

Circuit Court for Baltimore City
Case No. 122340002

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2345

September Term, 2023

TAVON BATTLE

v.

STATE OF MARYLAND

Reed,
Zic,
Albright,

JJ.

Opinion by Albright, J.

Filed: March 30, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In the Circuit Court for Baltimore City, a jury found Appellant Tavon Battle guilty of the first-degree murder of K.W.,¹ use of a firearm in the commission of a felony, unlawful possession of a firearm by a prohibited person, and wear/carry/transport of a handgun. The circuit court sentenced Mr. Battle to life imprisonment plus a consecutive thirty-five years.² Here, in a timely appeal, Mr. Battle raises the following questions, which we have rephrased:³

- I. Did the trial court abuse its discretion in allowing the State to call a probation officer, a correctional officer, and a U.S. Marshall to testify that they recognized Mr. Battle in still photographs from a surveillance video?
- II. Is there sufficient proof of causation to sustain Mr. Battle's murder conviction?

We answer “no” to the first question and “yes” to the second question. Thus, we

¹ Pursuant to Maryland Rule 8-125, to protect the anonymity of the victim, who was a minor at the time of the crime, we refer to her by her initials, K.W. We mean no disrespect in doing so.

² Mr. Battle received life for first-degree murder; a consecutive twenty years for use of a firearm in the commission of a felony, the first five without parole; and a consecutive fifteen years for unlawful possession of a firearm, the first five without parole. The circuit court merged Mr. Battle's conviction for wear/carry/transport of a handgun into his conviction for use of a firearm in the commission of a felony.

³ In his own words, Mr. Battle's questions presented are:

1. Did the trial court err in allowing the State to call a probation officer, a correctional officer, and a U.S. Marshal to testify that they recognized appellant in a still image from a surveillance video?
2. Is there sufficient proof of causation to sustain appellant's murder conviction where two shooters engaged in a gunfight and the State produced no evidence as to which shooter actually struck the bystander, who died from a single gunshot?

affirm the judgments of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

The charges in this case arose from the November 7, 2022 fatal shooting of a thirteen-year-old innocent bystander during a gunfight near the intersection of North Caroline and East Fayette streets in Baltimore. The shooting took place in the side parking lot of a liquor store, Fayette Liquor Plus. The State's evidence against Mr. Battle consisted largely of surveillance video purportedly showing Mr. Battle arriving at the scene before the gunfight, in the gunfight, firing a gun in the direction of K.W. as Mr. Battle starts to flee the scene, K.W. falling to the ground, and Mr. Battle going into a nearby library, as well as DNA recovered from the left handle of a bicycle Mr. Battle had allegedly ridden to the liquor store.

Detective James Brokus was the first to arrive on the scene, where he identified the victim laying on the sidewalk with a gunshot wound to her forehead. He was followed by other police officers and crime lab technician Ian Evans. Mr. Evans was shown surveillance video of the incident so that he knew what to look for. Mr. Evans then found ten nine-millimeter bullet casings. For DNA analysis, he swabbed blood on the ground, two bicycle handles, and a Gatorade bottle. After a gray Acura associated with the scene was found two days later, it too was swabbed for DNA analysis.

Detective David Moynihan, the officer in charge of investigating this case, testified that he retrieved surveillance footage from the liquor store when he arrived at the crime scene. This footage appeared to depict an unknown suspect on a bicycle approach

the gray Acura. At the time, the suspect has his left hand on the left bicycle handle. The suspect dismounts his bicycle, withdraws a gun from his pocket with his right hand, forcibly opens the passenger-side door, and fires shots into the Acura. As he does so, a young girl, identified as K.W., standing past the driver's side of the Acura and in the direction where the suspect is firing, collapses. In their briefs, the parties agree that the passenger in the Acura returns fire at the first shooter.⁴ Moments later (during which the passenger moved into the driver's seat), the Acura drives off at a high rate of speed as the suspect continues to fire at it. The suspect then runs off, and another unknown individual takes the bicycle, which police later found at a gas station across the street.⁵

After locating another individual who had been hurt in the gunfight at a nearby hospital, Detective Moynihan returned to the crime scene and retrieved surveillance footage from several storefronts adjacent to the liquor store, including two gas stations, a pizza shop, and a local branch of the Enoch Pratt Free Library. These videos appear to

⁴ Mr. Battle describes this exchange as a “shootout” and repeatedly refers to Mr. Allen as “the other alleged shooter.” The State, likewise, refers to it as a “shootout” and notes that “[Mr.] Allen was shooting in response to [Mr.] Battle and thus would have been shooting in [Mr.] Battle’s direction[.]”

