

Circuit Court for Charles County
Case No.: C-08-CR-23-000463

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2392

September Term, 2024

KATRAVIEN TYRIEUS VERCHER

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Sharer, J. Fredrick
(Senior Judge, Specially Assigned)

JJ.

Opinion by Nazarian, J.

Filed: July 14, 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 Md. Rule 1-104(a)(2)(B).

A jury in the Circuit Court for Charles County convicted Katravien Vercher of abusing three sisters sexually. Mr. Vercher challenges only one of his six convictions—a merged conviction for third-degree sex offense—arguing that there was insufficient evidence to corroborate incriminating statements he made to T.A. (“Mother”) on a recorded phone call, and therefore insufficient evidence to convict him of a third-degree sex offense based on that evidence. In addition, Mr. Vercher contends that the trial court abused its discretion in denying his motion for a new trial based on a post-trial statement made by the youngest child about her mother. We affirm.

I. BACKGROUND

During a three-day trial in September 2024, five years after Mr. Vercher entered the lives of Mother and her three daughters, the State presented evidence that while in their household, he abused all three girls sexually. For privacy, we will refer to these children by random initials: A (the oldest), B (the middle), and C (the youngest). The daughters were between five and twelve years old when the abuse occurred.

A. The Trial Record Detailed The Sexual Abuse

After meeting Mother in September 2019, at a church where he was a musician and she was a member, Mr. Vercher began visiting Mother’s home in Waldorf. In March 2020, when the pandemic began, he rented an upstairs bedroom and moved in.

Mother and Mr. Vercher, who was almost ten years younger, “weren’t dating” but had a sexual relationship that produced a son during the time he lived there. Mr. Vercher, who moved out of the residence permanently in October 2022, paid child support to

Mother. By March 2023, when Mother confronted him about her daughters’ abuse allegations and reported them to police, he had missed support payments.

At trial, all three children and Mother testified. Each girl told a forensic examiner separately, then testified at trial, that while Mother was out of the house or asleep, Mr. Vercher abused them.

While in their household, Mr. Vercher agreed to “babysit” when Mother was out of the house to work, run errands, or go to the doctor and hospital for health problems. A recounted that he “was like my mom’s friend” who “watched over us when she wasn’t home.” “The first time” the abuse “happened” was “like a couple months” after he “came into the household” during “the fall of 2019,” but A could not “pin a date to it.”

After her “mom had left out to go do something,” Mr. Vercher called A “upstairs to his room to play a game.” She testified that “[h]e turned on the TV and then tried to touch up my legs, and my back, and rub on me, kiss my neck, take my shirt off, and then he would masturbate, so rub on his penis in front of me.” “[H]e watched a lot of porn while doing this.”

“[A]fterwards, he would progress,” A testified, by “do[ing] more such as kissing on my chest area, and then he would put his mouth on my private parts. So, he would put his mouth on my vagina, and then he would make me put my mouth on his penis, as well.” This would happen “[a]bout every time my mom left, so like every day, or when she was sleeping, so whenever he got the chance, really.” A “didn’t want [her] virginity to be completely ruined because of [her] religion,” so she refused sexual intercourse.

To signal “that he wanted to engage in some kind of sexual activity,” Mr. Vercher used a code phrase: “The sky is blue.” The incidents of sexual contact occurred “[a]lmost every day,” in the living room and his room, as well as at a nearby park when they walked the dogs. A was eleven and twelve at the time.

On one occasion, while he was touching her sexually in his room, she “could see her [sister C] through the doorknob” hole in his bedroom door. A didn’t “really want to know if [C] saw or not,” so she “froze” and “didn’t necessarily address it fully.”

On another occasion, A “walked downstairs to the living room,” where her two younger “sisters were sitting on the couch, and [Mr. Vercher] was like on his knees in front of” them, “facing them.” Although she “couldn’t tell . . . exactly what he was doing, . . . he was very close to them,” so she “told them to go upstairs.”

By the time A told her mother in spring 2023, the abuse “had been done” because Mr. Vercher “had moved out long before.” A didn’t disclose the abuse earlier because she “didn’t want her [mother] to feel like it was her fault” or “be upset at herself, because it did happen under her roof, and . . . she can sometimes do that.”

B and C also testified that Mr. Vercher abused them in similar ways. At trial, each recounted being together and watching a movie while he sat between them on the couch. B recalled being abused during *The Greatest Showman* and C testified that they were abused during *Captain America*.

B, who was eleven years old at trial, told police and testified at trial that during the first incident, she and C were on the couch when “Trae” touched her vagina and asked them to touch his penis. He also told them to put their mouths on his penis. Because they

“didn’t know what else to do,” they did, “[a]nd that kind of kept it ongoing.” B was “kind of scared from that time to say no or anything.” “Sometimes it would be just [her] and [C], or just [her], or all three [sisters].” B didn’t tell Mother until after Mr. Vercher had moved out, when her mother “came to us and asked” whether he “touch[ed] us or anything.”

C, who was nine years old and in fourth grade at trial, testified that *first* incident of abuse occurred when she was five, with “Mr. Trae” “put[ting] his finger in [her] vagina” under her leggings. She later talked to B, who told her that he did the same to her. He also “showed [them] his penis.”

The *next* incident, C testified, was about “a week” later, when she and B “went in his room,” where “[h]e told [them] to bend down . . . and he took out his penis and then he was wagging it around” in “front of” the two girls. Neither girl was wearing clothes. “It was . . . like he was either trying to pee on us or something, but” she did not know.

In other incidents, C witnessed “Mr. Trae” direct B to get his “oil” from his room (which Mother identified as coconut oil that he used to masturbate), then rub it on B. He also made C sit on a chair while he “took out his penis and was like wagging it around.” It “looked like he was trying to pee on” her, and she “told him no.” After she saw “either yellow or white” fluid “like pee” that “was like coming out a lot,” she “got tissue and . . . was trying like, just to like wipe it off because it was like going everywhere” and “was going to go onto everybody.”

