Circuit Court for Anne Arundel County
Case No. C-02-CR-16-000142

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2511

September Term, 2018

DEMETRIUS TROY WALLACE

v.

STATE OF MARYLAND

Graeff,
Beachley,
Alpert, Paul E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: May 26, 2020

After a bench trial in the Circuit Court for Anne Arundel County, the court found Demetrius Troy Wallace, appellant, guilty of three counts of second-degree rape, two counts of second-degree sexual offense, sexual abuse of a minor, two counts of unnatural and perverted sexual practice, fourth-degree sexual offense, and second-degree assault. The court imposed an aggregate sentence of 30 years' incarceration and gave appellant credit for 280 days of time served. No notice of appeal was filed following the sentencing hearing. After a post-conviction hearing, appellant was permitted to file a belated appeal.

On appeal, appellant presents four questions for this Court's review, which we have rephrased slightly, as follows:

1. Did the circuit court abuse its discretion in denying appellant's request for a video recording to preserve the record for appeal?

2. Did the circuit court impermissibly restrict cross-examination of the State's primary witness?

3. Did the circuit court err in calculating the credit for appellant's pre-trial incarceration?

4. Was the evidence sufficient to sustain appellant's convictions?

For the reasons set forth below, we shall affirm the judgments of the circuit court.

FACTUAL BACKGROUND

This case arises out of allegations that appellant raped and sexually abused a minor, A.P., born on May 17, 2001. A.P. knew appellant as her mother's boyfriend. Appellant and A.P.'s mother, A.B.P., are deaf. A.P. and her younger brother and sister used American Sign Language ("ASL") to communicate with both of them, although A.P. is not hearing impaired and there was no evidence that either of her siblings was hearing impaired.

The children's biological father was not involved in their lives. He and A.B.P. separated due to domestic violence. Thereafter, A.B.P. and the children moved frequently and lived in "a lot of homeless shelters." A.P. had trouble sleeping and relaxing because living in shelters was stressful to her. She worried about her safety, had trouble concentrating, experienced a loss of appetite, cried, and got headaches while living in shelters. She also experienced bullying at the hands of her younger brother.

In 2011, A.P. started seeing a therapist at Kennedy Krieger in Baltimore. She reported that she had been sexually assaulted by a paternal cousin when she was approximately five years old. According to A.P., at the time of that incident, police and social workers said she was lying. A.P. also reported that, on multiple occasions, her father had picked her up and thrown her against the wall and attacked her mother. It was easiest for A.P. to talk to her therapist about the domestic violence she witnessed between her mother and father and hardest to speak of the sexual abuse she had experienced.

A.P. also spoke to her therapist about needing help dealing with her brother's aggressive behavior. She told her therapist that she sometimes felt there was too much pressure on her as the oldest child, always being called upon to help, and being a hearing person who speaks sign language and is part of the deaf culture. She discussed the anger she felt about her father and brother. Later, A.P. discussed her family's plan to move into the home of her mother's boyfriend, appellant, and that she would be starting a new school.

In approximately March 2013, A.B.P. and her three children moved into appellant's house in Annapolis. The bedrooms were located on the second floor. A.P. shared a bedroom with her sister, her brother had his own bedroom, and her mother shared a

bedroom with appellant. According to A.P., when the family first moved into appellant's home, he was pleasant to her and treated her "[l]ike a kid." In the summer before A.P. entered 8th grade, that relationship changed.

One night before she entered 8th grade, while she and her sister were asleep in their bedroom, A.P. awoke and found appellant on top of her. She felt pain because appellant's penis was in her vagina. Using ASL, A.P. told appellant "[i]t hurts" and to stop, but he did not. Appellant told A.P.: "It'll get better." A.P. did not tell anyone what happened because she was scared.

