Circuit Court for Baltimore City
Case No. 118039012

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2850

September Term, 2018

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CHAUNISTY WALLACE

v.

STATE OF MARYLAND

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Fader, C.J.
Arthur,
Bair, Gary E.,
(Specially Assigned),

JJ.

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Opinion by Bair, J.

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Filed: January 24, 2020

On October 31, 2018, a Baltimore City jury found Appellant, Chaunisty Wallace, guilty of second degree murder, use of a handgun in a felony or crime of violence, unlawful possession of a firearm following a felony conviction, and carrying a handgun on his person. Appellant was sentenced to a total of seventy-five years' incarceration. On appeal, Appellant presents five questions, which we have slightly rephrased:

1. Did the trial court err by permitting the prosecutor to improperly shift the burden of proof during rebuttal closing argument?

2. Did the trial court abuse its discretion by finding that two body-worn camera recordings were admissible under the excited utterance hearsay exception?

3. Did the trial court abuse its discretion by allowing the prosecutor to publish enlargements of autopsy photographs?

4. Did the trial court abuse its discretion in admitting a recorded prior inconsistent statement?

5. Was the evidence legally insufficient to support Appellant's convictions?

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

## FACTUAL BACKGROUND

On October 10, 2017, patrol officers heard the sound of a firearm discharging coming from the vicinity of the 1600 block of Aisquith Street in Baltimore. When officers arrived on the scene, they observed the victim, Demetrius Mitchell, suffering what appeared to be a gunshot wound to the neck. The victim was being propped by a man later revealed to be the victim's uncle.

Several witnesses described the gunman, the vehicle he was driving, his nickname, and the address of the home the gunman frequented, which was in the 1600 block of Aisquith Street. Witnesses reported to officers that the gunman's nickname was "Sean"

or "Chaun" and that he drove a white sedan. The officers were also informed that the gunman was the boyfriend of the woman who lived at 1621 Aisquith Street. All of the statements made by witnesses at the scene were recorded on body-worn cameras.

Officers obtained warrants to search the premises of 1621 Aisquith Street. The woman who lived at 1621 Aisquith Street was Shakeia Hinton. Once inside Ms. Hinton's bedroom, officers found an identification card and a social security card inside a dresser drawer, both bearing the name "Chaunisty Wallace," Appellant.

Dominique Bailey, the sister of the victim, and Andrea Mitchell, the mother of the victim, lived next door to Ms. Hinton at 1619 Aisquith Street. Ms. Bailey and Ms. Hinton were engaged in a physical altercation on October 10, 2017, the day of the shooting. Several witnesses testified and gave statements to police officers that a large man identified by the nickname "Chaun" shot the victim during a physical altercation between Ms. Bailey and Ms. Hinton.

On February 8, 2018, Appellant was indicted by a Baltimore City grand jury on seven counts: one count of first degree murder, one count of second degree murder, one count of using a firearm during the commission of a violent crime, three counts of unlawful possession of a firearm following a felony conviction, and one count of carrying a handgun on his person. Following a jury trial, Appellant was found guilty of second degree murder and other firearm-related charges.

At sentencing, the circuit court imposed a sentence of forty years' incarceration for second degree murder, twenty years for use of a firearm during the commission of a

violent crime to be served consecutively, fifteen years for unlawful possession of a firearm following a felony conviction to be served consecutively, and three years' incarceration for carrying, wearing, or transporting a handgun to be served concurrently. This timely appeal followed.

## DISCUSSION

### I. The trial court properly exercised its discretion in regulating the prosecutor's comments in rebuttal closing argument.

Appellant's lead argument in this case is that the trial court abused its discretion by allowing the prosecution to shift the burden of proof. Finding no such abuse, we reject this contention for the reasons that follow. We begin with the legal framework governing this issue, which is well-established.

The trial judge is in the best position to evaluate the propriety of closing arguments in light of the facts presented during the trial. *Mitchell v. State*, 408 Md. 368, 380–81 (2009); *Degren v. State*, 352 Md. 400, 429–31 (1999). The trial court is afforded sound discretion in regulating closing arguments, so we will not overturn a trial court's decision "absent a clear abuse of discretion by the trial court of a character likely to have injured the complaining party." *Id*. at 381 (quoting *Grandison v. State*, 341 Md. 175, 225 (1995)).

