who participated in the pursuit, observed the driver of the stolen vehicle and described him as “a white man with a dark beard[.]”

Later that same day, in the afternoon, the police located Ms. Lauer’s vehicle in the Franklin Manor community, about a mile from Ms. Lauer’s home. The vehicle was unoccupied and parked on the side of the road.

The next day, April 10th, Ms. Lauer was shown a photo array containing six subjects. She “dismissed four right away.” The remaining two photos, Ms. Lauer related at trial, “were very similar gentlemen, except one was definitely older . . . mid-twenties or so.” Ms. Lauer testified that, of the two photos she did not reject, she did not select or “settle” on either because “[t]he one looked much more like him, but the other one was closer to the age.” She indicated the carjacker could have been one or the other. Appellant’s photo was one of these two.

to Royal Farms, Appellant tells the officers that the person who gave him the ride “was up because” he is “an electrician and he works early” so Appellant related that he asked him for a ride to Royal Farms because it was cold and the ride was leaving for work anyway. In its closing statement, the prosecutor related that, on the officer’s body-worn camera footage, Appellant is heard “saying that his roommate, Harold Judge, dropped him off.”

The jury found Appellant guilty of carjacking, robbery, motor vehicle theft, theft of property valued between \$1,500 and \$25,000, and fleeing and eluding. The jury acquitted him of armed robbery, second-degree assault, and reckless endangerment.

I.

**THE AUTHENTICATION OF THE STILL IMAGES TAKEN FROM
THE SURVEILLANCE VIDEO**

The Images At Issue

At trial, it was undisputed that the police had requested, but never received, the surveillance video from Royal Farms for the date of the incident. It was also agreed that the video was unavailable for trial because, without bad faith, it had been destroyed in the normal course of business. *See* Maryland Rule 5-1004 which provides that “[t]he contents of a writing, recording, or photograph may be proved by evidence other than the original if: (a) All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith[.]”

Hence, neither the prosecutors nor the defense had reviewed the surveillance video that purportedly captured the events at Royals Farms prior to and during the carjacking. As previously discussed, however, the State did submit into evidence, over the objections of the defense, still images and screenshots taken from the surveillance video at the time it was viewed by Cpl. Madera, Ms. Anderson, and Ms. Lamb on April 9th.

The images subject to this appeal are the following State exhibits⁷:

- 4A: Depicts a person wearing dark clothing, including a hoody with the hood on the head, walking outside by tables.
- 4B: Depicts a person wearing dark clothing, including a hoody with hood on the head, walking towards gas pumps and shows a red vehicle at one of the gas pumps.
- 4C: Depicts a person approaching the red vehicle at the gas pump.
- 5A: Depicts the passenger side view of a white pickup truck, with an indiscernible decal or markings on the side panel, in a parking lot. The image shows the pickup truck, with its lights on, in an area of the parking lot parallel to, rather than in, a parking space.⁸
- 5B: Depicts what appears to be the same vehicle in 5A traveling away from or through a parking lot.
- 10: Depicts a white or light skinned person in dark clothing wearing gloves and a hoody, with the hood on the head, walking outside by tables. The screenshot or image includes the captions “Royal Farms #190 – Churchton, MD” and “190-Outside Front Left,” as well as a date/time stamp “04/09/2023, EDT 6:50:44 AM.”
- 6: Depicts the same image as Exhibit 10, but zoomed in, and bearing the single caption: “190 – Outside Front Left.”

Standard of Review

“An appellate court reviews for abuse of discretion a trial court’s determination as to whether an exhibit was properly authenticated.” *Mooney v. State*, 487 Md. 701, 717

⁷ We describe the images based on the exhibits in the electronic record before us. The physical copy of the images admitted into evidence at trial are not in the appellate record.

⁸ Any decal or writing on the truck is not discernible to us in the exhibits (State’s 5A and 5B) that are in the record before us. We cannot say whether that was true of the actual physical image admitted into evidence at trial.