For months thereafter, appellant continued to put his penis in A.P.'s vagina "[a] lot," more than once a week. A.P. testified that there was blood the first time appellant put his penis inside her vagina, but that did not occur on subsequent occasions. A.P. told appellant, using sign language, that she did not want to do sexual things with him, but "it would happen anyway." Appellant initiated the sexual contact, which occurred in A.P.'s bedroom, in a van, and on a futon-style couch on the first floor of appellant's house. According to A.P., appellant had a lot of body piercings, including on his eyebrow, ears, and face. Once appellant began sexually abusing her, A.P. saw that he also had a piercing on his penis, which she described as a silver bar with studs on the end. He took it out when he had sex with her.

When A.P. was in 8th grade, she and her siblings continued to participate in therapy at Kennedy Krieger. A.P. went to her therapy sessions on Wednesdays, and A.B.P. took the younger children to their sessions on Thursdays. A.P. testified that it was common for appellant to put his penis in her vagina on Thursdays when she was home alone with him

after school. On one occasion, when appellant was in A.P.'s bed in her bedroom, and his penis was in her vagina, A.P.'s mother's shadow became visible in the hall. Appellant quickly sat up in the bed and started a conversation with her. Immediately thereafter, A.P. saw her mother, who asked, "[w]hy are you still up?"

A.P. testified that she engaged in oral sex by sucking appellant's penis, but not very often. She recalled engaging in oral sex on a Thursday on the couch on the first floor of appellant's home, but she could not recall how many times. On one occasion, appellant put his mouth on her vagina and performed oral sex.

Appellant treated A.P. differently from the other children. A.P. and her siblings usually went to the Boys and Girls Club after school, but on some occasions, appellant would pick her up from school, and they would go to the Annapolis Mall and have dinner. A.P.'s sister testified that appellant did not treat her or her brother the same way he treated A.P. On Tuesday nights, when their mother worked, appellant would sometimes send them all to bed early. A.P.'s sister, who shared a bedroom with A.P., never noticed anyone come into the room at night while everyone was sleeping.

A.P.'s mother and appellant ended their relationship in early 2015, but they continued to live together until March 2015, when the family moved out of appellant's home. The family went to Sarah's House homeless shelter, and later, to another homeless shelter in Annapolis. Appellant eventually moved to a new home on Ballman Court in Brooklyn, Maryland.

After their breakup, A.B.P. continued to communicate with appellant via text. A.P. did not have her own phone, but appellant sent text messages to A.B.P. and asked her to

show the them to A.P. One of those texts included a photograph of a bed at appellant's home that he had purchased for A.P. and a request for A.B.P. to show A.P. the picture. Appellant also complained to A.B.P. via text message that he was not communicating with A.P. anymore.

In May 2015, A.P. was admitted to Sheppard Pratt hospital. She reported that one of the biggest things stressing her out was being homeless again. She also reported that every father figure in her life had let her down and that her mother had hit her on her backside with a belt and on her mouth with an open hand. She did not report that appellant had sexually abused her. From approximately 2011–2014, A.P. took medication for anxiety and depression, but it made her feel "more depressed" and "blah" all the time, so at some point she stopped taking it.

After she was discharged from Sheppard Pratt later in May, A.P. continued her therapy at Kennedy Krieger. A.P. did not tell anyone at Kennedy Krieger that appellant had abused her. She stated that she did not want to "stress [her] mom out because she already had . . . so much to do, and if [she] said something, then a lot of stuff would like, you know . . . happen."

In August 2015, before A.P. started high school, appellant took her to a lake with some of his friends. Afterwards, they went back to his new house, which A.P. described as being approximately five minutes from Glen Burnie High School, but not within walking distance. A.P.'s mother testified that she told appellant to bring A.P. home that night, that they "argued through the phone," and "then it was too late," so A.P. spent the night at appellant's house. According to A.P., she spent the night in appellant's room. Appellant

asked to have sex, but A.P. said no. A.P. then observed appellant's hand "messing" with his penis and then he went into the bathroom.

A.B.P. acknowledged that, before the family moved into appellant's house, her son had been acting out and A.P. was afraid of his actions. In response, A.B.P. took A.P. to Kennedy Krieger for therapy to deal with that issue. According to A.B.P., the therapy sessions in 2012 and 2013 discussed the issue of aggressive behavior by A.P.'s brother and the pressure A.P. felt as the eldest child. The sessions also discussed A.P.'s past history of sexual abuse as a young child and the trauma she experienced from her biological father's physical assaults.

