Circuit Court for Charles County
Case No.: C-08-CR-21-000201

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2496

September Term, 2023

DEON WATKINS

v.

STATE OF MARYLAND

Friedman,
Shaw,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: March 6, 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 104(a)(2)(B).).

Following a jury trial in the Circuit Court for Charles County, appellant Deon Watkins was convicted of two counts of first-degree murder, two counts of use of a firearm in the commission of a crime of violence, and one count of possession of a regulated firearm after being convicted of a crime of violence. In this appeal, Watkins argues that the trial court (1) erred in denying his motion to dismiss the charges because his right to a speedy trial was violated; (2) erred in denying his motion to strike Juror Number 103 for cause; (3) erred in admitting surveillance video that was not sufficiently authenticated; (4) abused its discretion by allowing testimony about a surveillance video that was not made available to the parties or played at trial; (5) abused its discretion by allowing the State to introduce a photograph of Watkins's displaying the tattoo on his forearm that says "outlaw;" and (6) erred in permitting an argumentative and inflammatory closing argument. For the following reasons, we affirm Watkins's convictions.

BACKGROUND

On January 21, 2021, at approximately 12:30 a.m., the Charles County Sheriff's Office received a report of gunshots fired in the vicinity of Hanover Court, located in Waldorf, Maryland. Responding officers discovered the bodies of two victims, Kandeon Niravanh and Genesis Garrett, inside one of the Hanover Court residences, both of whom had sustained fatal gunshot wounds. Investigators also observed a significant amount of marijuana and related paraphernalia in the kitchen and living room, along with $3,400 in cash.

Investigators discovered a phone at the crime scene that contained several aggressive audio messages that Watkins sent to Niravanh. In these recordings, sent the day

before the murders between 8:15 p.m. and 8:30 p.m., Watkins confronted the victims for contacting another individual named "Harry," warned them not to "go behind my back and deal with him," warned that Niravanh did not "want to get on my bad side," and issued a threat to Niravanh to "watch yourself" because Watkins could "go gangster." From these messages, police quickly identified Watkins as a person of interest.

Two days later, police arrested Watkins at his apartment at 810 New Jersey Avenue NW, Washington, D.C. There, authorities seized a duffel bag containing money, keys, and multiple cell phones. The cell phones were submitted for digital forensic analysis.

At trial, Kimberly Abdullah, who was in a romantic relationship with Watkins at the time of the murders, testified that Watkins operated a drug distribution scheme with Niravanh and Garrett. As part of this operation, the group would fly to California to procure marijuana. Afterwards, Watkins would fly back to Maryland, and Niravanh and Garrett would drive the marijuana across the country. Once in Maryland, Niravanh and Watkins would sell the marijuana as part of their ongoing business relationship.

Abdullah further testified that at approximately 7:00 p.m. the evening before the murders, Watkins picked her up from work to take her home. Abdullah explained that Watkins had borrowed her car because his was in the shop. She described that Watkins appeared agitated and told her that Niravanh owed him drug money and that both Niravanh and Garrett tried to bypass him by dealing directly with his California supplier. She testified that Watkins was very upset and she overheard Watkins leave Niravanh a voice message over his phone, stating, "Okay, if you want to be gangsta I can show you gangsta."

Abdullah continued that, at around 9:00 p.m., Watkins drove to the repair shop to pick up his car. After parting ways, Abdullah went to a shopping center to pick up dinner for the two of them before returning to their shared Baltimore home. While she was out, Watkins called to say he had to "make a run real quick" and would be back later. Watkins did not return until approximately 2:00 a.m.

The next morning, January 21, 2021, Watkins called Abdullah at work and told her the victims were killed the night before. He did not provide any details, but Abdullah knew that Watkins owned a handgun. Later that evening, when Abdullah was researching the victim's deaths, Watkins instructed her to lie to the police by claiming he had arrived home the night before at around midnight. At trial, Abdullah testified that when she first spoke with the police three days after the murders, she told them that Watkins came home around 12:30, as he had instructed her to do. Abdullah further testified, however, that approximately a year later she told the police the true timeline of Watkins's whereabouts on the night of the murders.

As part of the ongoing investigation, police identified a contact on Watkins's phone, nicknamed "Ox," who was later confirmed to be Shawn Dillard. Dillard testified that he was aware of the marijuana distribution partnership between Watkins and Niravanh, including their frequent trips to the West Coast to source product. The night before the murders, Watkins called Dillard to complain about an argument he had with Niravanh regarding payment for a small amount of marijuana. On the morning of January 21, 2021, Watkins arrived at Dillard's residence in Washington, D.C., and confessed he had "punished" the two women. Watkins told Dillard that he went to their residence, shot the

first victim, and then shot the second woman while she was "cowering and leaning down." Watkins said that afterwards, he changed his clothes and disposed of the murder weapon.

DISCUSSION

I. SPEEDY TRIAL

In his first issue on appeal, Watkins contends that the trial court erred in denying his motions to dismiss on the grounds that his right to a speedy trial was violated. We are not persuaded.