Prosecutors, however, do not have unfettered discretion in closing arguments, as limitations exist to protect the defendant's right to a fair trial. *Wise v. State*, 132 Md. App. 127, 142 (2000). A conviction warrants a reversal when "the prosecutor's remarks [in closing argument] actually misled or were likely to have misled the jury to the

defendant's prejudice." *Id*. (citing *Degren*, 352 Md. at 431). The Court of Appeals has forth three factors to examine in determining whether there was reversible error: (1) "the severity of the remarks," (2) the measures taken to cure any potential prejudice, and" (3) the weight of the evidence against the accused." *Spain v. State*, 386 Md. 145, 158–59 (2005).

In rebuttal closing argument, the prosecutor is permitted to respond to issues raised by defense counsel in closing argument. In *Mitchell*, the Court of Appeals set forth two related doctrines, concerning the propriety of certain arguments in closing and rebuttal arguments, namely "invited response" and "opened door". 408 Md. at 379–392. The "invited response" doctrine is applicable where an argument is made by a prosecutor in rebuttal closing argument in response to an inappropriate or improper attack by defense counsel. *Id*. at 381. In a sense, the two improper arguments cancel each other out and neither side is prejudiced. The "opened door" doctrine essentially allows one party to put forward evidence or arguments in order to respond to issues injected into the case by the opposing party. *Id*. at 388.

In his closing argument, Appellant's trial counsel argued at length about the altercation between Ms. Hinton and her neighbor, Ms. Bailey. During this portion of closing argument, however, Appellant's trial counsel focused on Ms. Brown and her role. He mentioned that Ms. Brown gave a statement to police about the altercation and the shooting. He argued that Ms. Brown's statement to police was more credible than what the jury heard from Ms. Bailey on the stand during trial. Later in his closing argument,

Appellant's trial counsel again commented on the credibility of Ms. Brown, noting that her account matched what Ms. Hinton told police – which was that it was impossible to see the shooter during the altercation because of the physical position of the women. Appellant's trial counsel referenced Ms. Brown for a third time at the end of his closing argument, again arguing that Ms. Brown's account of the incident supported that of Ms. Hinton. During closing argument, Appellant's trial counsel also argued that the police purposely did not bring Ms. Brown to the police station in order to take a statement from her regarding the incident because the police had a preconceived idea that Appellant was the gunman and did not want to consider conflicting evidence.

During rebuttal closing argument, the prosecutor began explaining the efforts made by police to investigate this case. The prosecutor indicated that one of the detectives assigned to the case attempted to locate the uncle of the victim, who was present at the scene, to testify at the trial. The detective was unsuccessful and as a result, the uncle did not testify at the trial. The prosecutor elaborated on the power to subpoena and the following exchange took place:

> [Prosecutor]: And I get tired because sometimes witnesses just don't present. And even though they might be called to testify they just don't make themselves available. And in this case the uncle or maybe Ariel Brown who, as Ms. Hinton indicated, she hasn't seen since this incident. The State has the power to subpoena people and present them to you because again we have the burden of proof. Defense doesn't yet the Defendant also has that power. And if he wanted to corroborate –
>
> [Defense]: Objection, Your Honor. Burden shift.
>
> [Court]: Overruled.

> [Prosecutor]: -- what she said allegedly on that body-worn camera he could have subpoenaed her as well just as easily as I could have. And whether I called Ms. Hinton or the Defendant it really doesn't matter. It doesn't matter if he called her or I had called her. She was a witness. And the order in which she was presented should be inconsequential. And to make an issue of the fact that I called her, and therefore I was trying to discredit her and impeach her is absolutely ridiculous. What I was trying to do is present to you the evidence.

Appellant argues that the State improperly commented on Appellant's failure to produce evidence and subpoena witnesses to rebut the State's evidence. Appellant's trial counsel came back to Ms. Brown repeatedly in his closing argument despite the fact that Ms. Brown did not testify and during trial was only brought up in the context of Ms. Hinton's inconsistent statements to police. In so doing, Appellant's counsel opened the door to the prosecutor's rebuttal argument regarding Ms. Brown.