During the time the family lived with appellant, A.P.'s behavior and emotional demeanor changed. Initially, A.P. seemed happy and appellant and A.P. seemed "buddy/buddy," as if they cared for each other, but after the first year of living together, A.P.'s behavior changed. It appeared to A.B.P. that A.P. "trusted [appellant] more than she trusted me, her own mother." A.P. did not want anything to do with her mother and told her, "[w]ell, you don't understand me." It appeared to A.B.P. that A.P. enjoyed spending time with appellant. She used his iPad and tablet, they watched movies together, and appellant took her shopping for clothes. A.B.P. testified that appellant did not do these things for the younger children, that he was not close with them, and that he always disciplined them. A.B.P. also acknowledged that A.P. was home alone with appellant on Thursday evenings. She testified that she would text appellant to let him know when she and the younger children were on their way home from their therapy sessions.

A.B.P. testified that appellant has two penis piercings. She never discussed these piercings with A.P., and appellant did not walk around the house naked when the children were present. Although A.B.P. did not know that anything sexual had occurred between appellant and A.P., she recalled an occasion when appellant and A.P. were in the master bedroom with the door locked. According to A.B.P., this was unusual because appellant never locked the bedroom door. When A.B.P. knocked on the door, she waited for "a few minutes" before A.P. finally answered. A.B.P. was shocked that A.P. had been in the room with appellant, but A.P. said that she was watching a movie.

On November 17, 2015, A.P. told a friend at her high school what appellant had done to her but told him not to tell anyone. The friend told Quincy Caldwell, a guidance counselor. Mr. Caldwell met with A.P. Initially, A.P. was "very quiet" and reluctant to share what had happened to her, but as time went on, she told him that there had been inappropriate touching and a sexual relationship or contact by her mother's boyfriend. Mr. Caldwell reported the situation to authorities.

Appellant testified at trial on his own behalf. He first met A.B.P. when they were young children. Later, in approximately 2012, they began a romantic relationship, and she and her three children moved into his house. He described himself as "a surrogate father" to the children. He made sure they were dressed, fed, and went to school. He took them to various events and sometimes picked them up from the Boys and Girls Club, where they went after school. Appellant acknowledged that there were times when he was alone with the children and that he was alone with A.P. on Thursdays after he picked her up from the Boys and Girls Club. On occasion, he took A.P. to get something to eat, but when they got

home, he went upstairs to sleep and did not know what A.P. did while he was sleeping. He denied having sexual intercourse or oral sex with A.P.

Appellant acknowledged that he has two penis piercings, and he described a bar that went through his urethra and a loop that connects to the bar. He denied sending the children to bed early on Tuesday nights when A.B.P. was at work, and he denied that A.B.P. sent him text messages to let him know when she would be home after the children's therapy sessions on Thursday nights. He also denied being alone in a locked room watching a movie with A.P., taking A.P. to the mall to go shopping, or regularly taking her out to eat.

In the summer of 2015, appellant invited A.P. to go to a lake for the day. He did not invite the other children because they "never showed any interest." Appellant denied that he and A.P. went to his new home on Ballman Court after spending the day at the lake. He testified that they went to a friend's house.

After he broke up with A.B.P., appellant stayed in contact with her using text and emails. Appellant denied that he sent messages to A.P. through her mother. He also denied sending A.B.P. a photograph of a bed that he bought for A.P. and complaining that A.P. did not want to talk to him anymore. When shown State's Exhibit 3, which contained a picture of a bed and the words "Show [A.P.] this pic" underneath it, appellant testified: "This looks like it's been doctored." He also claimed that a text message included in State's Exhibit 3, asking, "Why don't you want to chat with me?" had been "edited" and that a preceding portion of the message was missing. He acknowledged, however, that he sent a message to A.B.P. stating: "I'm disappointed that A.P. don't want to spend time with me anymore. You can tell her that."

DISCUSSION

I.