During her forensic interview at the Center for Children, C drew pictures showing incidents of abuse. One showed her sitting in a chair, and she explained that when “it looked like he was about to pee on me or something” after “he took off his pants and showed his

penis,” she “told him, no.” This occurred “near the time when” her brother “was almost about to be born.” “[T]hat was the only first time [she] ever told him no.”

C corroborated A’s testimony about seeing sexual activity between Mr. Vercher and A and about A “catching” him with B and C. C testified that she and B were together, looking through the empty doorknob hole in Mr. Vercher’s bedroom door, when she saw him naked and putting his mouth on A’s vagina. C recalled that A “was either eleven or twelve” at the time.

C testified also that the incident involving oil was the time that A interrupted the abuse. After Mr. Vercher “told [B] to go get the oil” from his bedroom upstairs, he “rubbed it on [B’s] arms, legs, and her vagina.” “And then that is when [A] caught us.”

Although C believed that she could recall the order in which these incidents occurred, she testified that she didn’t “really know the weeks or like the months.” C told her mother about the abuse only “when he left,” when Mother asked why C was “getting in trouble at home.” C testified that she told a social worker that she had been “lying” at home as well.

In March 2023, Mother learned about the abuse from her daughters. After talking with her daughters, Mother confronted Mr. Vercher at his residence. “A few days” later, she reported the abuse to police.

In separate forensic interviews conducted the day after Mother reported the abuse to police, each child described Mr. Vercher’s sexual contacts. Audio recordings of the interviews with B and C were played for the jury.¹

In her interview, C recounted the Captain America movie incident, when Mr. Vercher put his finger into her vagina, rubbed oil on B, and “showed . . . his private part, and stuff came out.” She described seeing A “in Mr. Trae’s room, and he had his clothes off, and . . . got his mouth and put it into [A’s] vagina.” She also recalled the incident when she sat on the chair as he took his pants off and rubbed his penis.

B told the forensic interviewer that “Trae” “touched my vagina and stuff.” While she and C were downstairs watching *The Greatest Showman*, he made her put his penis in her mouth. That “happened . . . two or three times.” After that, it happened in his room as well. She and C “made a promise never to tell anybody about it.”

Police obtained authorization for Mother to make a “one-way call” that was monitored and recorded and played eventually for the jury.² In that call, Mother asked Mr.

¹ As the court and counsel recognized at trial, the recorded interview with A was not played for the jury because Maryland law restricts the admission of hearsay evidence to statements by children who are “under the age of thirteen.” *See* Md. Code (1974, 2020 Repl. Vol., 2025 Cum. Supp.), § 11-304(b)(1)(i) of the Courts & Judicial Proceedings Article (“CJ”).

² Under CJ § 10-402(c)(2)(ii)(r),

[i]t is lawful . . . for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence of . . . sexual abuse of a minor under § 3-602 of the Criminal Law Article.

Vercher about the sexual contacts that her daughters had disclosed to her. When Mother stated that A “is saying that like you fingered her,” he responded that he only “gave her comments” and “touch[ed] her butt.” Recalling that he told A “she looked good in certain outfits that she wore,” he admitted that “as far as the touching part, just so we can get a clarification on that, I did touch her butt, I did do that. But it was mostly just a lot of comments and stuff like that.”

Although he denied any sexual contact with the children, Mr. Vercher stated that he and A used “the sky is blue” as code, but claimed that was only a joke and that he could not recall what the phrase signified. Denying specific incidents of sexual contact that the three girls had described to their mother, he suggested that they might know about what Mother recognized as the distinctive coloration of his penis because they saw him naked outside the bathroom and had watched pornography and possibly recordings of himself that he made on a phone that his girlfriend later gave to A.

When Mother asked him to confirm that he “touched [A’s] butt,” Mr. Vercher stated, “I did.” When Mother asked whether he was sexually attracted to A, he answered, “I mean, she looked great, but . . . this is being flipped, . . . and I don’t like that.” After Mother attempted “clarification” as to whether he “was attracted to” A’s “body” and “the way [she] looks,” Mr. Vercher answered, “based off of the outfits that she wore, I may have made a comment.” He apologized for that.

B. The Trial Court Denied Mr. Vercher’s Motions For Judgment Of Acquittal On The Third Degree Sex Offense Count

After the three girls and Mother testified, and the recorded statements and phone call were played for the jury, the State rested its case. Counsel for Mr. Vercher moved for a judgment of acquittal on the third-degree sex offense count, and focused in that motion on the lack of evidence that Mr. Vercher had sexual contact with A during the specified time frame:

[T]he indictment . . . says, “Between September 1, 2019 and September 30th, 2019, that the defendant did commit a sexual offense in the third-degree upon [A] by engaging in sexual contact, to wit smacking butt, with [A].”

So, . . . the time of this offense, is September 1, 2019 to September 30, 2019. As the Court of course recalls, the testimony and evidence was, “Well, depending on who you listen to, [Mother] . . . says that Mr. Vercher moved into the house in March of 2020, you know, around COVID time.

I believe [A] said that it was sometime in the fall of 2019, I think she said around Thanksgiving time, which of course would be after September of 2019.

Additionally, the sexual contact that is charged in this offense is smacking butt of [A]. The only evidence of smacking butt comes from the statement, the extrajudicial statement, of Mr. Vercher on the one party call.

That [A], of course, was called as a witness, testified, and never described any kind of incident where her butt was smacked, never put a timeline on the incident, never described it occurring in . . . September of 2019, as charged by the State here.

An extrajudicial confession, by itself, . . . lacks a corpus delicti, there is no body of the crime. That . . . the defendant’s mere confession to, you know, looking at the evidence in the light most favorable to the State, that the smacking of the butt

was of a sexual nature, even though the defendant . . . is equivocal on that point.

His extrajudicial confession alone is not sufficient for the State to have . . . this count, survive MJOA. So, there is no corpus delicti, there is no corroboration of that statement, the timeline is not supported by the evidence, and the Court ought to grant the motion for judgment of acquittal as to Count 4

The prosecutor pointed out that the charging document stated that the offense occurred “on or about” that September 2019 period and that “[t]he State [was] unable to be more specific because of the youthful age of the victim.” In addition, A “did say the fall of 2019, which would include September 1 through September 30th” and “she is certainly in that range,” the prosecutor said, when she testified that the abuse “started out with [Mr. Vercher] touching her on her body, which would include smacking the butt.” “So, she is corroborating what he admitted to on the phone call.” The court denied the motion, ruling that “a reasonable jury could find the defendant guilty of all counts beyond a reasonable doubt.”