When we review a trial court's ruling on a motion to dismiss for violation of the right to a speedy trial, we conduct our own independent analysis in light of the particular facts of the case at hand. *Glover v. State*, 368 Md. 211, 220-21 (2002). We accept the trial court's findings of fact unless they are clearly erroneous and weigh those facts under a four-factor balancing test set forth in *Barker v. Wingo*. *Greene v. State*, 237 Md. App. 502, 511-12 (2018) (citing *Barker v. Wingo*, 407 U.S. 514, 530 (1972)). These four factors are: (1) the length of delay; (2) the reason for the delay; (3) the defendant's assertion of his right to a speedy trial; and (4) prejudice to the defendant. *Barker*, 407 U.S. at 530. No one factor by itself is either necessary or sufficient to find that the right to a speedy trial has been violated. *Nottingham v. State*, 227 Md. App. 592, 613 (2016) (citing *Barker*, 407 U.S. at 533). We weigh the conduct of both the prosecution and defense together with other relevant circumstances. *Id.* Because we weigh these factors as part of our own constitutional analysis, we review the trial court's ultimate conclusion without deference. *Howard v. State*, 440 Md. 427, 446-47 (2014) (citing *Glover*, 368 Md. at 220).

A. Length of Delay

The first factor, the length of the delay, has two parts. As an initial matter, we must consider whether there was "some delay which is presumptively prejudicial" such that further inquiry is necessary. *Barker*, 407 U.S. at 530; *Greene*, 237 Md. App. at 512. The length of the delay is measured from either the date of the arrest or the filing of the indictment or other formal charges, whichever is earliest, to the date of the trial. *Greene*, 237 Md. App. at 512-13 (citations omitted). While there is no fixed number of days that constitutes a presumptive prejudicial delay, "a delay of more than one year typically triggers the *Barker* balancing test." *State v. Kanneh*, 403 Md. 678, 688 (2008).

Watkins was arrested on January 23, 2021, and the trial began on August 21, 2023. This is a gross delay of two years, seven months, and twenty-nine days. We note, however, that Watkins's case was pending during portions of the administrative suspensions of the Maryland court system due to the COVID-19 pandemic. *See Edwards v. State*, __ Md. App. __, No. 799, Sept. Term, 2023, Slip Op. at 46 (filed Oct. 31, 2025). Because these suspensions were entirely outside the control of the circuit court, the speedy trial clock was tolled while they were in effect. *Id*. at 47. Based on *Edwards* and our own calculations, the gross length of Watkins's delay is thus reduced by five months and ten days.[1] This results

[1] We calculated the five month and ten-day tolling period as follows: there were three administrative suspensions to our courts. The first occurred from March 16, 2020 through October 4, 2020 (six months and eighteen days). The second occurred from November 16, 2020 through April 25, 2021 (five months and nine days). The third and final suspension occurred from December 29, 2021 through March 6, 2022 (two months and eight days). *Edwards v. State*, __ Md. App. __, No. 799, Sept. Term, 2023, Slip Op. at 46 (filed Oct. 31, 2025). Watkins was arrested on January 23, 2021, during the second

in a net length delay of two years, two months, and nineteen days, a length of time that is still presumptively prejudicial.

This brings us to the second part of the length of delay analysis. Even if a delay is presumptively prejudicial, "[t]he length of delay, in and of itself, is not a weighty factor." *Glover*, 368 Md. at 225. Rather, "the duration of the delay is closely correlated to the other factors, such as the reasonableness of the State's explanation for the delay, the likelihood that the delay may cause the defendant to more pronouncedly assert his speedy trial right, and the presumption that a longer delay may cause the defendant greater harm." *Id*. In addition, we must consider the nature of the charges against Watkins. *Vaise v. State*, 246 Md. App. 188, 223 (2020). "The longer the delay and the less complex the trial, the more the delay will weigh in favor of the defendant." *Id*. (citing *Divver v. State*, 356 Md. 379, 390-91 (1999)). Conversely, if a trial is complex, a longer delay may be tolerable for appropriate reasons.

Here, Watkins was charged with a double homicide, the prosecution of which involved numerous witnesses, extensive discovery, and coordination with the FBI for a forensic analysis of Bluetooth and GPS data from Watkins's car. While the delay was significant, it is not out of proportion with the severity and complexity of the charges. We, therefore, conclude that the length of the delay does not weigh heavily against the State in our overall analysis.

administrative suspension. Thus, his speedy trial clock was tolled for the three months and two days spanning between January 23, 2021 and April 25, 2021. Similarly, Watkins's trial did not begin until August 21, 2023, so his speedy trial clock was tolled, again, for the entire two months and eight days that encompassed the third administrative order.

B. Reasons for Delay

Next, we must examine the reasons for the delay. In this examination, we determine whether there was a reasonable justification for each postponement, or if the cause of the delay should be counted against one side or the other. Different reasons are given different weight. *Barker*, 407 U.S. at 531. For example, deliberate attempts to delay a trial to impede the defense would weigh heavily against the State. *Id.* Negligence or overcrowded courts are generally neutral but may, depending on the circumstances, weigh slightly against the State. *Id*. Valid reasons, such as a missing witness, will justify an appropriate delay. *Id*.