As indicated, appellant and A.P.'s mother are deaf, and he communicates through ASL.[1] Several interpreters were used in the trial.

Appellant contends that the trial court abused its discretion in denying his pre-trial motion to videotape the trial proceedings to preserve the record for appeal. In that motion, appellant asserted that the transcript alone would not capture the ASL interpreter's signing, stating that interpreters "all seem to have different ways of saying things" and "sometimes, things do get lost in the translation." During argument on the motion, the judge pointed out that there was no video recording equipment in the courtroom, and the court was providing multiple interpreters for the trial. In addition, appellant had retained his own expert in ASL and deaf culture who could monitor the proceedings and alert appellant to any inaccuracy in the interpreters' work. The court made clear that, if appellant felt that there was any inaccuracy in the interpreters' work, he could raise the issue at trial.

The court agreed to allow the interpreters to "go slowly" so that, if more than one interpreter was working, appellant's expert interpreter could follow along. It denied appellant's request to video record the proceedings, stating:

[1] "American Sign Language (ASL) is a complete, complex language that employs signs made by moving the hands combined with facial expressions and postures of the body." *Taylor v. State*, 226 Md. App. 317, 350–51 (2016) (quoting National Institute on Deafness and Other Communication Disorders, American Sign Language Fact Sheet, at 1 (Feb. 2015), https://www.nidcd.nih.gov/sites/default/files/Documents/health/hearing/NIDCD-American-Sign-Language.pdf, available at: https://perma.cc/E24G-FPRU [last visited May 22, 2020].

> I'm not going to provide for videotaping of the proceedings given what I've told you that I would allow you to do. And if we need to go slowly during the course of trial, if your interpreter has concern about being able to interpret, I really think there's only going to be one person interpreting at a time, but if you need me to slow down, or do anything to accommodate you to make sure that we get an accurate interpretation and translation, I'm happy to address that when and if it becomes an issue. Just let me know during the trial.

Appellant argues that the trial court abused its discretion in denying his request to have the underlying proceedings video recorded, asserting that, because "ASL is not a spoken language, an audio recording cannot effectively preserve the translation of the communications from spoken English to ASL and vice versa[.]" He contends that "there was no valid reason for denying the request for a video recording," and the court's ruling leaves him "unable to determine the accuracy of the interpretation or the record on appeal."

As the State notes, there is no right to video recorded court proceedings. Rather, pursuant to Maryland Rule 16-503, judicial proceedings may be recorded by any reliable method approved by the County Administrative Judge.[2] The Rule provides, in relevant part, as follows:

> (a) **Proceedings to be Recorded**. (1) *Proceedings in the Presence of Judge*. In a circuit court, all trials, hearings, testimony, and other proceedings before a judge in a courtroom shall be recorded verbatim in their entirety, except that, unless otherwise ordered by the court, a court reporter need not report or separately record an audio or audio-video recording offered as evidence at a hearing or trial.

* * *

[2] Appellant refers us to former Maryland Rules 16-404 through -406, but the provisions he references are actually found in Maryland Rule 16-503, which was derived, in part, from former Rule 16-404 and became effective on July 1, 2016, prior to appellant's trial.

> (b) **Method of Recording.** Proceedings may be recorded by any reliable method or combination of methods approved by the County Administrative Judge. If proceedings are recorded by a combination of methods, the County Administrative Judge shall determine which method shall be used to prepare a transcript.

Although a court could exercise its discretion to allow video recording, there was no abuse of discretion by the court in declining to do so in this case. The court stated that there was no operable camera in the courtroom and there was not available staff or cameras to video record the proceedings. The court noted that there were multiple court-certified ASL interpreters present throughout the trial, and appellant had a privately retained expert in sign language and deaf culture monitoring the proceedings for inaccurate translations. If appellant had any concern about the translations, the court stated that it would take steps to slow down the translation process and address appellant's concerns. Appellant does not point to any time during the proceedings below that he raised any issue concerning the accuracy of the translations.[3] Under these circumstances, we cannot conclude that the circuit court abused its discretion in denying appellant's request to have the proceedings video recorded.