The next morning, the defense rested without presenting any evidence and Mr. Vercher “renew[ed the] motion for judgment of acquittal, reincorporating and renewing [his] previous arguments, [p]articularly on the third-degree sex [offense], [that] there is a limited date range the prosecution charged” and “no evidence of the defendant smacking the butt of [A] during the date range charged.” Because “the sole evidence for that comes from the defendant’s extrajudicial statements,” defense counsel argued that “the charge lacks any corpus delicti, and . . . ought to be dismissed.” The court again denied the

motion, finding “some circumstantial evidence that corroborates the third-degree sex offense of smacking on the butt.”

C. The Jury Found Mr. Vercher Guilty On All Counts, Including A Third-Degree Sex Offense Against A

On the third-degree sex offense count, the trial court instructed the jury, without objection, that the State was required to prove that Mr. Vercher “had sexual contact with” A, and that “[s]exual contact means the intentional touching of [her] genitals or anal area, or other intimate area, for the purpose of sexual arousal or gratification, or for abuse of either party,” but “does not include acts commonly expressive of familiar or friendly affection.” Moreover, the court instructed that “[i]t is not a defense that the victim consented to the sexual contact.”

In closing, the State argued that Mr. Vercher’s statements on the recorded call with Mother constituted “a lot of admissions,” including “that he found [A] attractive when she was ten years old, based on some of the outfits that she was wearing” and that he “admitted to smacking her on the butt” and “making comments about what she was wearing.” The prosecutor argued “[t]hat is a third-degree sex offense, he admitted to doing it, and in the same breath said that he found her attractive based on what she was wearing.” Notably, when Mother “confront[ed] him with these accusations” and “called him a pedophile,” he expressed “no anger” and did not “put[] up a fight.”

Defense counsel, arguing reasonable doubt, pointed to inconsistencies in the time frames and accounts of the abuse, and the lack of any “incriminating documentation.” Acknowledging that “five-year-olds and six-year-olds do not have the best memories about

dates,” counsel maintained that Mother “ought to know when” Mr. Vercher moved into her house and “what times he was alone with these girls” while “she was working.”

In rebuttal, the prosecutor pointed to A’s testimony that Mr. Vercher initiated sexual contacts as soon as he started coming to her house, beginning with sexual touching that included contact with her “butt”:

[T]o put this in context, when all this started, and by the way, [A] takes the stand, who is the oldest, who is now a junior in high school, who is sixteen. She said, “This started in the fall of 2019, and when he came to the house that is when,” I think she said it was like a month or two it started, and she said, “It was slow and progressed.”

She said it started with him touching her, kissing on her chest, that kind of stuff. Touching her body, which by the way he admits to in that one party call, when he goes, “Oh, yeah, I was sexually attracted to her and I slapped her on the butt.” I mean, he admits to that, he admits to a third-degree sex offense right off the bat.

Later in the recorded call, as the prosecutor pointed out, “he talks a little bit more about it and says, ‘Yeah, I was attracted to her.’ And . . . he is admitting to being attracted to a ten-year-old, saying she looks good, and hits her on the butt.” The prosecutor clarified that he was not asking the jury “to just find him guilty based on his own admissions because those other two little girls told you what happened to them.” Given that the other victim accounts “were consistent” and “believable,” with supporting videos and drawings, the prosecutor concluded, that evidence supported Mr. Vercher’s admissions to the third-degree sex offense.

The jury convicted Mr. Vercher on all six counts: (1) sexually abusing A, as a minor in his custody; (2) sexually abusing A, as a minor household family member; (3) a

continuing course of sexual abuse of A; (4) the third-degree sex offense against A; (5) sex abuse of B, as a household family member; and (6) sex abuse of C, as a household family member.

D. The Trial Court Denied Mr. Vercher’s Motion For A New Trial Based On C’s Post-Trial Statement Regarding Mother

On November 25, 2024, Mr. Vercher filed a motion for a new trial under Maryland Rule 4-331, pointing to new evidence that developed after the jury rendered its verdicts on September 25, 2024. On November 8, 2024, C “disclosed via a school survey ‘that she needs help because her mom gets really stressed and she sometimes beats her and her family when they do bad. She reported that she feels scared of her mom sometimes.’” Because “[t]he Defense theory of the case was predicated on the idea that [Mother] had prompted her children to testify falsely against” him, Mr. Vercher argued that evidence that Mother “may have been physically abusing [C] and other victims at the time that they were testifying against the Defendant was unknown at the time of the Defendant’s trial” but “would have been prime fodder for cross-examination of [Mother] and the three victims pursuant to Maryland Rule 5-616.”

At a hearing on the motion, which took place on the scheduled sentencing date, defense counsel argued that because “[t]he [d]efense theory at trial was that [Mother] had induced her three children to testify falsely against Mr. Vercher,” evidence that Mother “was physically abusing one of the children at the time,” and perhaps the others as well, “tend[ed] to cast doubt on the credibility of both the” victims and Mother, who were the only fact witnesses at trial. Quoting this Court’s opinion in *Love v. State*, 95 Md. App. 420,

431 (1993), the State countered that the defense failed to meet its burden of establishing “a substantial or significant possibility that the verdict . . . would have been affected had that evidence been presented.” In support, the State cited the testimony and corroborating videos of the children, and pointed out that the school was a mandatory reporter, that “[a] child’s definition of being beat is fluid,” that a child naturally fears being disciplined by a parent “when they do something bad,” and that C’s statement didn’t generate any investigation.

The trial court stated that it didn’t “know how [C’s] statement alone would have changed the outcome of the trial” and that it didn’t “think [the statement] goes directly to any particular witness’s credibility or to negate what was testified to and used in support of the verdict,” denied the motion for a new trial, and proceeded to sentencing. After merging one of the sexual abuse counts and the third-degree sex offense for sentencing purposes, the court ordered Mr. Vercher to serve an executed total of forty years, plus five years of supervised probation. Mr. Vercher noted this timely appeal.