(2024) (further citation omitted) (citing *State v. Sample*, 468 Md. 560, 588 (2020)). “[T]he question that [an appellate court] must answer in reviewing a trial court’s ruling is whether there was sufficient evidence for a reasonable juror to find by a preponderance of [the] evidence that the [item offered for admission] is what it is claimed to be.” *Id.* at 729.

The Parties’ Contentions

Appellant asserts that the trial court abused its discretion in admitting the images at issue here into evidence because the State failed to properly authenticate them. In short, he maintains that Ms. Anderson’s testimony was “ambiguous” as to whether the images depicted what she personally observed outside or only on the video footage and, therefore, “all the exhibits in question could have been admitted only if the State carried its burden of satisfying the silent-witness theory.” Because “no witness for the State presented sufficient testimony about the maintenance, functionality, and operational reliability of the surveillance system” at the Churchton Royal Farms store, he maintains the State did not meet its burden. Moreover, because he claims that these images “played a critical role” in the State’s case, “the error [in admitting them] was not harmless beyond a reasonable doubt.”

In response, the State maintains that the trial court did not abuse its discretion in admitting the images because Ms. Anderson, Cpl. Madera, and Ms. Lamb properly authenticated them. The State relies on *Mooney, supra*, 487 Md. at 708, where the Maryland Supreme Court held “video footage can be authenticated in a variety of ways, including through circumstantial evidence under Maryland Rule 5-901(b)(4).”

Discussion

Maryland Rule 5-901(a) provides that “a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.” The proponent’s burden “is slight as 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.” *Reddick v. State*, 263 Md. App. 562, 578-79 (2024) (cleaned up). In other words, to satisfy the authenticity requirement, “the question is whether there is sufficient evidence for a reasonable juror to find[,]” by a preponderance of the evidence, “that it is more likely than not that the [item] is what the proponent of the evidence purports it to be.” *Sample*, 468 Md. at 598-99.

Rule 5-901(b) provides “[b]y way of illustration only, and not by way of limitation,” various “examples of authentication or identification conforming with the requirements” of the Rule. As relevant here, these examples include:

(1) Testimony of a witness with knowledge that the offered evidence is what it is claimed to be.

(4) Circumstantial evidence, such as appearance, contents, substance, internal patterns, location, or other distinctive characteristics, that the offered evidence is what it is claimed to be.

(9) Evidence describing a process or system used to produce the proffered exhibit or testimony and showing that the process or system produces an accurate result.

Authenticating a video under the “silent-witness” theory corresponds with Rule 5-901(b)(9). Under this theory, a video could be authenticated “where there is an adequate foundation assuring the accuracy of the process producing the video.” *Mooney*, 487 Md. at 706 (quotation marks and citation omitted). A proper foundation would involve, for instance, a witness testifying “about ‘the type of equipment or camera used, its general reliability, the quality of the recorded product, the process by which it was focused, or the general reliability of the entire system.’” *Id.* (quoting *Jackson v. State*, 460 Md. 107, 117 (2018)).

A video may also be authenticated under the “pictorial testimony” theory. *Id.* at 705. Under this method, which corresponds with Rule 5-901(b)(1), “a ‘witness testifies from first-hand knowledge that the [video] fairly and accurately represents the scene or object it purports to depict as it existed at the relevant time.’” *Id.* at 705-06 (quoting *Dep’t of Pub. Safety & Corr. Servs. v. Cole*, 342 Md. 12, 20-21 (1996)).

In *Mooney*, the Supreme Court held that authentication of video footage was not limited to the “pictorial testimony” or the “silent witness” theories of authentication. Rather, “like other evidence, video footage can be authenticated in a variety of ways, including through circumstantial evidence under Maryland Rule 5-901(b)(4).” *Id.* at 708.