II.

Appellant contends that the circuit court impermissibly restricted his cross-examination of A.P. with respect to three areas: (1) her response to her brother's aggressive behavior; (2) an altercation involving A.P. at her school; and (3) the reason for A.P.'s admission to Sheppard Pratt hospital. The State contends that the court properly exercised

[3] Appellant has not pointed out any transcript reference that is different from his recollection or that of his sign language expert.

its discretion in sustaining objections to questions that "lacked probative value and were unduly embarrassing to the witness."

It is well established that the scope of cross-examination lies within the sound discretion of the trial court. *Pantazes v. State*, 376 Md. 661, 681 (2003). "[T]rial courts retain wide latitude in determining what evidence is material and relevant, and to that end, may limit, in their discretion, the extent to which a witness may be cross-examined for the purpose of showing bias." *Parker v. State*, 185 Md. App. 399, 426 (2009) (quoting *Merzbacher v. State*, 346 Md. 391, 413 (1997)). Reasonable limitations on cross-examination may be "based on concerns about, among other things, harassment, prejudice, confusion of the issues . . . or interrogation that is . . . only marginally relevant." *Id.* (citations and quotations omitted). A trial court abuses its discretion in limiting cross-examination only if it inhibits the defendant's ability to receive a fair trial. *Pantazes*, 376 Md. at 681–82.

A.

Aggressive Behavior by A.P.'s Brother

During cross-examination, A.P. stated that she felt scared when her brother bullied her and became aggressive. Defense counsel questioned A.P. about discussions she had with her therapist at Kennedy Krieger about what to do if there was unsafe behavior in her home, how to deal with those kinds of stressful situations, how to handle situations that were dangerous, how to access her mother when such situations arose, and how to better interact with her siblings when she was angry with them. Thereafter, defense counsel cross-examined A.P. as follows:

[DEFENSE COUNSEL]: But that still didn't really end the behavior of your brother that caused you a lot of distress, right?

A. No –

[PROSECUTOR]: Objection.

[A.]: -- it didn't.

THE COURT: Sustained. Wait for the next question.

[DEFENSE COUNSEL]: You still had to deal with your brother's aggressive behavior at home, correct?

[PROSECUTOR]: Objection.

THE COURT: Sustained.

[DEFENSE COUNSEL]: Was it a continuing source of stress for you to deal with your brother's behavior?

[PROSECUTOR]: Objection.

THE COURT: Sustained.

[DEFENSE COUNSEL]: You recall discussing with your therapist your younger brother's tendency to anger quickly and become aggressive, correct?

[PROSECUTOR]: Objection.

At that point, the judge called counsel and appellant to the bench and questioned defense counsel about the relevance of the questions posed on cross-examination. The following exchange occurred:

THE COURT: What's the relevance of that?

[DEFENSE COUNSEL]: If she's able to articulate and come up with – to articulate situations under which her brother becomes aggressive, and angry, and inappropriate to her, that is relevant because she –

THE COURT: How?

[DEFENSE COUNSEL]: – because she is not – at the same time or any point in the future, identifying situations in which someone came – what could be a close analogue of what became aggressive with her.

THE COURT: Okay.

[DEFENSE COUNSEL]: She's able to identify these situations, and work on them, and say, "Yes, this causes me stress. This is upsetting to talk about, but I'm going to talk about it," and –

THE COURT: But that's apples and oranges. The last part I agree with you, that (indiscernible – 1:58:19 p.m.)

[DEFENSE COUNSEL]: Okay. Remind me what the last part you agreed with me to be relevant is?

THE COURT: You – it has more to do with her having tools, her being [A.P.], to address aggressive or stressful situations, and how she would react.

[DEFENSE COUNSEL]: Okay.

THE COURT: Whether her brother's aggressive or not –

[DEFENSE COUNSEL]: Okay. I just think that's a predicate fact for the question, but –

THE COURT: Okay. The objection's still sustained.