In any criminal prosecution, both sides need time to prepare for trial, thus the initial pre-trial period from the time charges are filed until the first scheduled trial date is considered neutral. *See White v. State*, 223 Md. App. 353, 384 (2015) (quoting *Howell v. State*, 87 Md. App. 57, 82 (1991)); *see also Hallowell v. State*, 235 Md. App. 484, 515 (2018). Here, that pre-trial period ran from January 23, 2021, when Watkins was arrested, to the first scheduled trial date on September 27, 2021. This time period is considered neutral and does not weigh in our analysis.

1. September 2021 to March 2022

The first delay occurred when the original trial date of September 27, 2021, was postponed to March 21, 2022. The State requested the postponement due to a delay in receiving information from the FBI, specifically an analysis of Bluetooth based GPS data that had been downloaded from the vehicle Watkins was believed to have used to travel to and from the crime scene. The State informed the trial court that the FBI anticipated completing its analysis on September 27, 2021, the first day of trial. The State asserted that

because the evidence would be complex and likely require an expert to review it, both sides would need additional time. Over Watkins's objection, the trial court ruled that the outstanding forensic evidence was good cause to continue the trial date beyond Watkins's *Hicks* date and reset the trial for March 21, 2022.[2]

Due to the novelty of this evidence, we have not found any Maryland cases specifically addressing delays due to the unavailability of a forensic analysis of Bluetooth based GPS location data extracted from a vehicle. There is, however, established Maryland caselaw addressing delays involving DNA evidence, and there, our courts considered these delays neutral and justified so long as there is no evidence that the State failed to act in a diligent manner. *See e.g.*, *Howard*, 440 Md. at 448-49; *Glover*, 368 Md. at 225-26. We conclude that the same principle applies here, and therefore consider this delay to be justified and neutral.

2. March 2022 to August 2022

The second and most contentious delay occurred when the trial date was reset from March 21, 2022, to August 11, 2022. As with the first delay, the State informed the trial court that it was still awaiting the results of the Bluetooth/GPS analysis from the FBI. At hearings held in January and February of 2022, the State explained that since the previous postponement was granted, it had learned that the FBI had needed to rewrite some of its software to make it compatible with the particular make and model of Watkins's car. By

[2] Maryland law imposes a 180-day deadline by which the State must bring a criminal defendant to trial. MD. CODE, CRIMINAL PROCEDURE ("CP") § 6-103; MD. RULE 4-271. This deadline is otherwise known as a defendant's *Hicks* date. *See State v. Hicks*, 285 Md. 310 (1979).

early January 2022, the FBI updated the State that the raw data existed but they were still finalizing an interpretable report before turning it over to the parties. The case file was eventually produced on February 18, 2022.

In response to the additional delay, Watkins filed two motions to dismiss, one based on a speedy trial violation and another based on discovery violations. Watkins alleged that either the FBI had misled the State about how long it would take for the Bluetooth/GPS analysis to be done, or the State knew how long it would take and had misled the defense and the trial court. Watkins further alleged that the State had been providing discovery in a "piecemeal" manner to inhibit his ability to analyze the information and force him to request a postponement. Watkins asked the trial court to dismiss the case, or in the alternative, if the trial court denied his motions to dismiss, Watkins requested a postponement until August 2022 to give his expert adequate time to analyze the data provided by the FBI.

The trial court rejected Watkins's assertion that there was any misconduct on the part of the State or that the delays had been intentional. The trial court found that the delay was caused by, "at the very worst, confusion over the ability of the [FBI] to conduct these sort of data extractions and the delays in getting this information back." The trial court granted the postponement and reset the trial for August 8, 2022.

The State argues that this delay should weigh against Watkins because ultimately it was his request for a postponement that was granted. That assertion is, however, an oversimplification of the circumstances. Although Watkins requested the postponement, he did so only after his motions to dismiss were denied and made very clear to the trial

court that while he was opposed to any further delays, he felt that the State had left him no choice. In contrast, Watkins argues that this delay should be attributed to the State because it was "lackadaisical" in following up with the FBI.

We conclude that both parties had a role in causing this delay. The State was the proponent of the forensic analysis that the parties were waiting for, and once the data was received, Watkins requested the postponement to have time to analyze it. Under these circumstances, we will consider it to be neutral in our overall analysis.

3. August 2022 to December 2022

The third delay occurred when the trial was postponed from August 8, 2022, to December 5, 2022. This delay was caused by the unavailability of two witnesses for the State. We conclude this delay was justified and neutral. *See Howard*, 440 Md. at 448 (noting that a missing witness was a valid reason to justify an appropriate delay).