⁵ Based on this footage, Detective Moynihan determined that there may have been additional victims involved. Detective David Moynihan broadcast to local hospitals to check for walk-in patients that may have been victims of the shooting. Johns Hopkins Hospital, which was a few blocks away, responded that it had a walk-in victim. Detective Moynihan and Detective Talley went there and “quickly established” that the walk-in victim was related to the fatal shooting at the liquor store. But the vehicle that that victim arrived in at the hospital was not the one Detective Moynihan saw on the surveillance video at the liquor store. It “didn’t have any ballistic damage to it that one would expect at a shooting at such close range. No broken windows. No bullet holes in the door.”

show the as-yet-unknown suspect running west on Fayette, away from the site of the shooting, removing his mask and hat and tossing them over a fence, and then entering and exiting the library twice.

From the Enoch Pratt footage, Detective Moynihan took still images purporting to depict the suspect. Detective Moynihan then publicized them throughout the Baltimore area, including by sending out a Be On the Lookout (“BOLO”) notice to law enforcement offices throughout the region. Sgt. Michael Middleton, who served at the Western Correctional Institute (“WCI”), recognized Mr. Battle from the BOLO and contacted law enforcement to provide a positive identification of the suspect. Detectives then contacted Probation Officer Leigh Wright and U.S. Marshall Kemal Konur, who also positively identified Mr. Battle, allowing law enforcement to seek charging documents.

Detective Moynihan also retrieved footage from nearby CitiWatch cameras to determine the sequence of events that preceded the shooting. This footage showed Mr. Battle coming to the scene hours before the shooting in a white Mercedes Benz, leaving after twenty to thirty minutes, and then returning later in the day. Upon his return, Mr. Battle takes a bicycle from another individual and cycles around the block, returning in the same outfit that he was wearing during the shooting. Mr. Battle then appears to wait for nearly an hour until the gray Acura arrives.

When it does arrive, the driver gets out and goes into the liquor store. Mr. Battle approaches the vehicle, firing his gun in the direction of the individual in the passenger seat. Law enforcement believed this person to be Trey Allen, the other victim Detective

Moynihan had located at the hospital. The passenger appears to fire back from the car in the direction of Mr. Battle in a “close quarter shootout[,]” before switching seats and departing the scene in the Acura. During the gunfight, K.W. is struck by a bullet and killed. Mr. Battle pursues the car briefly and then departs the scene on foot.

DNA analysis of the swab from the left bicycle handle yielded a DNA mixture consistent with three contributors. Swabs from the front passenger door, door handle interior, and door handle panel of the Acura yielded a DNA mixture consistent with two contributors. An employee of the Forensic Biology Unit testified that there was a “match” between Mr. Battle and “an inferred genotype” from the DNA mixtures on both the bicycle and the Acura, indicating that he was highly likely one of the contributors.

Additional facts about the shooting and its aftermath will be added as necessary below.

DISCUSSION

I. The trial court did not err or abuse its discretion in allowing the State to call three different law enforcement officers to testify that they recognized Mr. Battle in still photographs taken from the Enoch Pratt footage.

A. *Mr. Battle’s Contentions*

Mr. Battle contends that the trial court abused its discretion by admitting the testimony of Sgt. Middleton, Probation Officer Wright, and U.S. Marshall Konur that they recognized him in the Enoch Pratt still photos. Mr. Battle’s core argument here is that this evidence was “inadmissible under Md. Rule 5-403 because the probative value of the evidence is substantially outweighed by the danger of unfair prejudice.”

Specifically, Mr. Battle suggests that the probative value is low because these witnesses “did not see who shot K.W[,]” so any testimony they might give is “irrelevant because they do not make it any more or less likely that [Mr. Battle] shot K.W.” By contrast, “[t]heir testimony revealed incredibly prejudicial information about [Mr. Battle’s] criminal history[,]” thereby implying that Mr. Battle was someone with a propensity to commit crime.