In rebuttal closing argument, the prosecutor appropriately argued that the police did in fact conduct a thorough investigation. Encapsulated within this argument was the prosecutor's comment that the defense had the same opportunity as the State to subpoena witnesses, including Ms. Brown. The prosecutor's rebuttal argument falls within the holding of *Mitchell*. 408 Md. at 392–93 (holding that when the prosecutor remarked on Defendant's subpoena power in a "narrow and isolated" manner in response to defense "opening the door," the prosecutor "did not shift the burden of proof."). Appellant's trial counsel's focus on Ms. Brown and the detective's failure to interview Ms. Brown indeed opened the door to the State's narrow response regarding subpoena power.

Even if we were to find that the State stepped outside of permissible rebuttal argument as set forth in *Mitchell*, we would still find reversal of the conviction to be

inappropriate. As stated previously, the Court in *Spain* set forth three factors to determine whether reversal is an appropriate remedy. 386 Md. at 158–59. First, the prosecutor's comments were not severe, as the prosecutor made one short remark concerning subpoena power within a larger argument relating to the investigation done by police. Second, the prosecutor's only remark concerning subpoena power was couched within an instruction that the State has the only burden of proof in the case. Finally, numerous witnesses testified that "Chaun" or "Sean" was the gunman, that he was the boyfriend of the woman residing at 1621 Aisquith Street, he was "the big guy from next door," and that he drove a white sedan. Therefore, even if the prosecutor's statement was improper, which we do not find it to be, reversal of Appellant's conviction is unwarranted because the jury was not misled to the prejudice of Appellant.

## II. The trial court did not abuse its discretion by finding that two body-worn camera recordings were admissible under the excited utterance hearsay exception.

Next, Appellant argues that two body-worn camera recordings were inadmissible hearsay and as such, the trial court abused its discretion in admitting the statements. We reject that argument, finding that the statements fell within the well-established exception for excited utterances.

Whether evidence is hearsay is a legal issue that is reviewed *de novo*. *Bernadyn v. State*, 390 Md. 1, 8 (2005). A court has no discretion to admit hearsay without an exception. *Id*. When a trial court is presented with hearsay statements, it sometimes must make factual findings in determining whether such a statement falls within a hearsay

exception. *See Gordon v. State*, 431 Md. 527, 536 (2013) (explaining that whether a hearsay statement is nevertheless admissible through an exception can require not only a legal determination, but also a factual one). Maryland Rule 5–801(c) defines hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Maryland Rule 5–803 also provides numerous exceptions to this rule against hearsay, one of which is the excited utterance. An excited utterance is "[a] statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition." Md. Rule 5–803(b)(2).

In determining whether a statement falls within the exception of an excited utterance, a court must consider the totality of the circumstances. *Morten v. State*, 242 Md. App. 537, 548 (2019); *Marquardt v. State*, 164 Md. App. 95, 124 (2005). A court may consider the timing of the statement and the spontaneity of the statement as non-dispositive factors. *Marquardt*, 164 Md. App. at 124. In evaluating whether a statement falls within the exception for excited utterances, the trial court's factual determinations "will not be disturbed absent clear error. . . ." *Gordon*, 431 Md. at 538.

The State offered two statements from two body-worn cameras under the excited utterance hearsay exception. After reviewing the body camera footage, the circuit court found that both statements fell under this exception. Following our review of these two videos, we find no reason to overturn those rulings.

In the first video, we see chaos at the scene of the shooting. People are yelling, pacing back and forth, and running around in the background. The victim's uncle is propping the victim up while holding an already bloody cloth against the victim's neck. Police are on the scene attempting to locate the suspect. The victim's uncle asks about administering CPR. Sirens blare in the background and a woman is shouting, asking when the ambulance will arrive. Amidst all the commotion, an officer asks the victim's uncle, "who did it?" The victim's uncle responds, "Big guy in that goddamn house next door." The officer then confirms that the victim's uncle is referring to 1621 Aisquith Street, to which the victim's uncle answers in the affirmative.

With regard to the first video, the trial court overruled defense counsel's argument that the declarant is not the victim. Defense counsel conceded that the declarant does not have to be the victim for a statement to be admissible as an excited utterance. The court also overruled defense counsel's argument that a statement cannot be an excited utterance when the statement is a direct response to a question. Whether an excited utterance is in response to a direct question is certainly a factor in evaluating the spontaneity of the declaration but is not dispositive of the issue. *See State v. Harrell*, 348 Md. 69, 77 (1997) (explaining that when a "statement [is] made in response to an inquiry, as in the instant case, [that fact] is not controlling"); *Billups v. State*, 135 Md. App. 345, 360–61 (2000) (finding that while relevant, the mere fact that a statement was elicited in response to an inquiry is not determinative of its admissibility as an excited utterance); *Johnson v. State*, 63 Md. App. 485, 494–95 (1985) (holding that it was not an abuse of the trial court's

discretion to rule that statements made in response to an officer's questioning were, in fact, excited utterances). We therefore hold that it was not abuse of the trial court's discretion to admit the first video under the excited utterance exception to the hearsay rule.