In addressing the issue in *Mooney*, the Supreme Court also reiterated that the “bar for authentication of evidence is not particularly high” and that “the preponderance of the evidence standard applies to the ‘reasonable juror’ test.” *Id.* at 717 (some quotation marks and citations omitted). Thus, with respect to video footage, the Supreme Court noted that it “can be authenticated in different ways” and “[t]here need not be a witness with personal

knowledge of every single event depicted in a video for the video to be authenticated.” *Id.* at 730. “What matters is that the proponent of the video must demonstrate that the evidence is sufficient for a reasonable juror to find by a preponderance of the evidence that the video is what it is claimed to be.” *Id.* However, the Supreme Court suggested that authenticating video footage through circumstantial evidence “will generally require more fulsome questioning than the type of inquiry typically used to establish the necessary foundation for authentication under Maryland Rule 5-901(b)(1), where a witness may be asked if the item is a fair and accurate depiction of what it purports to be.” *Id.* at 734. The questioning should be “tailored to the particular circumstances of the case to establish a sufficient foundation for admission of evidence” via circumstantial evidence. *Id.*

Here, the images at issue were photographs (4A, 4B, 4C) and screenshots (5A, 5B, 6, and 10) taken from the Royal Farms’ surveillance video on the day of the carjacking while the video was viewed, together, by Cpl. Madera and Ms. Anderson, and separately by Ms. Lamb. “A ‘videotape is considered a photograph for admissibility purposes[,]’ and both videotapes and photographs are ‘subject to the same general rules of admissibility[.]’” *Reyes v. State*, 257 Md. App. 596, 630 (2023) (quoting *Washington v. State*, 406 Md. 642, 651 (2008)).

Appellant argues that “all the exhibits in question could have been admitted only if the State carried its burden of satisfying the silent-witness theory” of authentication. He asserts that “[n]one of the images included date stamps or time stamps”⁹ and that Ms.

⁹ State’s Exhibit 10 did include both a date stamp and a time stamp.

Anderson testified to a very limited understanding of how the surveillance system operated, including how footage was stored and downloaded. He also maintains that Ms. Lamb’s testimony was inadequate, even in combination with Ms. Anderson’s, to satisfy the silent-witness theory of authentication because she “did not meaningfully shed light on the overall reliability of the [surveillance] system or the process by which the images were obtained.” In its reply to the State’s reliance on *Mooney, supra*, (published after Appellant filed his opening brief) and the Supreme Court’s endorsement of circumstantial evidence as a permissible method of authenticating video footage, Appellant focuses on the fact that the video surveillance in this case was unavailable and that its absence “curtailed the utility of the testimony” of Cpl. Madera, Ms. Lamb, and Mr. Judge “who were not present during the incident.”

We begin with Ms. Anderson’s testimony regarding the video surveillance system at the Churchton Royals Farms.¹⁰ She related that there are about fifteen cameras outside—located at the gas pumps as well as on the front, back, and both sides of the building. There are additional cameras inside the Royal Farms store, including on the ceiling. She can watch, from the manager’s office, in real time what the cameras are recording, and she is

¹⁰ We summarize Ms. Anderson’s testimony (and that of the other witnesses) about the surveillance system and the images subject to this appeal without pausing to note when and where Appellant objected and the grounds therefor. That Appellant objected at various points on adequacy grounds to the State’s efforts to lay a foundation for the admission of the images is undisputed. The defense’s primary objection, raised during Ms. Anderson’s testimony, was based on grounds that there was a “lack of foundation to support” authentication of the images under the “silent witness theory[.]” Defense counsel made “continuing objections,” without any (or any significant) argument at other points in the proceedings.

able to view footage previously recorded by “punch[ing] in a time” and “rewind[ing] it back to that time[.]” She described the system as “a box next to [her] computer” which includes “a list of all the different cameras.” Ms. Anderson related that she can “pull up one [camera] at one time” or “watch up to twelve at a time.” She views the footage on a “big computer.”

Ms. Anderson testified that the cameras record “24/7,” that is, they are “always recording.” As part of her managerial duties, Ms. Anderson is required to review about three hours of video footage from the previous day and, based on her experience in doing so, she testified that the system is accurate. She is not able to alter the video footage as that would require a “security code” known only to “corporate.” The Churchton Royal Farms, open twenty-four hours a day, has eight managers who work various shifts. “Only management” has access to the surveillance system, and they must use a password to log in and view the footage. The Churchton Royal Farms is designated as “store 190” and by “hit[ting] 190” she can access every camera, inside and outside, the store. To view footage previously recorded, Ms. Anderson reiterated that she inputs the time and date she would like to view. “Only corporate” can “save” video footage.