Finally, Mr. Battle adds that admission of these witnesses’ testimony was a violation of the “best evidence rule.” Mr. Battle contends that law enforcement witnesses’ testimony was not the best evidence of who was depicted in the still photos because the jury had a much better opportunity than the three witnesses to view Mr. Battle, and determine whether he was the one in the photos.

B. Standard of Review

Two standards of review govern our evaluation of a trial court’s decision to admit evidence. First, whether evidence is legally relevant is a matter we review de novo. *Montague v. State*, 471 Md. 657, 673 (2020). Second, a trial court’s ruling that the probative value of evidence is substantially outweighed by the danger of unfair prejudice is a matter we review for abuse of discretion. *Id.* “[A]n abuse of discretion occurs where no reasonable person would take the view adopted by the circuit court.” *Williams v. State*, 467 Md. 551, 563 (2018).

C. Admission of Evidence

Under Maryland Rule 5-401, evidence is relevant if it has “any tendency” to make

the existence of a material fact more or less probable than it would otherwise be.⁶ Under Maryland Rule 5-402, relevant evidence is generally admissible.⁷ Maryland Rule 5-403 permits the exclusion of otherwise relevant evidence “if its probative value is substantially outweighed by the danger of unfair prejudice, . . . or needless presentation of cumulative evidence.”⁸ “Unfair prejudice” is not evidence that “hurts” a litigant’s case. *Burris v. State*, 435 Md. 370, 392–93 (2013). “Rather, evidence is considered unfairly prejudicial when it might influence the jury to disregard the evidence or lack of evidence regarding the particular crime with which the defendant is being charged. The more probative the evidence, therefore, the less likely it is that the evidence will be unfairly prejudicial.” *Id.* at 392 (cleaned up).

⁶ Maryland Rule 5-401 states in full:

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

⁷ Maryland Rule 5-402 states in full:

Except as otherwise provided by constitutions, statutes, or these rules, or by decisional law not inconsistent with these rules, all relevant evidence is admissible. Evidence that is not relevant is not admissible.

⁸ The full text of Rule 5-403 reads:

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

D. The Evidence was Relevant

We see no legal error in the trial court’s determination that the three law enforcement officers’ testimony was relevant. The State’s theory was that the individual shown in the Enoch Pratt surveillance footage was the shooter that killed K.W. Because the law enforcement officers could identify Mr. Battle in the still photographs taken from the Enoch Pratt footage, their testimony had some tendency to make it more probable that Mr. Battle was the shooter.⁹ Accordingly, their testimony was relevant. *See* Md. Rule 5-401.

E. The Evidence Was Not Unfairly Prejudicial

Nor do we see any abuse of discretion in the trial court’s determination that the law enforcement officers’ identification of Mr. Battle was unfairly prejudicial. According to Mr. Battle, this “testimony revealed incredibly prejudicial information about [his] criminal history[,]” specifically that he “had previously been charged and convicted of a serious crime; had served time in a maximum security prison; and had been placed under federal supervision and on state probation.” “As a result of learning this information,” Mr. Battle notes, “some jurors may have felt that appellant had the propensity to commit crimes, or was simply a bad person who deserved to be convicted.”

While the testimony of Sgt. Middleton incidentally revealed that Mr. Battle was previously “housed” at WCI, no witness provided any further information about his

⁹ Indeed, Mr. Battle’s core contention at trial was that he was not the shooter depicted in security footage of the shooting (or at least that there was reasonable doubt about it).

criminal history. In fact, no testimony was elicited that WCI is a maximum-security prison. Beyond a brief recognition of their positions at the beginning of their testimony, all three witnesses focused exclusively on how and when they identified the suspect from the stills. Sgt. Middleton testified:

[STATE]: Good afternoon, sir. How are you?

[SGT. MIDDLETON]: Good.

[STATE]: You indicated that you work for DPSCS?

[SGT. MIDDLETON]: Yes.

[STATE]: What does that stand for?

[SGT. MIDDLETON]: Department of Public Safety and Correctional Services.

[STATE]: And where do you work?

[SGT. MIDDLETON]: Western Correctional Institute.

[STATE]: I want to draw your attention to November- well, before we get there, how long have you worked for the Western Correctional Institution?

[SGT. MIDDLETON]: December will be 26 years.

[STATE]: And I want to draw your attention to November of 2022. Were you working at the Western Correctional Institution at that point?