In the second body-worn camera video footage, the uncle of the victim is inside the house with several other individuals, a few minutes after the shooting. The victim's uncle paces back and forth before sitting down on the couch wiping his brow, neck, and face with a cloth. The uncle starts talking, almost in a state of disbelief, stating, "they were little kids. . .and he wants to impress his girlfriend by pulling out a gun?"

Turning to the second video, the circuit court overruled defense counsel's argument that the victim's uncle was no longer experiencing the stress of the incident. The court explained,

> [Court]: (Inaudible 02:51:17) and not to say they was still under the stress of what had just transpired. For the record, everybody's screaming and hollering.
> [Defense counsel]: Well, he's not.
> [Court]: It's an excited utterance. . . There was no time to fabricate. There was no time to discuss anything with anybody else. He spoke in response to the exciting - - exciting circumstances.

The circuit court found that the victim's uncle was still under the stress of the exciting events that had just occurred. The court found that the statement was spontaneous, with no time to fabricate or consult with anyone else. The circuit court did not abuse its discretion in admitting the second statement as an excited utterance. *See Marquardt*, 164 Md. App. at 124*; Davis v. State*, 125 Md. App. 713, 716 (1999).

## III. The trial court did not abuse its discretion by allowing the prosecutor to publish enlargements of four autopsy photographs.

Appellant further argues that the trial court abused its discretion by permitting the prosecutor to publish enlarged images from the victim's autopsy, which were unduly prejudicial. We find this contention to be meritless. As we discuss herein, this issue is not properly before the Court. In any event, the trial court did not abuse its discretion in ruling that the four autopsy images were admissible and not unduly prejudicial.

During the State's case-in-chief, the prosecutor requested permission to publish autopsy photographs, which previously had been admitted into evidence without objection. At a bench conference, the court inquired as to the manner in which the photographs would be published. The prosecutor responded that he would publish them on the television for the jury rather than disseminate individual copies to the members of the jury. The court then requested that the prosecutor warn the victim's family that the images of the autopsy would be displayed in the courtroom. At this point, defense counsel inquired whether copies could be handed to the jury instead of publishing images which might potentially cause the victim's family to become emotional in the gallery, which in turn could affect the jury. The court rejected this argument noting the long history of appellate cases allowing autopsy photographs to be shown to a jury. The prosecutor showed four images of the victim's autopsy. None of the images was repetitive or unduly prejudicial.

As a threshold issue, defense counsel did not object to the admissibility of the autopsy photographs as overly prejudicial, but rather objected to publishing the

photographs in view of the victim's family seated in the gallery because any emotional reaction to the photographs could prejudice the jury. The issue argued in the circuit court centered on the manner in which the photographs were presented to the jury, not the inherently prejudicial nature of the images. On appeal, Appellant concedes that the prejudicial nature of the photographs was not properly preserved and instead argues that the circuit court could not have exercised discretion in overruling defense counsel's objection when the court did not even properly understand that defense counsel's objection was to the manner of publication of the images rather than the images themselves. We find that the issue of the manner of publication of the autopsy photographs was not properly preserved. *See* Md. Rule 8–131(a). Defense counsel did not object to the prejudicial effect of the enlarged images of the autopsy photographs themselves but rather maintained that because the victim's family would be able to see the photographs, a potential reaction by the victim's family could affect the jury.

Even if the issue were properly before us, we would still affirm the ruling of the circuit court. This Court has previously addressed the issue of enlarged autopsy photographs published for the jury. In *Ayala v. State*, 174 Md. App. 647 (2007), this Court held that ten autopsy photographs displayed to the jury on a monitor were not unduly prejudicial. *Ayala*, 174 Md. App. at 679. The Court concluded by noting that there was "no reason to believe that the format in which the photographs were presented increased their prejudicial effect in any measurable way." *Id.* at 681. Likewise, in the instant matter, Appellant has not provided the Court with any reason why publishing

enlarged versions of the photographs increased the prejudicial nature of the photographs. Further, as Appellant notes, defense counsel did not object to the images themselves as prejudicial or irrelevant. We therefore find that the enlarged images of these four, non-cumulative autopsy photographs were not unduly prejudicial and were, in fact, relevant to the State's case. The trial court's decision in admitting these photographs and permitting them to be displayed to the jury on a television screen was not "plainly arbitrary." *State v. Broberg*, 342 Md. 544, 552 (1996) (quoting *Johnson v. State*, 303 Md. 487, 502 (1985)).