Ms. Anderson did not know the “name” of the surveillance system and acknowledged that corporate, not her or anyone assigned to the Churchton store, maintains the system. She also confirmed that she did not “understand how the storage works with the system[.]” When defense counsel asked whether she understood “the download system,” Ms. Anderson replied: “We have no download system for us, it’s all from corporate.” She can view the video footage, “start it, stop it, and pause it,” and can obtain

“still shots” from it. She clarified that she personally did not know how to obtain a still shot “on the computer[,]” and instead related that they typically take a “snapshot” or photo with their phone of “what we’re looking at.”

As the manager on duty on the day of the carjacking, after calling the police, Ms. Anderson logged into the system to access the surveillance video. She pulled up the “outside cameras” and input the “time and date” she wanted to view. Cpl. Madera was present, and he viewed the footage with her. In fact, at one point, Ms. Anderson allowed Cpl. Madera to use “the mouse” to navigate the system as she herself was unable to figure out how to produce a still shot using the computer. She admitted that there are some features, such as enlarging images, that she is not “completely familiar with[.]”

State’s Exhibits 4A, 4B, and 4C

State’s Exhibits 4A, 4B, and 4C are images Cpl. Madera took while viewing the surveillance video with Ms. Anderson.¹¹ Both Ms. Anderson and Cpl. Madera testified that these images fairly and accurately depict what they viewed on the surveillance video the morning of the carjacking. Ms. Anderson also testified that the video footage included footage of herself that morning and that her movements were accurately recorded.

The court ultimately overruled the defense’s objections, on authentication grounds, to the admission of Exhibits 4A, 4B, and 4C. These images depict a person (whose face is indiscernible) in dark clothing wearing a hoody with the hood up walking outside near tables (4A), walking towards gas pumps (4B), and walking towards a red vehicle (identified

¹¹ The court was informed that Cpl. Madera’s body-worn camera recorded him reviewing the surveillance video and taking photos or screenshots of it.

by Cpl. Madera as the “victim’s vehicle”) situated next to a gas pump (4C). The court noted that Ms. Anderson testified to her familiarity with the surveillance system and how she is able to access it, navigate to particular cameras, and view footage previously recorded at a particular date and time. Although Ms. Anderson admitted to being unable to do “a number of the things” with the system, her testimony that there was no way to alter what is actually recorded weighed in favor, in the court’s mind, of the authenticity of the images. Moreover, the court found that, given Ms. Anderson’s presence that morning and her personal observations of the suspect and the victim’s vehicle, she was able to testify to the accuracy of the images. Finally, the court took into consideration Cpl. Madera’s testimony that he took the photos from the video surveillance footage on the morning of the incident, and they accurately depict what he viewed.

We hold that the court did not abuse its discretion in finding that Exhibits 4A, 4B, and 4C were sufficiently authenticated. As noted, the State was not required to establish that the images were in fact what they were purported to be. Rather, the State’s burden was to produce sufficient evidence for a reasonable juror to find that the images were “more likely than not” what the State claimed they were. *Sample*, 468 Md. at 598. We agree with the trial court, for the reasons it articulated, that the State satisfied its burden with respect to these images.

State’s Exhibits 5A and 5B

We turn now to State’s Exhibits 5A and 5B, both of which are images of a white pickup truck which appears to have a decal or logo on the passenger side panel. We are unable to discern any writing on the side of this vehicle from the images in the record

before us, but Ms. Anderson testified that the words were “Fire Protection.” The images do not portray the vehicle’s driver, anyone getting into or out of the vehicle, or any person near the vehicle. Nor do the images include a date or time stamp. Ms. Anderson and Ms. Lamb, however, both testified that these exhibits depict the vehicle they viewed on the surveillance video dropping the suspect off at the Churchton Royal Farms the morning of the carjacking.