[SGT. MIDDLETON]: Yes.

[STATE]: And did there come a time when homicide detectives from Baltimore City reached out to you?

[SGT. MIDDLETON]: Yes.

[STATE]: Did they reach out to you, or did you reach out to them?

[SGT. MIDDLETON]: I called them.

[STATE]: Okay. And why did you call them?

[SGT. MIDDLETON]: Because of a BOLO that was put out over our E-mail.

[STATE]: So, you received a photo, right?

[SGT. MIDDLETON]: Yes.

[STATE]: Okay. So, you contacted Homicide and what, if anything, did you tell them?

[SGT. MIDDLETON]: Just that I knew the individual; that he used to be housed at WCI.

...

[DEFENSE]: Okay. Now, as best as you can remember, in November of 2022, how long had you known the person that you looked at that photo and said you knew? Like, was it a month, ten years, 40 years?

[SGT. MIDDLETON]: I don't know how long he was there, but it was –

[DEFENSE]: And I don't want to guess.

[SGT. MIDDLETON]: Yeah.

[DEFENSE]: I just want an actual time frame. If you don't know the answer, you don't know the answer.

[SGT. MIDDLETON]: Yeah, I don't know the answer.

[DEFENSE]: Okay. Interaction. Did you interact daily?

[SGT. MIDDLETON]: No.

[DEFENSE]: You're a sergeant; is that correct?

[SGT. MIDDLETON]: Yes.

[DEFENSE]: So, as a sergeant, what are your responsibilities in the facility?

[SGT. MIDDLETON]: I manage the housing unit and make sure, you know, the security, custody, and control of inmates.

[DEFENSE]: And you have people who work for you, correct?

[SGT. MIDDLETON]: Yes.

[DEFENSE]: Do you remember – I don't know if you have the same position you had back then – back in 2022, how many people you had working for you?

[SGT. MIDDLETON]: It would have been five.

[DEFENSE]: Five. Five other –

[SGT. MIDDLETON]: Yeah.

[DEFENSE]: – five other correctional officers?

[SGT. MIDDLETON]: Yes.

[DEFENSE]: Do you remember, when you met with the detectives, how long had it been since you had seen Mr. Battle?

[SGT. MIDDLETON]: Maybe a year.

Likewise, U.S. Marshall Konur limited his testimony to his identification of Mr.

Battle:

[STATE]: You indicated that you work for the U.S. Marshals Service?

[U.S. MARSHALL KONUR]: Yes.

[STATE]: And at some point – I want to draw your attention to November of 2022. Were you working for the U.S. Marshals Service at that time?

[U.S. MARSHALL KONUR]: Yes.

[STATE]: And were you working here in Baltimore City?

[U.S. MARSHALL KONUR]: Yes.

[STATE]: And at some point, were you contacted by detectives from the Baltimore City Police Department?

[U.S. MARSHALL KONUR]: Yes.

[STATE]: And that was in reference to two – or a photograph, right?

[U.S. MARSHALL KONUR]: Yes.

...

[STATE]: Now, in this photograph, what were you asked to do?

[U.S. MARSHALL KONUR]: I was asked to identify the person in the photograph.

[STATE]: And who, if anyone, did you identify this person as?

[U.S. MARSHALL KONUR]: I identified it as Tavon Battle.

...

[DEFENSE]: . . . Now, do you remember – and all I am asking for is the date. Well, let me ask you this. The person that you identified in this photo, is it fair to say you had only ever met that person one time?

[U.S. MARSHALL KONUR]: Yes.

[DEFENSE]: Okay. Do you remember what date that was?

[U.S. MARSHALL KONUR]: September 30, 2022.

[DEFENSE]: Okay. So, give or take, five to six weeks before?

[U.S. MARSHALL KONUR]: Yes.

[DEFENSE]: And it was the only time you had ever met that person?

[U.S. MARSHALL KONUR]: Yes.

And, finally, Probation Officer Wright followed in the same vein, focusing exclusively on the identification process:

[STATE]: Ma'am, you work at the Division of Parole and Probation; is that correct?

[PROBATION OFFICER WRIGHT]: Yes, that's correct.

[STATE]: And at some point in – well, how long have you worked there for?

[PROBATION OFFICER WRIGHT]: Coming up on 25 years.