## IV. The trial court properly exercised its discretion in admitting a recorded prior inconsistent statement.

Appellant avers that the trial court abused its discretion by permitting the prosecutor to introduce and play for the jury a prior recorded statement made by a witness, Shakeia Hinton, to the police on the night of the event. We find that the prior statement was properly admitted as substantive evidence through the prior inconsistent statement exception to the hearsay rule.

A prior inconsistent statement may be admitted under the Maryland Rules if the statement was made by a witness who testifies at trial and is subject to cross-examination concerning the statement and the statement was "recorded in substantially verbatim fashion by stenographic or electronic means contemporaneously with the making of the statement. . . ." Md. Rule 5–802.1(a)(3). An inconsistent statement does not need to be one that is contradictory but can also arise in the case of an omission. *Hardison v. State*, 118 Md. App. 225, 238 (1997). An omission of facts and even "a contrast in emphasis upon the same facts" are relevant in assessing the credibility of a witness's testimony. *See*

*Jencks v. United States*, 353 U.S. 657, 667 (1957). When trial courts are faced with deciding whether testimony and prior statements are inconsistent "courts should lean toward receiving such statements to aid in evaluating the testimony." *McClain v. State*, 425 Md. 238, 250 (quoting 1 *McCormick on Evidence* § 34 (8th ed.)).

At trial, the State called Shakeia Hinton as a witness. During direct examination of Ms. Hinton, the State requested permission to treat Ms. Hinton as a hostile witness. Appellant's trial counsel did not object. Following the State's examination of Ms. Hinton, the prosecutor requested permission to introduce a video recording of Ms. Hinton's statement to a detective at the police station the night of the incident, at which time she made several statements inconsistent with her trial testimony.

The first inconsistent statement arose fairly early in Ms. Hinton's direct examination. When asked by the prosecutor whether she was familiar or knew her neighbors living at 1619 Aisquith Street, next door to her, Ms. Hinton replied in the negative. Ms. Hinton, however, acknowledged that on October 10, 2017, she and Ms. Bailey from next door at 1619 Aisquith Street were engaged in two physical altercations. During the course of Ms. Hinton's interview with police on the night of October 10, 2017, Ms. Hinton informed police that she had "been dealing with [Ms. Bailey's] attitude for weeks."

The second inconsistent statement Ms. Hinton made at trial concerned the identity of Ariel Brown. During her direct examination, Ms. Hinton testified that Ms. Brown, her son's girlfriend, broke up the second fight between Ms. Hinton and Ms. Bailey. When she

was interviewed on the night of the incident at the police station, Ms. Hinton did not even mention that Ms. Brown was present at the scene. Ms. Hinton's explanation for this omission was that no one had previously asked her who else was involved in the fight.

The third inconsistent statement Ms. Hinton made at trial was regarding a white Toyota Avalon automobile. Ms. Hinton testified that she was in the process of trying to purchase the white Toyota Avalon at the time of the incident. When asked by the prosecutor if she was the sole operator of the vehicle, Ms. Hinton responded that "Appellant may have driven it time-to-time. . . ." When questioned further about the vehicle, Ms. Hinton again indicated that she had not previously been asked about the car.

The fourth inconsistent statement arose when Ms. Hinton was questioned about the nature and extent of her relationship with Appellant. Ms. Hinton testified at trial that at the time of the incident she had known Appellant for approximately four months and that they were "dating," but not living together. Ms. Hinton testified that she would see Appellant once or twice during the week. However, she also testified that Appellant would spend the night in Ms. Hinton's home "maybe three times a week." Perhaps even more importantly, Ms. Hinton testified on cross examination that she and Appellant were planning to get married following the trial. Ms. Hinton further testified that she is the only one who stores property in her dresser drawers. Ms. Hinton was then confronted with Appellant's identification card and social security card, which police found in Ms. Hinton's dresser drawer during a search of the home. When asked by police in her interview whether she and Appellant were dating, Ms. Hinton replied, "not yet."