4. December 2022 to April 2023

The fourth delay occurred when the trial was postponed from December 5, 2022, to April 17, 2023. This delay arose because Watkins received an updated ballistics report that he believed could point to alternate suspects. Although the State disagreed that the report had any evidentiary value, Watkins requested a postponement to further review and investigate it. We conclude that a delay to allow a defendant to investigate a possible defense based on updated evidence is justified and neutral.

5. April 2023 to August 2023

The fifth and final delay occurred when the trial was postponed from April 17, 2023, to August 21, 2023. On April 14, 2023, the State received a letter from an inmate alleging

that Watkins had confessed to him that he was guilty of the murders. Because there was a possibility that the State might call the inmate as a witness, Watkins requested a continuance to investigate. As with the fourth delay, we conclude that this delay was justified and neutral.

6. Summary

Although both Watkins and the State each assert that the other should be considered responsible for the delays, all of the postponements had reasonable justifications. Thus, the reasons for the delay will remain a neutral factor in our overall analysis.

C. Assertion of the right to a speedy trial

Watkins has been diligent about asserting his right to a speedy trial. He filed a demand for a speedy trial approximately two weeks after the indictment was filed. On September 16, 2021, he objected to the State's first request for a postponement and filed a written motion to dismiss for lack of speedy trial on November 30, 2021. Watkins later filed a supplemental motion to dismiss for speedy trial and discovery violations on February 14, 2022, and reasserted those motions to dismiss in October 2022. This factor weighs in his favor.

D. Prejudice

The fourth, final, and most important factor is whether Watkins suffered actual prejudice as a result of the delays. *Henry v. State*, 204 Md. App. 509, 554 (2012). This factor considers the three interests that the right to a speedy trial was intended to protect: (1) avoiding oppressive pretrial incarceration; (2) minimizing the associated anxiety and concern; and (3) limiting the potential impairment of the defense. *State v. Kanneh*, 403 Md.

678, 693 (2008) (citing *Barker*, 407 U.S. at 532). The first two interests are given minimal weight in the overall analysis. *Hallowell*, 235 Md. App. at 518. The third interest, however, is the most important and can weigh significantly against the State. *Kanneh*, 403 Md. at 693 ("Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system."). Any claims of prejudice must be apparent from the record. *Wheeler v. State*, 88 Md. App. 512, 525 (1991).

In his appeal, Watkins argues that he suffered actual prejudice because the State had extra time to seek life without the possibility of parole, and that he suffered from the inherent prejudice that was assumed to result from an extended incarceration. But, Watkins does not allege that his pretrial incarceration was unduly oppressive, that he suffered from undue anxiety or concern, or that his defense was impaired in any way. Indeed, the trial court addressed the potential for prejudice and made specific findings that there had been no testimony or allegations as to "the most serious type of prejudice, witnesses dying, memories fading, that sort of thing." Thus, without evidence of actual prejudice apparent in the record before us, any prejudice Watkins may have suffered from the delay does not weigh heavily in our analysis.

E. Balancing

Having reviewed all four factors and the specific facts of this case as found by the trial court, we conclude that Watkins's right to a speedy trial was not violated. While the overall length of the delay was significant and Watkins repeatedly asserted his right to a speedy trial, those factors are outweighed by the lack of actual prejudice and the justified,

neutral reasons for each delay. Thus, the trial court did not err in denying Watkins's motions to dismiss.

II. JUROR 103

Watkins next asserts that the trial court erred in denying his motion to strike Juror Number 103 for cause because her answers during voir dire demonstrated a real potential for bias and were grounds for disqualification. Specifically, Watkins argues that the trial judge abused his discretion by relying on the juror's assertion that she could be impartial and not independently assessing the juror's demeanor and credibility. The record does not support Watkins's argument.

It is the responsibility of the trial judge to impanel a fair and impartial jury. *Dingle v. State*, 361 Md. 1, 14 (2000). To achieve that goal, trial judges have broad discretion to conduct voir dire and ask questions that will reveal whether a prospective juror has a specific cause for disqualification. *Pearson v. State*, 437 Md. 350, 356 (2014); *Dingle*, 361 Md. at 13-14. To ensure a fair and impartial jury, *voir dire* focuses on the potential juror's state of mind, specifically, "whether there is some bias, prejudice, or preconception." *Williams v. State*, 394 Md. 98, 108 (2006). The right to an impartial jury does not mean that prospective jurors "will be free of all preconceived notions relating to guilt or innocence," only that they "can lay aside [their] impressions or opinions and render a verdict based solely on the evidence presented in the case." *Couser v. State*, 282 Md. 125, 138 (1978).

Whether a prospective juror harbors any bias is a question of fact to be determined by the trial judge. *Dingle*, 361 Md. at 15. In a criminal case, if either the defense or the

State believes a prospective juror will not be fair and impartial, they can move to strike that juror for cause. MD. RULE 4-312(e)(2). The trial court's decision to excuse a juror for cause is discretionary and will not be disturbed absent an abuse of discretion. *Ware v. State*, 360 Md. 650, 666 (2000); *Bowie v. State*, 324 Md. 1, 19-20 (1991).