[STATE]: And out of which office do you work?

[PROBATION OFFICER WRIGHT]: Belair.

[STATE]: And at some point, you were contacted by the Baltimore City Police Department; is that right?

[PROBATION OFFICER WRIGHT]: That is correct.

[STATE]: Okay. And it was the Baltimore City Police Department, Homicide Division, to be specific; is that right?

[PROBATION OFFICER WRIGHT]: That is correct.

[STATE]: And you also spoke with the Baltimore City Police Department around November 10 of 2022?

[PROBATION OFFICER WRIGHT]: Yes, I did.

[STATE]: And at that point, you were shown a photograph; is that correct?

[PROBATION OFFICER WRIGHT]: That's correct.

[STATE]: And you were shown a photograph and what, if anything, did you do with that photograph?

[PROBATION OFFICER WRIGHT]: I was asked if I recognized the person in the photograph and I acknowledged that I did.

...

[DEFENSE]: . . . Now, am I correct that when the police came, you, at that time, had met my client [Mr. Battle] one time?

[PROBATION OFFICER WRIGHT]: Yes, that's correct.

[DEFENSE]: Okay. Do you know what that date was?

[PROBATION OFFICER WRIGHT]: That was November 2nd, 2022.

[DEFENSE]: Now, I see you brought your file. Does it indicate in your file when Mr. Allen [sic] got out of jail, what day?

[PROBATION OFFICER WRIGHT]: Yes, it does.

[DEFENSE]: Not Mr. Allen. I'm sorry. Mr. Battle.

[PROBATION OFFICER WRIGHT]: Right. October 28th, 2022.

[DEFENSE]: One more time, please?

[PROBATION OFFICER WRIGHT]: October 28th, 2022.

[DEFENSE]: Okay. And you saw him that next week? I believe you said the 2nd, right?

[PROBATION OFFICER WRIGHT]: Yes. I saw him on November 2nd, 2022.

While the officers' identification of Mr. Battle was prejudicial to Mr. Battle because it identified him, we cannot say that it was unfairly prejudicial. From this testimony, the jury could determine that U.S. Marshall Konur and Probation Officer Wright had each seen Mr. Battle on one occasion shortly before the shooting, that Mr. Battle had served time in jail, and that Mr. Battle had been "housed" at WCI.¹⁰ There was no mention at any point that WCI was a maximum-security prison, nor why Mr. Battle was housed there at that time. Accordingly, the trial court did not abuse its discretion in permitting the three officers to testify.

F. The Evidence Did Not Violate Maryland's "Best Evidence Rule."

Mr. Battle's reliance on the "best evidence rule" is misplaced. The best evidence rule "is not a general requirement that each party present only the 'best evidence'

¹⁰ This was not the first time the jury heard that Mr. Battle had been incarcerated in the past. Indeed, in his opening statement, Mr. Battle's attorney explained that Mr. Battle was in jail when, three months before K.W.'s murder, the same gun has been used in another shooting.

available on every point, so as to preclude other probative evidence.” *Gordon*, 204 Md. App. 327, 347 (2012). Instead, “[t]he best evidence rule exists to express a preference for introducing originals over copies of writings.” *Id.* The best evidence rule provides:

To prove the content of a writing, recording, or photograph, **the original writing, recording, or photograph is required**, except as otherwise provided in these rules or by statute.

Md. Rule 5-1002 (emphasis added).

Here, while the Enoch Pratt library footage (and not the still photographs taken from it) may arguably have been the best evidence of what was depicted in the footage, Mr. Battle did not object to the State’s introduction of the still photographs.¹¹ The

¹¹ After describing what was depicted in the Enoch Pratt library footage, Detective Moynihan sponsored the still photographs taken from the footage.

[STATE]: And then you also looked at video surveillance from the Enoch Pratt library; is that right?

[DETECTIVE MOYNIHAN]: I did.

[STATE]: And what, if anything, did you view?

...

[Detective Moynihan describes video footage.]

...

[STATE]: I’m approaching with State’s Exhibits 36A through and including 36R. If you would look at these.

Thank you.

[DETECTIVE MOYNIHAN]: Yes.

[STATE]: Do you recognize State’s 36A through R?

[DETECTIVE MOYNIHAN]: I do.