II. DISCUSSION

Mr. Vercher presents two issues for our review, which we restate as follows:³

1. Was there sufficient evidence to corroborate Mr. Vercher’s extrajudicial statements about touching A., and therefore to convict him of a third-degree sex offense against her?

³ In his brief, Mr. Vercher stated the Questions Presented as follows:

1. Is the evidence insufficient to sustain Mr. Vercher’s conviction for third-degree sex offense?

(continued)

2. Did the trial court err in denying a new trial based on C’s post-trial statement that Mother “beat” the children when they were “bad”?

We hold *first* that the State presented sufficient evidence to corroborate Mr. Vercher’s incriminating statements and to convict him of a third-degree sex offense based on that evidence. *Second*, we conclude that the trial court did not abuse its discretion in denying Mr. Vercher’s motion for a new trial based on C’s post-trial statement.

A. The Evidence Corroborating Mr. Vercher’s Incriminatory Statements Is Sufficient To Convict Him Of A Third-Degree Sex Offense Against A

Based on Mr. Vercher’s statements during his recorded phone call with Mother, the State indicted him on charges that included a third-degree sex offense, by “engaging in sexual contact, to wit: smacking butt” of eleven-year-old A, at some time between September 1 and 30, 2019. *See* Md. Code (2002, 2021 Repl. Vol., 2025 Cum. Supp.), § 3-307(a) of the Criminal Law Article (“CR”) (prohibiting a person from “engag[ing] in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim”).

Mr. Vercher challenges *first* the sufficiency of the evidence supporting this conviction, invoking the “general rule that, as a matter of substantive law, a criminal conviction cannot rest solely on an uncorroborated confession.” *See Miller v. State*, 380

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2. Did the trial court err in denying a new trial based on newly discovered evidence of alleged physical abuse of the child victims by Mother?

The State phrased its Questions Presented as follows:

1. Was the evidence legally sufficient to convict Mr. Vercher of committing a third-degree sexual offense?
2. Did the trial court properly deny Mr. Vercher’s motion for a new trial?

Md. 1, 46 (2004) (*citing Woods v. State*, 315 Md. 591, 615–16 (1989)); *Nicholson v. State*, 239 Md. App. 228, 254 (2018) (*citing Miller*, 380 Md. at 46). The State counters that the evidence “circumstantially corroborated Mr. Vercher’s confession to having smacked [A’s] butt,” citing A’s testimony “that Mr. Vercher began his course of abuse by touching her body widely, including the legs, back, and neck.” From that evidence, the State argues, “[a] rational jury would be entitled to infer that when a man” touches a child in this manner and in these circumstances, “he was speaking the truth when he admitted . . . to smacking the intimate area between, and physically proximate to, that girl’s legs and back.”

In reply, Mr. Vercher disputes that characterization of A’s testimony, arguing that it instead “only highlights the absence of corroborating evidence” because she never mentioned him touching her butt or him touching her during September 2019. In his view, neither A’s testimony nor the statements that he made during the recorded call satisfies the corroboration requirement, which mandates “independent evidence that corroborates the actual harm that constitutes the crime.” *See Grimm v. State*, 447 Md. 482, 502–03 (2016) (explaining that “the corroborating evidence must tend to show the harm or injury and that it was occasioned by criminal activity” (*quoting Ballard v. State*, 333 Md. 567, 577–78 (1994))).

A conviction predicated on a defendant’s incriminating statement must be “supported by evidence, independent of the confession, which relates to and tends to establish the *corpus delicti*, *i.e.*, the facts that are necessary to show that a crime has been committed.” *Cox v. State*, 421 Md. 630, 657 (2011) (internal citations omitted). To satisfy this corroboration requirement, the evidence “need not be full and positive proof of the

corpus delicti and may be small in amount, if such proof, when considered with the confession, convinces the jury beyond a reasonable doubt of the guilt of the accused.” *Ballard v. State*, 333 Md. 567, 575 (1994) (internal citations omitted).

Our case law illustrates when corroborating evidence is sufficient to affirm a conviction predicated on a criminal defendant’s incriminating statement. On one end of the scale, in *Nicholson v. State*, 239 Md. App. 228 (2018), we affirmed a conviction for possession with intent to distribute marijuana because the defendant’s “confession was corroborated on every important point.” *Nicholson*, 239 Md. App. at 254. There was ample evidence consistent with the defendant’s incriminating statements that he arranged a marijuana transaction that escalated into a shooting and second-degree felony murder, including text messages, testimony from eyewitnesses, a photo from the scene, and the seizure from his residence of items consistent with distributing marijuana. *Id.* at 253–56. Because “the State did not rely solely on Nicholson’s extrajudicial confession,” the evidence was sufficient to support his conviction for possession with intent to distribute. *Id.* at 256.

In *Cox v. State*, 421 Md. 630 (2011), the Supreme Court held that forensic evidence corroborated the defendant’s extrajudicial confession to shooting the victim, not by placing the gun in his hands but by establishing that the victim died “under circumstances which indicate that it was caused criminally by someone.” *Cox*, 421 Md. at 657–58. Affirming its holding in *Ballard*, that “the *corpus delecti* need not connect the defendant to the act,” *Ballard*, 333 Md. at 578, the Court held that the defendant’s incriminating statement was “sufficiently corroborated by a medical examiner’s testimony that the victim was dead and

that the cause of death was gunshot wounds.” *Cox*, 421 Md. at 657. Additional corroboration came from forensic evidence that a 9 mm bullet casing found at the scene was consistent with an accomplice’s statement that Cox told him he used a “nine” in the shooting, and that when police conducted a traffic stop of the defendant and accomplice near the scene, the accomplice was so nervous that he was shaking uncontrollably. *Id.* 658–59.