During *voir dire*, the trial court asked the venire:

> [I]s there any member of the panel, or let's say it like this, have you or members of your immediate family or close personal friends ever been a victim of a crime, witness to a crime, arrested for, charged with or convicted of a crime, excluding, we don't want routine motor vehicle violations?
>
> So have you, members of your immediate family, or close personal friends ever been a victim of a crime, witness to a crime, arrested for, charged with or convicted of a crime, excluding routine motor vehicle violations?
>
> If that applies, please stand up.

Juror Number 103 stood up and disclosed that her stepdaughter was recently assaulted by her boyfriend. Juror 103 initially indicated that the experience might affect her depending on the facts of the case. After further questioning, Juror 103 stated that she could listen to the evidence, exercise her judgment and common sense, and decide the case fairly based solely on what was presented at trial. The court permitted Watkins to inquire further, during which Juror Number 103 conceded that the fact that the victims were female and the defendant was a male made her "uncomfortable." When asked again by the trial court if she could "listen to the evidence and follow [it] to a fair conclusion, whatever that may be," Juror Number 103 replied that she could.

Based on this questioning, Watkins moved to strike Juror Number 103 on the grounds that she was "clearly disturbed by the fact that the victims are female," and that she "actually just almost started crying." The trial court disagreed with Watkins's

assessment and expressly found that Juror 103 did not start crying and noted that Juror 103 "said twice she could be fair." The court reserved on the motion.

Later, the court asked:

> Is there any member of the panel who because of things going on in their personal or work lives believes that they could not be a member of this panel and render a fair and impartial verdict?
>
> In other words, because of things going on at work or in your personal life.

In response, Juror Number 103 told the court she was a kindergarten teacher and that the trial could impact the first week back. The trial court then followed up further with Juror 103:

Trial Court:	Now, 103, I think we've asked [this] a couple times before but I'm just going to ask one more time, we've had a lot of discussion up here, you and I or the four of us or the five of us, however, you want to put it, my question is just really at the end of the day, is there anything that you think would prevent you from being fair and impartial?"
Juror 103:	I don't have any questions, I just say I think so because I don't know subconsciously if (inaudible) will trigger.
Trial Court:	Okay, okay. Very – so as far as you know, you can be fair and impartial?
Juror 103:	As far as I know.

Watkins then renewed the motion to strike Juror Number 103. In response, the trial court found on the record:

> Okay, so she said she could be fair, I mean -- this is just me talking for the record, [Watkins's Counsel], I'm not lecturing you, she said she could be fair, I believe what she said is subconsciously she doesn't know. I think that would apply to literally everyone in here and if something happens if she can't be fair, I think I've encouraged her to write a note, so I'm going to leave 103.

In this case, Juror 103 was questioned twice by the trial judge and twice she stated that she could be fair and impartial. The trial judge and Watkins specifically discussed—and disagreed about—Juror 103's demeanor. The trial judge was in the best position to evaluate Juror 103's potential for bias and make "'credibility findings whose basis cannot be discerned from an appellate record.'" *Dingle*, 361 Md. at 15 (quoting *Wainwright v. Witt*, 469 U.S. 412, 429 (1985)). We see no abuse of discretion in the trial court's denial of Watkins's motion to strike Juror 103 for cause.

III. IMPROPERLY AUTHENTICATED SURVEILLANCE VIDEO

Watkins next asserts the trial court erred in admitting a cellphone recording of surveillance video from a tavern Watkins drove by on the night of the murders because it failed to meet the minimum authentication requirements. Although we agree that the video was not sufficiently authenticated, we conclude that any error in its admission was harmless.

At trial, Detective Johnson testified for the State that on February 4, 2021, he went to Mac's Sunnybrook Tavern after reviewing records that placed one of Watkins's cell phones near the tavern at 11:58 p.m. on January 20, 2021. Detective Johnson was unable to download the surveillance footage directly from the tavern's DVR, so instead he set up a tripod and digital camera and recorded the screen showing the surveillance video. At trial, his recording was offered into evidence in the form of one still image and four video clips contained in State's Exhibit 188. To authenticate the video, he testified that he had confirmed that the DVR's timestamp matched his camera's internal clock, that there were no discrepancies between what he viewed and what he recorded, and that the February 4,

2021, recordings fairly and accurately reflected the tavern's January 20, 2021, surveillance video.

Watkins objected to the admission of State's Exhibit 188 because the video was akin to a "movie of a movie." The trial court overruled the objection, found that the video met the minimal authentication requirements, and told Watkins that further challenges could be made on cross-examination.

Before a video is admissible, it must be authenticated by "evidence sufficient to support a finding that the matter in question is what its proponent claims." MD. RULE 5-901(a). To do so, the proponent must offer enough evidence for a reasonable juror to find by a preponderance of the evidence—that it is more likely than not—that the video is what it is claimed to be. *Mooney v. State*, 487 Md. 701, 708, 719 (2024). The bar for authenticating a video "'is not particularly high'" and we review a trial court's ruling only for an abuse of discretion. *Id*. at 717 (quoting *Sublet v. State*, 442 Md. 632, 666 (2015)).