Specifically, Ms. Anderson identified these exhibits as images of the vehicle in the Churchton Royal Farms parking lot. She testified that the outside cameras recorded the vehicle. She further testified that the images fairly and accurately depict what she observed on the “surveillance camera” the morning of the carjacking. When the State moved to admit the images into evidence, the defense objected on the same grounds raised with respect to State’s Exhibits 4A-4C. The court overruled the objection without any significant discussion.¹²

We cannot say that the court abused its discretion in admitting these images. When previously admitting State’s Exhibits 4A-4C, the court credited Ms. Anderson’s testimony that the video footage could not be altered by anyone at the store. And Ms. Anderson testified that Exhibits 5A and 5B fairly and accurately depict what she had observed on the surveillance footage.

¹² The grounds for defense counsel’s objection was not precisely articulated, but he made it clear enough that it was “really just the same issue as the other one, as far as this isn’t the Witness who can actually move it from this step to the next step.” The State responded that Ms. Anderson could testify that the exhibits fairly and accurately depict “what she saw - - that she testified that she saw.” After that brief discussion, the court overruled the objection.

But even if the State failed to lay an adequate foundation to authenticate State’s Exhibits 5A and 5B before they were admitted into evidence, we would disagree with the Appellant that it would not amount to harmless error.¹³ On cross-examination, albeit after the exhibits were admitted into evidence, Ms. Anderson confirmed that she observed the suspect get out of a pickup truck either while she was outside doing her “gas walk” or when she “was loading all the paper into the gas pumps.” When asked whether it was the “Absolute Fire Protection truck” she was referring to, Ms. Anderson replied in the affirmative.

Mr. Judge, an electrician employed at the time by Absolute Electrical Systems, testified that he drove Appellant to the Churchton Royal Farms store early that morning in his company’s vehicle and, after dropping him off, went back home. On the afternoon of the incident, Appellant himself told police officers that he was dropped off early that morning at Royal Farms by a person who was up early that morning because he is “an electrician and he works early[.]”

Ms. Lamb testified that she had accessed and viewed the surveillance video the morning of the incident from her phone app and took two screenshots, State’s Exhibits 5A and 5B. She described the images as the “work truck” that the footage captured dropping the suspect off at the Royal Farms. Ms. Lamb further testified that, from the video footage,

¹³ Although the State did not raise a harmless error argument in its brief, in his opening brief, Appellant argued that “[w]here the images in question played a critical role in the State’s case, the error [in admitting them without sufficient authentication] was not harmless beyond a reasonable doubt.” Consequently, we are not restrained in considering Appellant’s argument that the error was not harmless.

she “observed the carjacking take place.” She “observed the gentleman get out of a truck -- a work truck, in the back of the store, he got dropped off.” She then “watched him go up to the vehicle, and steal the lady’s vehicle, and leave.” As discussed in more detail below, Ms. Lamb also testified about the surveillance system at Royal Farms and her inability to alter it in any way.

In sum, if there was any abuse in the court’s discretion in admitting State’s Exhibits 5A and 5B due to an insufficient authenticity foundation, we conclude that the admission would be harmless. At worst, the admission of these images during the direct testimony of Ms. Anderson was premature. Nonetheless, we are satisfied beyond a reasonable doubt that, given the other evidence before the jury (including Appellant’s own admission to the police officers that he was dropped off at the Royal Farms that morning) the admission of State’s Exhibits 5A and 5B during Ms. Anderson’s direct testimony did not contribute to the jury’s guilty verdicts. *See, e.g., Bellamy v. State*, 403 Md. 308, 332 (2008) (discussing the harmless error standard).

State’s Exhibits 10 and 6

State’s Exhibit 10 depicts a white or light skinned person in dark clothing wearing gloves and a hood, with the hood on the head, walking outside by tables. The still image includes the captions “Royal Farms #190 – Churchton, MD” and “190-Outside Front Left,” as well as a date/time stamp “04/09/2023, EDT 6:50:44 AM.” Exhibit 6 depicts the same image as Exhibit 10, but zoomed in, and bearing the single caption, “190-Outside Front Left.”