Ms. Hinton's inconsistent statements range from omissions of key facts to outright contradictions. Ms. Hinton omitted Ms. Brown from her account when speaking with police officers on the night of the incident. Ms. Hinton also gave contradictory testimony regarding her relationship with Appellant. Appellant argues that because Ms. Hinton had already been impeached by admitting her inconsistent statements, the trial court improperly admitted the recording as substantive evidence. This argument holds no water. Maryland Rule 5–802.1 does not require that the witness deny making the previous statement in order for the prior inconsistent statement to be admissible as substantive evidence.

Finally, we will briefly address Appellant's additional argument that by admitting the entirety of the recorded video statement, the trial court exposed the jury to inadmissible information, namely, the detective's questioning the credibility of Ms. Hinton. At trial, defense counsel never requested redactions to the recording or objected to the admission of those specific portions of the video recording. We addressed a similar issue in *Belton v. State*, 152 Md. App. 623 (2003). In *Belton*, the appellant argued that when the trial court overruled his objection to the admissibility of a prior recorded statement, the burden was on the State to "limit or redact portions of the tape that exceeded [the prior extrajudicial identification]." 152 Md. App. at 634. This Court held that "it is the obligation of the party seeking redaction to raise the issue to the judge." *Id.* Appellant never sought redaction or limitation of the video recording at any time in the circuit, therefore, the issue is not properly before us. *See* Md. Rule 8–131(a). Even if the

issue were properly before us, the burden was on Appellant to seek redaction at the circuit court level and Appellant failed to do so.

## V. The evidence presented was legally sufficient to support Appellant's convictions.

Lastly, Appellant raises the issue of sufficiency of the evidence. The core of Appellant's contention is that the inconsistencies in the testimony of the State's witnesses merited the grant of a judgment of acquittal. As evidence of these inconsistencies, Appellant notes that while three witnesses testified that Appellant was the gunman, one witness testified that Appellant was not even present. We find this argument to be without merit.

The Court of Appeals has many times articulated the standard for review of sufficiency of the evidence. "The standard for appellate review of evidentiary sufficiency is 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." *State v. Smith*, 374 Md. 527, 533–34 (2003). It is within the province of the fact finder to determine the credibility of witnesses and resolves disputes within conflicting evidence.

Appellant points to several inconsistencies between the testimony of witnesses at the trial as the basis for overturning the verdict. First, Appellant argues that while three witnesses testified that Appellant was present at the scene, Ms. Hinton testified that Appellant was not present. Second, Appellant contends that because another man was seen with Appellant prior to the shooting, that the verdict should be overturned. Third,

Appellant contends that because one witness testified that he saw Appellant holding a revolver when the Firearms Examiner opined that the shell casing found at the scene was from a semi-automatic weapon, that this is a basis for reversing the appeal.

These inconsistencies are just that, inconsistencies. At trial, the defense was certainly given the opportunity to explore and argue the credibility of witnesses and whether the State had met its burden of proof. As such, this conflicting testimony was properly left to the determination of the jury and we find no reason to question the sufficiency of the evidence in this case. *See generally Williams v. State*, 5 Md. App. 450 (1968); *see also Branch v. State*, 305 Md. 177, 182–84 (1986) (holding that even a "substantial discrepancy between the description given by the victim of the crime almost immediately after the incident and the actual description of the accused" was sufficient to uphold the defendant's conviction); *Marlin v. State*, 192 Md. App. 134, 153 (2010) (stating that "it is well established in Maryland that the testimony of even a single eyewitness, if believed, is sufficient to support a conviction.").

## CONCLUSION

The circuit court properly exercised its discretion in regulating rebuttal closing argument and did not, in fact, allow the State to shift the burden of proof to Appellant. The recordings from the body-worn cameras of the responding police officers were appropriately admitted as excited utterances. Even though Appellant failed to object to the admissibility or the manner of presenting the four autopsy photographs, we still find that the four non-cumulative autopsy photographs of the victim were not unduly

prejudicial. The circuit court also properly admitted Ms. Hinton's prior recorded inconsistent statements into evidence and any argument regarding improper statements by the interviewing detective were not properly before us because Appellant failed to object in the circuit court. Finally, the evidence was more than sufficient to sustain Appellant's convictions in the circuit court.

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