On the insufficiency end of the corroboration continuum are the two Maryland cases cited by Mr. Vercher. In *Duncan v. State*, 64 Md. App. 45 (1985), this Court reversed a child sexual abuse conviction because the trial court erred in admitting evidence of the defendant’s uncorroborated statement:

The State argues that the child’s extrajudicial accusatory statement, put into evidence through the testimony of Mrs. Duncan, together with appellant’s confession of guilt to the police fully established the *corpus delicti*. We must reject that argument. In the first place, Mrs. Duncan’s testimony as to her son’s statement, admissible only in conjunction with appellant’s response thereto as an implied admission, is not substantive evidence of the fact asserted by the child. It is the appellant’s response to that statement—the tacit admission of its truth—that is the admission of guilt.

Secondly, in order to constitute “corroboration,” evidence relating to the *corpus delicti* must also be independent of the confession. One part of a confession simply cannot be used to corroborate another part, even with respect to the *corpus delicti*; a confession “cannot fortify its own truth.” Thirdly, multiple confessions by an accused cannot corroborate each other.

In this case there is nothing outside the confession to the police and such admission of guilt as may be inferred by appellant’s conduct in response to the child’s accusation that could in any way be described as independent evidence relating to or

tending to establish the existence of the *corpus delicti*. No matter how convinced the trier of fact may be of the truth of appellant’s confession, the lack of independent corroborative evidence that the crimes to which appellant confessed actually occurred mandates reversal of his convictions for insufficiency of evidence to support them.

Id. at 54 (internal citations omitted).

In *Grimm v. State*, 447 Md. 482 (2016), the Supreme Court reversed a conviction for sexually abusing a minor because the defendant’s extrajudicial confession to having sexual intercourse five to ten times with her sixteen-year-old stepson was not corroborated sufficiently:

[T]he State failed to satisfy the rule of corroboration for extrajudicial confessions. As mentioned above, Quentin’s testimony corroborated two elements of the crime of sexual abuse of a minor, but his responses did not corroborate the major or essential element: sexual abuse. Quentin’s assertion that he could not recall, among other things, whether he had ever had a sexual relationship or intercourse with Petitioner, was not sufficient evidence to corroborate that the alleged act(s) did, in fact, occur. In other words, the alleged victim’s responses did not constitute substantive evidence that Petitioner had sexually abused him. Fatal to the State’s case is the absence of any other independent circumstantial or direct evidence corroborating the “essential” harm to Quentin, i.e., sexual abuse. Because the State introduced no other corroborating evidence, there was insufficient evidence for a reasonable jury to find beyond a reasonable doubt that Petitioner sexually abused Quentin. The trial judge erred in denying Petitioner’s motion for a judgment of acquittal. Furthermore, even if the jury disbelieved Quentin’s inability to recall certain details, the jury could only discredit that testimony. It could not assign weight to discredited testimony, and infer that sexual abuse did, in fact, occur.

Id. at 504–05 (internal citations omitted).

The State asks us to consider as well persuasive precedent from other jurisdictions as support for finding that evidence of Mr. Vercher’s other sexual contacts with the three girls corroborated the incriminating statements he made during the recorded phone call about touching A. In *Oregon v. Hernandez*, 300 P.3d 261 (Or. Ct. App. 2013), the charge was “touching [the victim’s] anal or vaginal area,” but the victim “stated that ‘only that [her] daddy’ gave her ‘owies where the pee comes out.’” *Id.* at 263–64. The Oregon appellate court held that the evidence sufficiently corroborated the defendant’s extrajudicial confession “to conduct constituting first-degree sexual abuse,” citing evidence “that defendant told [the victim] to take her clothes off, . . . licked and rubbed her nipples, and” made her “put her mouth on his penis.” *Id.* at 264. The appellate court held that “other evidence of defendant’s sexual contact with [the victim]” supported a reasonable inference that the “owies” she described “referred to sexual contact by defendant” as charged by the State—particularly, that he “had [her] ‘grind’ her vaginal and anal area on his groin for purposes of sexual gratification.” *Id.* Because “a rational trier of fact could draw an inference that tends to show that the charged crimes occurred,” the trial court did not err in submitting that count to the jury. *Id.*

Likewise, in *Oregon v. Johnson*, 489 P.3d 1046 (Or. Ct. App. 2021), the jury could infer that there had been multiple instances of abuse based on the victim’s statement that she “had to put [her] mouth on daddy’s pee-pee.” *Id.* at 1051–52. Because the victim’s statement didn’t limit the abuse to one instance of sexual contact, it was sufficient to corroborate the defendant’s confession to multiple instances of abuse. *Id.* at 1052.

The State cites *Kansas v. Dern*, 362 P.3d 566 (Kan. 2015), as illustrating when sexually abusive “criminal activity of one kind is so closely related to criminal activity of another kind,” that evidence corroborating the defendant’s confession to offenses against one minor victim also “suffices to corroborate” his confession to sexual offenses against another minor victim. *See id.* at 584. In that case, the defendant “confessed to multiple closely related criminal acts against his twin daughters,” and independent evidence of his abusive acts against one child corroborated his admitted abuse of the other.⁴ *Id.*

These cases all bolster our conclusion that the State presented evidence sufficient to corroborate Mr. Vercher’s extrajudicial statements about touching A’s buttocks and, based on those statements, to convict him of a third-degree sex offense under CR § 3-307(a). In contrast to *Grimm*, where there was no other evidence to corroborate the defendant’s confession to sexual intercourse with her sixteen-year-old stepson, there was ample evidence to corroborate Mr. Vercher’s incriminating statements about touching A’s

⁴ We disagree with Mr. Vercher that because Kansas permits corroboration of confessions under a “trustworthiness standard” that focuses on “whether the confession was trustworthy” under a “totality of the circumstances” test instead of “whether there is sufficient evidence of the body of the crime,” the considerations identified as pertinent to that determination have “no application in Maryland.” To the contrary, the concurring opinion in *Dern* explains that the same corroborative outcome may be reached “under the facts proving multiple crimes occurred as part of the same course of conduct or transaction,” because “the formal *corpus delicti* rule” was satisfied by evidence that the defendant “simultaneously confessed to the crimes against” both daughters, “and those crimes are so closely related that they are part of the same course of conduct.” *Kansas v. Dern*, 362 P.3d 566, 585 (2015) (Biles, J., concurring in part, dissenting in part). “Under those circumstances,” one daughter’s “statements sufficiently establish the *corpus delicti* for the crimes against both her and” her sister. *Id.*

buttocks and to conclude that he did so for sexual gratification. Most importantly, A testified that although she wasn't certain about dates, when Mr. Vercher started coming to the residence sometime during fall 2019, he began making sexual contacts that started with touching, then escalated into a continuing course of sexual abuse. Specifically, A recounted that he “touch[ed] up [her] legs, and [her] back,” “rub[bed] on” her, kissed her neck, removed her shirt, and masturbated.