Ms. Anderson identified Exhibit 6 as something she had viewed on the surveillance footage, as well as in real time when she was outside the morning of April 9th. She identified the location as the “left front” of the Churchton Royal Farms. She testified that the image fairly and accurately depicts the person she observed on April 9th walking on the sidewalk in front of the store. After this testimony, the State moved to enter Exhibit 6 into evidence. The defense noted its “continuing objection,” which the court overruled.

We cannot say that the court abused its discretion in admitting Exhibit 6 into evidence. Ms. Anderson had previously testified about the surveillance system; she had previously testified that the Churchton Royal Farms is store number 190; and she testified that she had observed on the surveillance footage and personally in real time what the exhibit depicts. Finally, she testified that the image fairly and accurately depicted what she observed on April 9th. Although there was no evidence at this point as to who captured the still image, the defense made a “continuing objection” when the exhibit was moved into evidence, and the objection was overruled without any discussion.

Exhibit 10 was identified and admitted into evidence during Ms. Lamb’s testimony. Again, Exhibit 10 appears to be the same image as Exhibit 6, but with more captions, a date and time stamp, and not zoomed in. Ms. Lamb, the “sole leader” of the Churchton Royal Farms, testified that she is familiar with the store’s surveillance video system, as she is required to view footage a minimum of one hour each day. She testified that there are forty-one cameras in and outside the store, which she can monitor from her office and also from an app on her phone. When in the office, she accesses the system from “a regular PC computer” via a “website.” After “sign[ing] on,” she can view live feed or access

footage previously recorded. The app on her phone works similarly. Based on her experience watching the footage—including footage of herself—Ms. Lamb testified that the system fairly and accurately records what is happening.

Ms. Lamb explained that, if she needs to watch footage previously recorded, she inputs the date and time, and the system brings up that footage. She testified that the date and time stamps on the live video correspond with the actual date and time, which she knows is true based on watching the feed in real time. She is unable to alter the video in any way.

Given her position, she was immediately advised of the carjacking on April 9th and accessed her phone app to view the footage. (She also re-reviewed it on the office computer on her next workday.) Ms. Lamb identified Exhibit 10 as a “pic of the video” she had taken from her phone app when she first reviewed the footage on April 9th. She testified that the image fairly and accurately depicts what she viewed on the footage that morning.

After that foundation, the State moved to enter Exhibit 10 into evidence. The defense noted its “continuing objection,” which the court overruled without further discussion. Ms. Lamb then testified that the date and time stamp on the image represent “6:50 a.m. in the morning” on April 9, 2023.

We are not persuaded that the court abused its discretion in admitting Exhibit 10 into evidence. Ms. Lamb testified that she took the image from the video feed she accessed on the morning of the incident. The image included the Churchton Royal Farms identification number (190) and a date and time stamp. Ms. Lamb exhibited knowledge of

the surveillance system and asserted that she cannot alter the footage in any manner. Moreover, this exhibit was a near duplicate of Exhibit 6, which Ms. Anderson testified was a fair and accurate depiction of what she had viewed both in real time during her outside walk and on the video footage.

II.

The Social Media “Shore Mom’s” Group

In discussing State’s Exhibits 5A and 5B,¹⁴ the images of the white pickup truck that purportedly dropped the suspect off at the Churchton Royal Farms, Ms. Lamb was asked what, if anything, she did after observing them. Ms. Lamb’s response, defense counsel’s objection, and the ensuing bench conference were as follows:

[MS. LAMB]: So after I’d seen the photos, I went onto social media, because I was like, great. So I went on there, and we have a mom’s group in Shady Side, it’s called Shore Moms. And I went on there, and I posted these pics, and I asked - -

[DEFENSE COUNSEL]: Your Honor, I’m going to object.

THE COURT: I’m going to -- come on up.

(Counsel approached bench, and the following occurred:)

[DEFENSE COUNSEL]: We don’t have any social media.