[STATE]: What are they?

addition of testimonial evidence identifying Mr. Battle in the still photographs taken from the Enoch Pratt footage does not transform the admission of the unobjected-to photographs into a violation of Rule 5-1002.

To the extent that Mr. Battle contends that the testimony of Sgt. Middleton, Marshall Konur, and Probation Officer Wright was unnecessary because the jury was in a better position than they to determine whether Mr. Battle was the suspect depicted in the still photographs, we also disagree. An opinion by a lay witnesses is admissible “[i]f . . . the witness’s testimony . . . is limited to those opinions or inferences which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue.” Md. Rule 5-701. This is so even if the identifying lay witness is not “intimately familiar” with the defendant. The witness’s level of familiarity with the defendant instead goes to the weight to be given to the identification, not to its admissibility. *Moreland v. State*, 207 Md. App. 563, 572 (2012) (“[W]hether a lay witness’s prior contacts with the defendant are extensive enough to permit a proper identification is a matter of weight for the jury, not admissibility.” (Cleaned up)).

[DETECTIVE MOYNIHAN]: They are still photos of pretty much everything I just described: all the cameras on the exterior and the interior cameras. Although some are out of order, they are the camera views.

[STATE]: And are they a fair and accurate depiction?

[DETECTIVE MOYNIHAN]: They are.

[STATE]: Your Honor, at this time the State offers into evidence State’s Exhibits 36A through R.

[DEFENSE]: No objection, Judge.

In the instant case, the identification of Mr. Battle in the Enoch Pratt still photographs by all three law enforcement witnesses was based on their perceptions and helpful to determining whether Mr. Battle was the one depicted in the Enoch Pratt footage. Md. Rule 5-701. Sgt. Middleton saw Mr. Battle over an extended period of time while he was housed at WCI, U.S. Marshall Konur had seen him just five or six weeks prior to the shooting, and Probation Officer Wright met with him face-to-face only five days before the shooting. Insofar as two witnesses had only interacted with Mr. Battle on one prior occasion, that was a question of weight for the jury to consider.

Mr. Battle also argues that admission of this identifying evidence was not harmless. We return to his argument on this point later in Section III.

II. There is Sufficient Evidence of Actual Causation to Sustain a Murder Conviction

Mr. Battle’s second argument is that there is insufficient evidence to sustain his first-degree murder conviction. The crux of this argument, as Mr. Battle describes it, is that the State cannot prove beyond a reasonable doubt that he fired the bullet that struck K.W. In other words, contends Mr. Battle, “[i]t [was] not possible for a fact-finder to conclude, beyond a reasonable doubt, which of the two shooters [(Mr. Battle or Mr. Allen)] actually struck and killed K.W. during the close-range shoutout.” Therefore, there was insufficient evidence that Mr. Battle was the actual cause of K.W.’s death. We disagree.

We review challenges to the sufficiency of the evidence in the light most favorable to the State. *Beckwitt v. State*, 477 Md. 398, 429 (2022). We reverse only where no

rational trier of fact could have found guilt beyond a reasonable doubt. *Cox v. State*, 421 Md. 630, 656–57 (2011). In our review,

[w]e defer to the fact finder’s opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence. While we do not re-weigh the evidence, we do determine whether the verdict was supported by sufficient evidence, direct or circumstantial, which could convince a rational trier of fact of the defendant’s guilt of the offenses charged beyond a reasonable doubt.

Neal v. State, 191 Md. App. 297, 314 (2010) (cleaned up).

Similarly, where there are “competing rational inferences available[,]” we give deference to “the inferences that a fact-finder may draw.” *Smith v. State*, 415 Md. 174, 183 (2010). “An inference need only be reasonable and possible; it need not be necessary or inescapable.” *Neal*, 191 Md. App. at 318 (cleaned up). Thus, we do not decide “whether the jury could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences.” *Smith*, 415 Md. at 184.

Each element of an offense must be established beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 316 (1979). For the jury to convict Mr. Battle of first-degree murder, therefore, the State was required to prove causation. *See Stewart v. State*, 65 Md. App. 372, 378 (1985). Causation consists of two legally distinct concepts: actual causation—whether the defendant’s actions factually lead to the victim’s death—and proximate causation—whether the defendant is legally culpable for the death. *Burrage v. United States*, 571 U.S. 204, 210 (2014). Mr. Battle’s sufficiency challenge is about actual causation.