As illustrated by *Hernandez*, *Johnson*, and *Dern*, evidence of multiple instances of similar sexual contacts involving the same child and other children in the same household can carry enough corroborative weight to present a jury question. Like the Oregon cases, where the victim's account of sexually abusive contacts with the defendant corroborated his out-of-court statements, and the Kansas case, where independent evidence of the defendant's sexual contacts with one daughter corroborated his incriminating statements about sexual contacts with the other daughter, this record includes corroborating evidence from A, her two sisters, and her mother.

Indeed, we agree with the State that this was not the same type of “she said/he said” dispute over whether the charged sexual contact even occurred, as in both *Duncan* and *Grimm*. Here, in contrast, the evidence established a “she said/she said/she said/he said” scenario, through the testimony of A, B, and C, each of whom recounted “Mr. Trae's” sexual contacts with A. In addition to A's accounts of sexual contacts to specific areas of her body, including Mr. Vercher touching her “back” at the outset of the abuse, both B and C testified (consistently with their recorded interviews) that they saw him making sexual contact with A *and* that he touched them in other sexual encounters.

Although the corroborating evidence “need not connect the defendant to the act” charged, *Ballard*, 333 Md. at 578, in this case we find ample evidence of Mr. Vercher’s sexual abuse of A, B, and C, which “is so closely related to” the third-degree sexual contact charge involving A, that the jury could infer reasonably both that Mr. Vercher was telling the truth when he admitted to Mother that he touched A’s butt, and that he did so for his sexual gratification. *See Cox*, 421 Md. at 657–58. Even though such evidence may not have related directly to the third-degree sexual abuse count, it was sufficient to corroborate Mr. Vercher’s extrajudicial statements under the *corpus delicti* standard. In turn, and based on those statements, the evidence was sufficient for the jury to convict him of a third-degree sex offense against A.

B. The Trial Court Did Not Abuse Its Discretion In Denying Mr. Vercher’s Motion For A New Trial

Mr. Vercher contends *next* that the trial court abused its discretion in denying his motion for a new trial based on new evidence that came to light between trial and sentencing when C, then nine years old, “disclosed via a school survey ‘that she needs help’” and “feels scared of [Mother] sometimes” because Mother “gets really stressed and she sometimes beats [C] and her family when they do bad.” After receiving this document, the State’s Attorney’s Office sent a redacted copy to defense counsel, who moved for a new trial, which the State opposed.

During the scheduled sentencing hearing, the trial court heard arguments on the motion. The prosecutor pointed out there “was a lot of corroboration with the children’s testimony in this case” and that all three gave prior consistent statements in the recorded

forensic interviews. In questioning whether there was any connection between C’s description of Mother’s discipline and her accounts of Mr. Vercher’s sexual abuse, the prosecutor asked rhetorically, “What child does not occasionally feel scared of a parent and not like being beat when they do something bad? A child’s definition of being beat is fluid.” The State also pointed out that even though schools are mandatory reporters, C’s statement didn’t generate any investigation, indicating that her school did not discern grounds to challenge Mother’s discipline of the children, much less grounds to question whether C’s accusations against Mr. Vercher had been coerced by Mother. In turn, the prosecutor argued that if evidence of the child’s statement wasn’t credible enough to warrant further investigation, it also was not likely to affect the verdicts. The trial court denied the motion, explaining that it did not “know how the statement alone would have changed the outcome of the trial,” and that it did not “think it goes directly to any particular witness’s credibility or to negate what was testified to and used in support of the verdict.”

Mr. Vercher contends now that the trial court abused its discretion because this new evidence undermined the credibility of the witnesses who were central to a prosecution that lacked any “physical or independent corroborating evidence of the claimed acts.” Given his defense theory that Mother “prompted her children to testify falsely” that he abused them sexually, he argues that “[t]he disclosure that [Mother] may have been physically abusing [C] and other victims at the time that they were testifying against the Defendant would have been prime fodder for cross-examination of [Mother] and the three victims pursuant to Maryland Rule 5-616.” “In a case that depended entirely on witness credibility,” he maintains, “there is a substantial or significant possibility that the

jurors would have reached a different verdict if they had learned that Mother was physically abusing the children.”

The State responds that “[t]he trial court’s decision here did not fall beyond the fringe of the minimally acceptable as an arbitrary act of an unreasonable jurist” because “[e]ven if the victim’s allegation of abuse by her mother ‘might’ have produced a different result at a new trial, there was not a ‘substantial or significant possibility’ that it would do so.” Based on the questionable “quality” of the new evidence, the State argues that the trial judge’s view of its potential impact was not “manifestly unreasonable.”

Under Rule 4-331(c)(1), courts “may grant a new trial . . . on the ground of newly discovered evidence which could not have been discovered by due diligence in time to move for a new trial” within ten days of the verdict “pursuant to section (a) of this Rule . . . on motion filed within one year after the later of (A) the date the court imposed sentence or (B) the date the court received a mandate issued by the final appellate court to consider a direct appeal from the judgment.” In a recent appeal from child sexual abuse convictions, we summarized the standards governing motions for a new trial under Rule 4-331(c):

We review the circuit court’s denial of a motion for a new trial for abuse of discretion. “[T]he discretion afforded a trial judge ‘is broad but it is not boundless.’” We reverse a decision committed to the discretion of the trial court only if the court exercises that discretion in a manner that is “arbitrary or capricious, or without the letter or beyond the reason of the law.” Even so, we conduct our own interpretation of the relevant case law and don’t defer to the interpretation of the trial court.