Appellant contends that the testimony he was seeking to elicit was relevant to show that, although A.P. talked with therapists about her troubles, she did not mention appellant. As the State notes, however, evidence was elicited that she told her therapist about her brother's aggressive behavior. The questions to which the court sustained objections were cumulative, and the court properly restricted further cross-examination in this regard. The trial court did not abuse its discretion in sustaining the State's objections to defense counsel's questions.

B.

Altercation at School

The next area of questions at issue involved questions about an altercation at school that involved A.P. The following colloquy occurred:

> [DEFENSE COUNSEL]: You were able to identify that a boy – that – actually, no that you beat up at school, reminded you of your brother, correct?
>
> [PROSECUTOR]: Objection.
>
> THE COURT: That she beat up.
>
> [A.P.]: It was a fight.
>
> THE COURT: No –
>
> [A.P.]: It wasn't –
>
> THE COURT: – no, no, wait, wait. I'm going to sustain that one. Wait for the next question.
>
> [DEFENSE COUNSEL]: Whatever happened, that that – that you identified that that was a trigger for you, correct?
>
> [PROSECUTOR]: Objection.
>
> THE COURT: Sustained.
>
> Counsel and appellant approached the bench and the following occurred:
>
> [DEFENSE COUNSEL]: Thank you, Your Honor. Your Honor, I would proffer the following from the Kennedy Krieger records as a good faith basis for these questions:
>
> "Client was seen with mom. She reported she was upset because she got suspended from school today. We discussed the situation, and she was eventually able to identify that a boy she beat up" – I misspoke – "reminded her of her brother, and it appeared to be a trigger for her. She identified that she now agrees she wants to explore medication because she wants to be able to handle her emotions better than she is currently doing. She also discussed

she recognizes a lot of her anger is connected to her father and her brother, and she gets easily triggered."

There is a pattern emerging from these records, culminating in what she says at Sheppard Pratt, that Mr. Wallace is just next another [sic] series of men who have let her down, and it goes to motive –

THE COURT: How does that go to motive, the fact that she assaulted someone at school?

[DEFENSE COUNSEL]: It's the predicate question for getting to the triggers, managing anger, and that that anger arises from – or in the exact words of Kennedy Krieger, "is connected to her father and her brother."

THE COURT: Okay. The objection is sustained.

We agree with the circuit court that A.P.'s fight with a student that reminded her of her brother was irrelevant to the charges against appellant. The court did not abuse its discretion in limiting cross-examination in this regard.

C.

Suicide Attempt

Appellant's next challenge relates to defense counsel's attempt to cross-examine A.P. about the details of her suicide attempt, which led to her admission to Sheppard Pratt hospital. At trial, defense counsel cross-examined A.P. as follows:

[DEFENSE COUNSEL]: And I know none of this is easy to talk about, but the reason that you were taken to Sheppard Pratt is because you tried – they thought you tried to kill yourself, correct?

[PROSECUTOR]: Objection.

THE COURT: Sustained.

[DEFENSE COUNSEL]: Do you remember why you were taken to Sheppard Pratt?

[PROSECUTOR]: Objection.

THE COURT: Sustained. Wait for the next question. Okay?

[DEFENSE COUNSEL]: Regardless of your intent, they – you were at Sarah's House before you went to Sheppard Pratt, correct?

[A.P.]: Yes, ma'am.

[DEFENSE COUNSEL]: And there came a time where the police were called because you tried to jump out a window, correct?

[PROSECUTOR]: Objection.

THE COURT: Sustained. Wait for the next question.

[DEFENSE COUNSEL]: And after you got to Sheppard Pratt, more doctors came to talk to you, right?

[A.P.]: (No audible response.)

[DEFENSE COUNSEL]: Yes?

[A.P.]: Yes.

[DEFENSE COUNSEL]: Okay. And therapists came to talk to you, right?

[A.P.]: Yes.

[DEFENSE COUNSEL]: And among the things that we've already talked about, you discussed that being homeless again was a really big deal, right?

[A.P.]: (No audible response.)

[DEFENSE COUNSEL]: And you also said that you were being bullied again at school, right?

[A.P.]: What time was this?