For Detective Johnson's recording of the surveillance video to be admissible, the State was required to authenticate both the recording Detective Johnson made with his digital camera and the original surveillance video. There are three methods by which the videos could have been authenticated. *Mooney*, 487 Md. at 705; MD. RULE 5-901(b).

The first method of video authentication is the "pictorial testimony" theory, in which "a witness with knowledge of the events depicted in the video" may testify that the video fairly and accurately represents the scene or events as they existed at the time it was captured on video. *Mooney*, *supra*, 487 Md. at 705-06, 720 (citing *Dep't of Pub. Safety & Corr. Servs. v. Cole*, 342 Md. 12, 20-21 (1996)); *see also Reyes v. State*, 257 Md. App.

596, 629-30 (2023); MD. RULE 5-901(b)(1). At trial, Detective Johnson testified about how and when he made the recording and that it accurately reflected the surveillance video that he watched on February 4, 2021. Detective Johnson did not, however, have any personal knowledge of the events of January 20-21, 2021, at Mac's Sunnybrook Tavern. Thus, while Detective Johnson's testimony was sufficient to authenticate his own recording as pictorial testimony, it could not authenticate the surveillance video.

The second method of authentication is the "silent witness" theory, which allows a video to be authenticated by evidence showing the accuracy of the process that produced the recording. *Mooney*, 487 Md. at 706; *see also* MD. RULE 5-901(b)(9). This method often takes the form of witness testimony 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.'" *Mooney*, 487 Md. at 706 (quoting *Jackson v. State*, 460 Md. 107, 117 (2018)). Here, Detective Johnson testified about his own digital camera and described the process he used to make his recording. The only testimony Johnson could offer about the surveillance video, however, was that he was unable to download it from the DVR system and that on the day he made his recording, the date and time on the DVR system matched the date and time on his digital camera. There is no testimony or evidence about the system used to make the surveillance video in the record before us: there was no testimony about the type of cameras the tavern used, where they were placed, how the recordings were made, how long they were kept, who maintained the system, or even who gave Detective Johnson access to the system. Without even the most

basic information about the system used to capture the original surveillance video, it could not be authenticated as a "silent witness."

The third method permits authentication of video footage through 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." MD. RULE 5-901(b)(4); *Mooney*, 487 Md. at 708. Relevant circumstantial evidence can include the temporal proximity of the video to the events at issue, or other witness testimony about aspects of those events based on their direct personal knowledge. *Mooney*, 487 Md. at 708-09. But to meet the standard that a reasonable juror would find, more likely than not, that the video is what the proponent claims it to be, the proponent of the video must "tailor [its questioning] the particular circumstances of the case." *Mooney*, 487 Md. at 717, 734. Here, Detective Johnson simply testified that he pressed play and recorded several minutes of the surveillance footage that played. Again, Detective Johnson was not able to testify to any of the circumstances surrounding the making of the surveillance video itself.

In sum, for State's Exhibit 188 to be admissible, the State needed to authenticate not only Detective Johnson's recording but also the surveillance video that was recorded. Even with a deferential standard of review, the record does not contain enough, or any, evidence about the surveillance video to meet the low bar for authentication. We therefore hold that the trial court abused its discretion in admitting State's Exhibit 188.

Despite this error, we nevertheless conclude that the admission of State's Exhibit 188 was harmless beyond a reasonable doubt. *See Gonzalez v. State*, 487 Md. 136, 184 (2024) (explaining that an error will be harmless when the reviewing court, upon "its own

independent review of the record," is "satisfied beyond a reasonable doubt" that there is no reasonable possibility that the error "influenc[ed] the outcome of the case") (citations omitted); *see also Dorsey v. State*, 276 Md. 638, 659 (1976).

The State used Detective Johnson's recording to narrate a timeline of January 20-21, 2021, showing that Watkins was in the area when the murders occurred. This timeline was based primarily on tracking data from two cell phones that Watkins was known to have in his possession, a personal cellphone registered to his name and an unregistered pre-paid phone. Along with witness testimony describing the location of the cellphones based on the cellular tracking data, the State offered videos and images taken from license plate readers and third-party surveillance cameras, corresponding to the time and location indicated by the tracking data, showing the vehicle that Watkins was driving at the time. State's Exhibit 188 was just one of these videos. The tracking data for the prepaid phone placed Watkins traveling south along Rte. 210 around midnight the night of the murders. State's Exhibit 188 was a short video clip purportedly showing Watkins's Honda Accord, identified by a missing fog light, turning south onto Rt. 210 just before midnight.

State's Exhibit 188 acted as, at most, a visual aid to corroborate the timeline that the State presented to the jury. The substantive evidence used to build that timeline came from other admissible evidence, and there were other images and videos used for the same purpose as State's Exhibit 188, to provide a visual corroboration that Watkins's vehicle was identified at the time and place shown in the cellphone records. Some of those visual aids preceded State's Exhibit 188 in the timeline and some succeeded State's Exhibit 188 in the timeline. Given the amount of other admissible evidence that the State used to show

Watkins's movements on the night of the murders, State's Exhibit 188 had minimal relevance to the establishment of the timeline. Moreover, given the significant weight of the overall evidence against Watkins, we are persuaded beyond a reasonable doubt that there is no reasonable possibility that the erroneous admission of State's Exhibit 188 influenced the outcome of the trial. The error was, therefore, harmless.