When reviewing a ruling on a motion for a new trial, the degree of deference this Court affords to the trial court’s decision depends on the subsection of Maryland Rule 4-331 that brought the motion before that court. . . . Rule 4-331(c) provides an extended window for filing a motion for a new trial under limited circumstances. Md. Rule 4-331(c)(1). It allows the trial court to grant a new trial based on “newly discovered evidence” that “could not have been discovered by due diligence in time to move for a new trial” under [the ten-day post-verdict filing period in] Rule 4-331(a) if the defendant files a motion within one year of sentencing. The deference we afford to the trial court when reviewing its decision on a motion filed under Rule 4-331(c) is more constrained. “[A] trial judge has virtually no ‘discretion’ to refuse to consider newly discovered evidence that bears directly on the question of whether a new trial should be granted” and should grant a new trial “if newly discovered evidence clearly indicates that the jury has been misled.”

Gambino v. State, 269 Md. App. 85, 153–54 (2026) (case citations omitted).

In *Gambino*, we applied the two-step analytical framework to determine whether the newly discovered evidence in question—that a social worker who interviewed that child sexual abuse victim made false statements in unrelated investigations—warranted a new trial:

To determine if newly discovered evidence “clearly indicates that the jury [was] misled” and warrants a new trial, the trial court applies the two-step test set forth in *Yorke v. State*, 315 Md. 578 (1989), and restated in *Campbell v. State*, 373 Md. 637 (2003), and *Jackson [v. State]*, 164 Md. App. 679 (2005)]. . . . First, as a “threshold question,” the court must decide if the newly discovered evidence proffered by the moving party would have been somehow “material” to the outcome of the trial. If the court concludes that the newly discovered evidence satisfies the threshold requirement of materiality, it then must evaluate whether the evidence “may well have produced a different result, that is, there was a substantial or significant possibility that the verdict of the trier of fact would have been affected.”

Gambino, 269 Md. App. at 155–56 (cleaned up) (some internal citations omitted).

We affirmed the denial of Ms. Gambino’s motion for a new trial because the newly discovered evidence about the social worker giving false statements in other sexual abuse cases was “merely impeaching” rather than “directly exculpatory.” *Id.* at 156. “Newly discovered evidence is not material to the outcome of a case if it is “merely impeaching.” *Id.* Nor does such evidence “create “a ‘substantial or significant possibility’ of affecting the jury’s verdict.” *Id.*

Comparing two Maryland decisions, we examined the critical distinction between newly discovered evidence proffered to impeach a prosecution witness, on the one hand, and newly discovered evidence “that, although ‘coincidentally impeaching,’ is nevertheless material because it is ‘directly exculpatory . . . on the merits,’” *id.* at 363–64, on the other. In *Gambino*, while examining *Jackson*, we said,

[n]ewly discovered evidence that a State’s witness had a number of convictions for crimes involving truth and veracity or had lied on a number of occasions about other matters might have a bearing on that witness’s testimonial credibility, but would not have a direct bearing on the merits of the trial under review. Such evidence would constitute collateral impeachment and would, therefore, be “merely impeaching.” If the newly discovered evidence, on the other hand, was that the State’s witness had actually testified falsely on the core merits of the case under review, that evidence, albeit coincidentally impeaching, would be directly exculpatory evidence on the merits and could not, therefore, be dismissed as “merely impeaching.”

[*Jackson*,] 164 Md. App. at 697–98. In that case, a jury convicted Mr. Jackson of two counts of child sex abuse for acts he committed against his minor daughter. *Id.* at 684–85. At trial, Mr. Jackson’s daughter testified against him as the State’s

key witness. *Id.* at 691. Defense counsel learned later that the day after Mr. Jackson’s trial, his daughter allegedly told her cousin that her mother and stepfather had “forced [her]” to testify against him. *Id.* Mr. Jackson filed a motion for a new trial, alleging that the statement his daughter made to her cousin was “newly discovered evidence” that entitled him to a new trial. *Id.* at 691. At the motions hearing, however, Mr. Jackson’s daughter denied making any such statement to her cousin and maintained that she had testified truthfully at trial. *Id.* at 692–93.

We held in *Jackson* that even assuming the newly discovered evidence of the victim’s alleged statement to her cousin was credible, it wasn’t material to the outcome of the case because it was “merely impeaching.” 164 Md. App. at 698. The victim’s cousin didn’t allege that the victim admitted to lying, “only that she admitted to testifying under strong pressure” from her parents. *Id.* So if Mr. Jackson was able to use this evidence at trial, the Court reasoned, he could use it only to attack her credibility collaterally rather than to prove that her testimony was untruthful directly. *Id.* at 698–99. And because the newly discovered evidence “bore on [the victim’s] testimonial credibility, but not directly on the substance of her testimony,” the Court held that the evidence was “merely impeaching” and, consequently, not material. *Id.*

Gambino, 269 Md. at 156–58.

We recognized in *Gambino* that our decision and reasoning in *Jackson* “referenced heavily” the Supreme Court’s decision in *Campbell v. State*, 373 Md. 637 (2003), and we then also examined the ruling and reasoning in that case.

In *Campbell*, . . . the Supreme Court of Maryland also grappled with the question of whether certain newly discovered evidence was “impeaching” but still material or “merely impeaching” and immaterial. 373 Md. at 670–72. After a jury convicted Mr. Campbell of murder, his counsel received evidence “that a key State’s witness in [his case] had . . . ‘falsely accused another person of murder in an unrelated case.’” *Jackson*, 164 Md. App. at 697 (quoting *Campbell*, 373 Md. at 644). The Court held that the newly

discovered evidence was “merely impeaching” because it “involved a collateral matter and was cumulative to” multiple other pieces of evidence that Mr. Campbell introduced to impeach the State’s witness at trial. *Campbell*, 373 Md. at 670–71. The Court added that even if the newly discovered evidence was material, the trial court did not abuse its discretion by deciding that there was not a “substantial or significant possibility” that it would have affected the jury’s verdict based on its cumulative and collateral nature. *Id.* at 671–72.

Gambino, 269 Md. App. at 157–58.