We conclude that there was sufficient evidence for a rational jury to have concluded, beyond a reasonable doubt, that Mr. Battle actually (and factually) caused K.W.’s death. The video footage that the State introduced from the liquor store depicts Mr. Battle on a bicycle pulling a gun from his pocket, lifting it with his right hand, opening the passenger door of the Acura, and firing it indiscriminately into the vehicle. K.W. is shown standing near the Caroline and Fayette Street bus stop on the other side of the Acura, in the same direction that Mr. Battle is firing his weapon. As soon as Mr. Battle begins firing his weapon in the direction of K.W., she falls to the ground dead. The passenger, alleged to be Mr. Allen, returns fire in Mr. Battle’s direction, before crossing to the driver’s seat and taking off in the Acura. Mr. Battle begins to run west, continuing to fire at the car. The left handle of the bicycle and the outer handle of the passenger-side door of the Acura both yielded DNA matches to Mr. Battle. From this evidence, a rationale jury could infer that Mr. Battle fired the shot that killed K.W.

Mr. Battle’s contention that Mr. Allen could have fired the shot that killed K.W. does not persuade us otherwise. To be sure, “when the evidence equally supports two versions of events, and a finding of guilt requires speculation as to which of the two versions is correct, a conviction cannot be sustained.” *Taylor v. State*, 346 Md. 452, 458, (1997) (citing cases). But, in assessing the sufficiency of evidence, we do not consider exculpatory inferences as they are “not a part of that version of the evidence most favorable to the State.” *Cerrato-Molina v. State*, 223 Md. App. 329, 351 (2015). We have repeatedly indicated that:

Even in a case resting solely on circumstantial evidence, and resting moreover on a single strand of circumstantial evidence, if two inferences reasonably could be drawn, one consistent with guilt and the other consistent with innocence, the choice of which of these inferences to draw is exclusively that of the fact-finding jury and not that of a court assessing the legal sufficiency of the evidence. The State is **not** required to negate the inference of innocence. It is enough that the jury must be persuaded to draw the inference of guilt.

Ross v. State, 232 Md. App. 72, 98 (2017).

Here, the evidence, and the reasonable inferences that could have been drawn from that evidence, did not equally support two versions of events. The video footage from the liquor store depicted Mr. Battle shooting in the direction of K.W. and K.W. immediately collapsing. Mr. Allen was not shooting in the direction of K.W. Instead, Mr. Allen was shooting toward Mr. Battle. With this evidence, the jury did not have to speculate about who caused K.W.’s death. Instead, from this evidence, the jury was entitled to infer that it was Mr. Battle’s shot that caused K.W. to collapse, and to conclude, beyond a reasonable doubt, that he actually (and factually) caused K.W.’s death.

III. To The Extent That There Was Error in Admitting the Identifying Testimony as Evidence, It Was Harmless.

Returning to Mr. Battle’s harmless error argument, we are not persuaded. Mr. Battle asserts that “[t]he error in revealing to the jury for no good reason that appellant had recently been released into federal supervision, was on probation, and had served time in a maximum security prison, cannot be harmless.” We disagree.

An error is harmless where the reviewing court, “upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no

way influenced the verdict.” *Dorsey v. State*, 276 Md. 638, 659 (1976). For an error to be harmless, it must be “unimportant in relation to everything else the jury considered on the issue in question, as revealed by the record.” *Taylor v. State*, 407 Md. 137, 165 (2009).

For all the reasons we discussed in Section II, the jury had sufficient independent evidence from which they could determine beyond a reasonable doubt that Mr. Battle was the individual who fatally shot K.W. Specifically, the liquor store footage depicts a suspect riding on a bicycle with his hand only on the left handle, grabbing the passenger door of the Acura, and firing a gun in the direction of K.W. just before she collapses dead. The pizza restaurant, gas station, and Enoch Pratt footage show the suspect fleeing the scene. The DNA evidence on the left handle of the bicycle and the passenger door handle match Mr. Battle. Therefore, even if it was error to admit the testimony identifying Mr. Battle in the Enoch Pratt still photographs, there was sufficient evidence for a jury to conclude that the individual who rode the bicycle was the one who killed K.W. and that that individual was Mr. Battle. Therefore, we conclude beyond a reasonable doubt that it was harmless.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**