[DEFENSE COUNSEL]: Do you remember – strike that. You told the doctor, "I kind of wish I did jump because then people wouldn't bully me any more."

[PROSECUTOR]: Objection.

THE COURT: Sustained. Wait for the next question. Don't answer that one.

[DEFENSE COUNSEL]: Do you recall identifying that you had been – you recall identifying that you were being bullied in school at that time, correct?

[PROSECUTOR]: Objection. Asked and answered.

THE COURT: Sustained. Wait for the next question.

Defense counsel stated below that she was trying to establish that A.P. did not disclose appellant's abuse, even though she had the opportunity to disclose, and had disclosed sources of stress in her life. The questions at issue, however, involving the details of an alleged suicide attempt, were irrelevant, lacked probative value, and were embarrassing. The court properly exercised its discretion in restricting cross-examination in this regard.

D.

Harmless Error

Even if the court abused its discretion in sustaining the State's objections to the questions at issue, any error would be harmless. It has long been established that an error is harmless when "a reviewing court, upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict[.]" *Dorsey v. State*, 276 Md. 638, 659 (1976).

As noted, the evidence showed, and A.P. acknowledged, that she had made disclosures in therapy about prior traumatic and stressful events, and she had learned methods for addressing those situations. She stated that she did not disclose that appellant

had sexually abused her because she did not want to "stress [her] mom out," noting that if she said something "then a lot of stuff would . . . happen."

The questions to which objections were sustained were, for the most part, cumulative to the evidence already presented, and defense counsel was able to argue in his closing argument that A.P.'s mental health records showed that A.P. "talked about all sorts of things with her therapist," had been taught what to do in unsafe settings, and knew how to report abuse, but she failed to do so.

The trial judge, the finder of fact in this bench trial, agreed with the defense that there were inconsistencies in A.P.'s testimony, but found that most, although not all, stemmed from her reluctance to be on the witness stand. The judge acknowledged that one of the biggest inconsistencies was that A.P. had an opportunity to disclose the sexual abuse to her therapists at Kennedy Krieger and Sheppard Pratt, but she did not do so. On that point, the judge noted that, for most of the time that A.P. was in therapy, appellant "was still in the picture," and he and A.P. were living in the same house. Even after appellant and A.P.'s mother broke up, appellant attempted to spend time with A.P. As a result, the judge did not "make a whole lot of the fact" that A.P. did not report the abuse. Moreover, the judge specifically found that A.P.'s testimony was credible and appellant was not credible. The judge concluded that, although there were some inconsistencies in A.P.'s testimony, they did not rise to the level of reasonable doubt.

On the record before us, we are convinced that additional testimony regarding stress from her brother, a fight at school, and the details of A.P.'s alleged suicide attempt would

not have affected the verdict. Even if the trial court erred in sustaining the State's objections to the challenged questions, any error would be harmless.

III.

Appellant contends that the sentencing court erred in calculating credit for his pre-trial incarceration. He argues that he is entitled to an additional credit of 28 days for time served in an unrelated case.

At the August 29, 2017, sentencing hearing, defense counsel raised the issue of credit for time served as follows:

> In terms of credit for time served, Your Honor, in this case that we're sentencing for, Mr. Wallace, actually, only has credit for 38 days time served. He was incarcerated January 3rd through January 7th of 2016. On that date, he made bond, and he was released. He was not incarcerated in this case until conclusion of the trial on July 26th of 2017, to today's date. I've calculated that as 38 days.
>
> However, he was incarcerated on one of the other cases that's scheduled for this Court today. In that case, he was incarcerated on October 5th of 2016, up until today's date, which I calculate to be 275 days, and I'd ask you to consider giving Mr. Wallace credit in this case for that time. Obviously, it hasn't happened yet. It might not happen. We're expecting it to happen. But grant – the State allows this Court to give credit in a case that's been dismissed and apply it to another case. So I'd ask you to consider that.

After further discussion of the days, counsel requested a credit for 280 days. The court gave appellant credit for 280 days of time served, as requested.