Applying lessons from *Jackson* and *Campbell* to the record in *Gambino*, we held that the trial court didn’t abuse its discretion in denying the defense motion for a new trial because newly discovered evidence that the social worker who interviewed the victim and testified at trial “made false statements in CPS investigations unrelated to Ms. Gambino’s case” was “‘merely impeaching’ and would not have been material to the outcome of her case.” *Id.* at 158–59. As in *Jackson* and *Campbell*, the newly discovered evidence in *Gambino* didn’t mislead the jury because that social worker’s “misconduct” in other cases likely would not have affected the guilty verdict:

Ms. Rodriguez’s testimony at trial largely recounted her forensic interview with R on April 4, 2023 and the interview she observed via closed-circuit live feed on April 27, 2023. The State submitted into evidence recordings of both interviews, and Ms. Rodriguez, who conducted the April 27 interview, later testified about what she observed. Ms. Rodriguez also testified about a voicemail and text messages that Ms. Gambino sent her after the April 4 interview to tell her that R had made a new disclosure. The State offered a copy of these text messages into evidence. Ms. Rodriguez did testify about two unrecorded conversations with Ms. Gambino, one over the phone before the April 4 interview and one with Ms. Gambino and her supervisor after the April 27 interview, during which she stated that she told Ms. Gambino not to talk to R about the

allegations against T. Ms. Gambino confirmed in her testimony that CPS told her not to ask R questions about the allegations.

The trial judge considered carefully the newly discovered evidence that Ms. Rodriguez provided false documentation in unrelated cases in the context of all the evidence presented at the trial. Having “felt the pulse of the trial” and “rely[ing] on his own impressions” of that trial as he was entitled to do, *Campbell*, 373 Md. at 672, the judge determined “that the case [against Ms. Gambino] hinged on the assertion that” she rendered her child a CINA by exposing her “to Child Welfare Services Forensic interviews.” At the motions hearing prior to sentencing, the judge characterized Ms. Rodriguez’s testimony as it related to this core issue as “parrot[ing] what can be verified by the video and the audio” recording of her interview with R. He recognized that Ms. Rodriguez gave details about unrecorded conversations with Ms. Gambino, but ultimately found it “immaterial” to the jury’s decision “whether or not [Ms. Gambino] was told not to discuss [the case] with [R]” because “she clearly had the background to understand how the operation worked because of her line of work.” We cannot say that this conclusion was in any way “arbitrary or capricious, or without the letter or beyond the reason of the law.” The court’s well-considered decision was based on its opportunity to observe and assess the full body of evidence presented at trial and to identify the key issues for resolution by the jury. Because the circuit court neither “refuse[d] to consider newly discovered evidence” bearing “directly on the question of whether a new trial should be granted” nor abused its discretion in finding that the newly discovered evidence did not “clearly indicate[] that the jury ha[d] been misled,” we hold that the court did not abuse its discretion when it denied Ms. Gambino’s motion for a new trial.

Gambino, 269 Md. App. at 159-60 (cleaned up).

The circuit court in this case didn’t have the benefit of *Gambino*, which we decided later. But the distinction between impeaching and exculpatory evidence is even more pronounced in this case because defense counsel expressly argued that C’s statement that Mother “beat” her children when they were “bad” would be highly relevant as grounds to

impeach Mother and the three children, by suggesting their abuse allegations were fabricated. There is nothing in C’s statement that calls into question whether she testified falsely on the core questions of whether Mr. Vercher committed the acts of sexual abuse she described in her trial testimony and recorded interview.

We are not persuaded otherwise by Mr. Vercher’s citation to *Cornish v. State*, 461 Md. 518 (2018), for the proposition that “if the jury was convinced that the daughters only testified to the alleged sexual abuse because they were afraid for their safety with Mother,” the “evidence may have produced a different result at trial.” *Cornish* held that the trial court erred in failing to hold a hearing on the motion for a new trial. *See id.* at 539–40. Here, the court held a hearing. And in any event, *Cornish* underscores the dispositive gap between the “merely impeaching” statement by C and the “potentially exculpatory” evidence that merited a hearing in that case. At issue in that appeal from the summary denial of a motion for a new trial in a first-degree murder conviction were two statements made by a key witness that appeared to be materially inconsistent with the evidence presented at trial, potentially implicating that witness and/or others, and potentially exculpating Cornish:

Mr. Pope’s statement implicates him in the murder of Mr. Boone, more so than when he originally testified. The statement brings Mr. Pope’s stated motive for testifying directly into question. His statement indicates that he was induced to testify the way he did to avoid being prosecuted for the crimes, rather than because it was the “right thing to do.” Pursuant to Mr. Pope’s admission, he was present when Mr. Boone was killed, helped drag Mr. Boone’s body out of the car and into the woods and then helped burn the vehicle. Further, he admits to ransacking Mr. Boone’s home the day after his killing in search of drugs and money. This new evidence is relevant to establish Mr. Pope’s participation in the victim’s death and in covering up the various crimes as well as his

apparent motive to testify. Accordingly, the trial court must decide, at a hearing, whether this amount of impeachment is “merely impeaching” and/or exculpatory, such that the newly discovered evidence warrants a new trial.

Id. at 539.

In contrast to newly discovered evidence that a key witness made statements that were inconsistent with evidence presented at trial, potentially implicating himself and/or others, and exculpating the defendant, nine-year-old C’s generalized statement about parental discipline in this case, made in a school survey, in no way supports the attenuated inference that Mr. Vercher seeks to draw, *i.e.*, that Mother beat all three of her children into accusing him of sexual abuse falsely.

We are satisfied that the trial court did not “refuse to consider” C’s post-trial statement and exercised its discretion properly in finding that it was not material and that the jury was not misled. *See Gambino*, 269 Md. at 160. Following *Jackson*, *Campbell*, and *Gambino*, we conclude that C’s post-trial statement was impeaching evidence that was not directly exculpatory, not misleading to the jury, and not likely to affect the verdicts. On this record, then, the trial court did not abuse its discretion in denying Mr. Vercher’s motion for a new trial.

**JUDGMENTS OF THE CIRCUIT COURT
FOR CHARLES COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**