IV. TESTIMONY ABOUT UNAVAILABLE SURVEILLANCE VIDEO

Watkins next argues that the trial court erred in admitting testimony from Detective Eric Weaver describing what he saw on a surveillance video from Watkins' then-residence. The State offered Detective Weaver's testimony because the police were unable to acquire a copy of the video. Watkins asserts that the testimony should have been excluded because it was not the best evidence of what the video showed and that Detective Weaver's testimony identifying Watkins as someone in the video was an improper lay opinion. Neither argument is persuasive.

At trial, Detective Weaver testified that he went to Watkins's residence at 810 New Jersey Avenue NW and viewed surveillance video of the building's eighth floor elevator lobby from around 11:00 p.m. on January 20, 2021. Watkins objected to Weaver's testimony on the grounds that the video itself would not be offered. At a bench conference, the State explained that for unknown technical reasons, neither Detective Weaver nor the apartment complex employee could download a copy of the video the day Detective Weaver viewed it. When officers later returned on February 4, 2021, with a camera and tripod to record the video as it played, they discovered that it had been deleted. The trial court overruled Watkins's objections. Detective Weaver then testified that the video

showed a person matching Watkins's description, wearing dark clothing and carrying a large duffel bag, entering the elevator at 11:08 p.m. Watkins declined to cross-examine Weaver.

The best evidence rule requires that a proponent use the original writing, recording, or photograph to prove its contents. MD. RULE 5-1002. One exception to this rule provides that the contents of a recording may be proved by "evidence other than the original" if "all originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith." MD. RULE 5-1004(a). Thus, although there is "a preference for original documents," the best evidence rule permits the "use of secondary evidence after a proper foundation has been laid showing good and sufficient reasons for the failure to produce the primary evidence." *Gordon v. State*, 204 Md. App. 327, 347 (2012) (cleaned up).

Watkins argues that the trial court should have excluded the testimony because the State did not adequately explain why the video could not be downloaded and failed to make diligent efforts to obtain a copy of the video by alternate means. For secondary evidence to be admissible, however, it is not necessary for the proponent to show that the absence is due to circumstances beyond their control. Indeed, "[c]arelessness, recklessness, ordinary negligence, and even gross negligence are all satisfactory explanations" for the admission of secondary evidence. *State v. Cabral*, 159 Md. App. 354, 385 (2004) (quoting JOSEPH F. MURPHY, JR., MARYLAND EVIDENCE HANDBOOK § 1104(B)(3), at 461 (3d ed. 1999)). While there may be room for criticism of the State's efforts to obtain the surveillance video, there is nothing in the record to suggest that the State acted in bad faith or intentionally

destroyed evidence to gain an unfair advantage. *See id*. Thus, we see no abuse of discretion in the trial court's decision to allow secondary evidence of the surveillance video.

Similarly, we see no abuse of discretion in the trial court allowing Detective Weaver to testify as to his opinion of the identity of the person in the video. The Maryland Rules allow a lay witness to testify 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; *see also Paige v. State*, 226 Md. App. 93, 124 (2015); *Rosenberg v. State*, 129 Md. App. 221, 255 (1999). Proper lay opinion testimony may be related to, for example, "the appearance of persons or things, identity, the manner of conduct, competency of a person, degrees of light or darkness, sound, size, weight, distance, and an endless number of items that cannot be described factually in words apart from inferences." *Walter v. State*, 239 Md. App. 168, 200 (2018) (cleaned up). When a lay witness is asked to identify a defendant from surveillance video recordings and still images, our courts have generally required that the witness be sufficiently familiar with the defendant such that the witness would be "better able to identify" them than the jurors. *See Moreland v. State*, 207 Md. App. 563, 572 (2012). A challenge as to the level of familiarity goes to the weight to be given the witness's testimony, not the admissibility. *Id*.

Here, Detective Weaver testified that he viewed a person matching Watkins's description on the surveillance video. Asked how he knew the image matched Watkins's description, the detective confirmed that the lead detective, Detective Feldman, provided him with a photograph of Watkins. Thus, Detective Weaver's identification was based on

his observation of Watkins in a photograph during the course of the police investigation. The detective's testimony, therefore, was rationally based on his observations of Watkins and was helpful to the jury in determining identity. Any issue regarding that identification, including whether Detective Weaver was familiar enough with Watkins for his opinion to be reliable, went to the weight of the evidence, not to its admissibility. Thus, we are not persuaded that the trial court abused its discretion in admitting the testimony.