Approximately two months later, appellant, wrote a letter to the court, stating: "You awarded me 280 days that gave me a start date of 11/22/16. I was locked up since 10/05/2016 at Jennifer Road Detention Center in Anne Arundel County." The court denied

the motion, noting: "The Court gave the Defendant the credit he was entitled to in this case."

Md. Code (2018 Repl. Vol.), § 6-218(b) of the Criminal Procedure Article ("CP"), which governs credit against a sentence for time spent in custody, provides, in pertinent part, as follows:

> (2) If a defendant is in custody because of a charge that results in a dismissal or acquittal, the time that would have been credited if a sentence had been imposed shall be credited against any sentence that is based on a charge for which a warrant or commitment was filed during that custody.
>
> (3) In a case other than a case described in paragraph (2) of this subsection, the sentencing court may apply credit against a sentence for time spent in custody for another charge or crime.

Appellant was in custody in the unrelated case on July 26, 2017, the date a "commitment was filed" in the instant case. At the time of appellant's sentencing, however, the unrelated case had not yet resulted in a "dismissal or acquittal," and therefore, the court was not required to apply a credit. *See Wilson v. Simms*, 157 Md. App. 82, 95 ("In cases other than those described in (b)(2), the sentencing court has discretion to apply credit for time spent in custody for another charge or crime."), *cert. denied*, 382 Md. 687 (2004). Accordingly, the circuit court, which gave appellant the credit he requested, did not err in denying him additional credit for time served.

IV.

Appellant contends that the evidence was insufficient to sustain his convictions. In support, he asserts:

> (1) A.P. admitted that she had been untruthful in the past; (2) her version of [appellant's] alleged criminal behavior was not corroborated by other

witnesses or by any physical evidence; (3) A.P. may have blamed [appellant] for becoming homeless after she was forced to leave his house when the relationship between the mother and [appellant] ended; and (4) while A.P. made several disclosures during her therapy sessions, she never mentioned any sexual acts by [appellant].

The standard of review for a sufficiency of the evidence claims is as follows:

> We review a challenge to the sufficiency of the evidence to determine "'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *Grimm v. State*, 447 Md. 482, 494–95, 135 A.3d 844 (2016) (quoting *Cox v. State*, 421 Md. 630, 656–57, 28 A.3d 687 (2011)); *accord Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). "Because the fact-finder possesses the unique opportunity to view the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence." *Tracy v. State*, 423 Md. 1, 12, 31 A.3d 160 (2011) (citation omitted).
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> "[T]he question is not whether the [trier of fact] could have made other inferences from the evidence or even refused to draw an inference, but whether the inference [it] did make was supported by the evidence*.*" *State v. Suddith*, 379 Md. 425, 437, 842 A.2d 716 (2004) (citation and internal quotation marks omitted). We, therefore, "defer to any reasonable inferences a jury could have drawn in reaching its verdict, and determine whether there is sufficient evidence to support those inferences." *Lindsey v. State*, 235 Md. App. 299, 311, 176 A.3d 741, *cert. denied*, 458 Md. 593, 183 A.3d 162 (2018).

Redkovsky v. State, 240 Md. App. 252, 262–63 (2019). The test is the same for a conviction in a jury trial and a bench trial. *Chisum v. State*, 227 Md. App. 118, 131 (2016).

Here, A.P.'s testimony was sufficient to support his convictions. Although appellant is correct that A.P.'s testimony was not corroborated, the Court of Appeals has made clear that "[t]he testimony of a victim . . . needs no corroboration." *Branch v. State*, 305 Md. 177, 183 (1986) (identification by the victim is ample evidence to sustain a conviction); *see also Brown*

v. State, 182 Md. App. 138, 182 (2008) ("The testimony of a single eyewitness may be sufficient to prove guilt beyond a reasonable doubt.").

The court acknowledged that there were some inconsistencies in A.P.'s testimony, but it found her to be credible and appellant to be not credible. *See State v. Stanley*, 351 Md. 733, 750 (1998) ("Weighing the credibility of witnesses and resolving any conflicts in the evidence are tasks proper for the fact finder.") The evidence was sufficient to support appellant's convictions.

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