THE COURT: Right, so I think the objection needs to be premature. So far, she’s talking about what she did. Just be very careful in crafting your questions. Even if she’s able to relay what she was told, I mean, unless you have some theory, I think that’s your objection, is that right?

[DEFENSE COUNSEL]: Yes.

¹⁴ See footnote 4, *supra*.

THE COURT: For the information she received from - - so I assume you are all getting what did she do, right?

[THE STATE]: What did she do and if she received any information, what she did with that, as opposed to - - ?

THE COURT: That's fine, so be very careful with that one.

[THE STATE]: Okay.

THE COURT: If you have an urge to lead this witness, just a little bit around that.

[THE STATE]: Okay.

THE COURT: That's fine. Did you receive something? What did she do with that? Did you receive some information and then what did you do? I assumed she relayed it to somebody, and that's - -

[DEFENSE COUNSEL]: If the information came from other individuals, that would be hearsay.

THE COURT: The content, but what she did with the information is what's being testified to. She can't tell me what information she learned, right? Does that make sense?

[DEFENSE COUNSEL]: Yes, Your Honor, I'm just anticipating.

THE COURT: That's why I'm going to encourage [the State] to lead this Witness around this issue, and if it turns out there's an objection, and you want to leave it open questions and see what she says?

[DEFENSE COUNSEL]: Say that again, I'm sorry?

THE COURT: I was going to say unless you have an objection to her leading this Witness and would prefer the open-ended question - -

[DEFENSE COUNSEL]: Actually, yeah, I'd be okay with that, so long as the question - -

[THE STATE]: Leading on a limited issue.

THE COURT: Just not as long on the issues, to avoid something that shouldn't be said.

[THE STATE]: Understood.

THE COURT: Thank you.

(Counsel returned to trial tables, and the following occurred in open court:)

THE COURT: At this time, the objection is overruled, but I am going to ask the State to follow the instructions I gave.

Ms. Lamb then testified, without further objection, that after she posted the photos on “social media,” she learned information which she then provided to the Anne Arundel County Police.

Appellant argues that by overruling the defense's objection “and allowing testimony about ‘Shore Moms’ to come in,” the court committed reversible error. He asserts that the name of the group, “a ‘mom’s group’ in Shady Side ‘Shore Moms’” was not relevant and, moreover, was prejudicial. He claims that “[t]he name of the group created the risk of priming jurors to believe that the group provided credible information identifying [him] as the carjacker.” Accordingly, he maintains that the “testimony should have been excluded and the jury should have been told to disregard the name” of the social media group.

The State asserts that Appellant did not object on the grounds he is raising on appeal and, therefore, the issue is not preserved for our review. The State maintains that, when the objection was made at trial, the court “impliedly understood him to be objecting on the basis that any comments exchanged on a social media site were hearsay[.]”

We agree with the State. Defense counsel noted the objection, not after Ms. Lamb stated that she went onto the social media site, “a mom’s group in Shady Side, it’s called

Shore Moms[.]” but after she stated that she posted the photos on the site and was about to state what she “asked” the group. At the bench conference that followed, counsel first stated: “We don’t have any social media.” His meaning is not entirely clear, as counsel did not elaborate, but it is plausible that he meant that no social media postings were provided in discovery. In any event, the court interpreted his concern prompting the objection to be that Ms. Lamb might “relay what she was told” after she posted the photos. Defense counsel confirmed that was correct, and later in the discussion, counsel noted if Ms. Lamb testified as to what information she learned from the posting, it would constitute hearsay. Trial counsel did not assert or even imply that identifying the social media site as a “mom’s group” or “Shore Moms” was irrelevant or prejudicial. Consequently, we agree with the State that Appellant “waived the right to argue irrelevance or unfair prejudice as a basis for reversal.” *Klaunberg v. State*, 355 Md. 528, 541 (1999) (“[W]hen specific grounds are given at trial for an objection, the party objecting will be held to those grounds and ordinarily waives any grounds not specified that are later raised on appeal.”). Accordingly, we decline to consider the issue.

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