V. "OUTLAW" TATTOO

Watkins next asserts the trial court erred in admitting State's Exhibit 135, a photo of him holding up his forearm and displaying a large tattoo that said "Outlaw," because it was irrelevant and prejudicial. In response, the State argues that this issue is not preserved because Watkins failed to object when the photograph was admitted as part State's Exhibit 179. We agree with the State.

Settled Maryland law provides that generally "[o]bjections are waived if, at another point during the trial, evidence on the same point is admitted without objection." *Cromartie v. State*, 490 Md. 297, 309-10 (2025) (citation omitted). If the same objectionable piece of evidence is offered again, or a question is asked more than once, to preserve the issue "'a party should object to each question or assert a continuing objection to an entire line of questioning.'" *Id*. (citation omitted). *See also* MD. RULE 4-323 (a) ("[a]n objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent"); MD. RULE 8-131 (a) ("Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.").

State's Exhibit 179 was comprised of a flash drive containing an Extraction Report from Watkins's cellphone, dating from November 16, 2020, to January 20, 2021, that contained the digital communications between one of Watkins's cellphones and Niravanh's cellphone. Within that extraction report was a folder labelled "Attachments" containing 141 items, including audio files and images. Image number 30 in this data is the same photograph as the one later admitted separately as State's Exhibit 135. State's Exhibit 179 was admitted without objection. Because Watkins failed to object to State's Exhibit 179, which contained the exact same photo as State's Exhibit 135, Watkins waived his objection to State's Exhibit 135.[3]

VI. REBUTTAL

Finally, Watkins contends that the trial court erred in overruling his objection that comments the State made in its rebuttal closing argument were argumentative and inflammatory. Because the rebuttal argument was made in response to Watkins's closing argument, we begin this analysis with what Watkins argued in his closing:

> I think that it's time to say this to you and I say this and I do not mean this disrespectfully at all, but it's something that needs to be said, drug distribution is an inherently dangerous occupation. If it becomes known that you have large amounts, substantial amounts of marijuana, or any drug, for that matter, here we're talking about marijuana, it's – there's a possibility

[3] We note that even if the issue had been preserved, Watkins's argument would not have been successful because the photograph was neither irrelevant nor unfairly prejudicial. As described by the trial court, the photo was a "selfie" of Watkins that was sent as a text message to Niravanh. Thus, it served to show that Watkins was the person sending text messages from that number, the number that had sent the threatening text messages, and established a direct connection between Watkins and Niravanh. It therefore had significant relevance. That probative value outweighed any potential prejudice that might come from the display of a tattoo reading "Outlaw" which, as the trial court noted, was not evidence of illegal activity.

> you might have substantial amounts of money, and they did, that makes you a target.
>
> If you follow the news, if you read the news, no matter where you get it, whether from Internet, local news, national news, whatever, there are many stories of drug deals gone wrong.
>
> People sometimes want to get the marijuana and they don't want to pay for it, or they'd just rather not pay for it and it leads to violence and someone gets hurt or killed. That's what happens. All of this is a possibility, because we just don't know.

In its rebuttal, the State commented on this portion of counsel's closing, and argued, "Drug dealing is an inherently dangerous profession. I would agree with that, especially when your supplier is Deon Watkins." Watkins immediately objected, stating that the comment was "argumentative" and "inflammatory." The trial court disagreed and so do we.

"Generally, a party holds great leeway when presenting their closing remarks." *Cagle v. State*, 462 Md. 67, 75 (2018). Whether a reversal of a conviction based upon improper closing argument is warranted "depends on the facts in each case." *Whack v. State*, 433 Md. 728, 742 (2013) (quoting *Wilhelm v. State*, 272 Md. 404, 415 (1974)). The issue is whether the jury was actually or likely misled by the comments. *Id*. Ultimately, "[t]he permissible scope of closing argument is a matter left to the sound discretion of the trial court." *Cagle*, 462 Md. at 74 (citations omitted).

"Counsel is free to use the testimony most favorable to his side of the argument to the jury, and the evidence may be examined, collated, sifted and treated in his own way." *Mitchell v. State*, 408 Md. 368, 380 (2009) (quoting *Wilhelm*, 272 Md. at 412). "However, this leeway is not without limitation." *Cagle*, 462 Md. at 75. For instance, the State may not vouch for the credibility of a witness, *Spain v. State*, 386 Md. 145, 153-54 (2005),

appeal to the prejudices or passions of the jurors, *Mitchell*, 408 Md. at 381, or argue facts not in evidence or materially misrepresent the evidence introduced at trial. *Whack*, 433 Md. at 748-49.

Here, the defense argued to the jury that the victims were killed by an unknown third party because of their involvement with illegal drugs. The State's rebuttal was in direct response to that argument, filling in the blank that the defense's supposed unknown third-party was Watkins. The rebuttal did not rely on any evidence not in the record nor did it materially misrepresent any of the evidence. The jury had heard testimony about how the victims and Watkins worked together to transport marijuana from California to Maryland, and heard evidence that Watkins shot the victims to punish them for trying to cut him out of the arrangement. We discern no abuse of discretion in the trial court's ruling.

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