

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KASEEM DRAYTON,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Appellee.

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No. 396, 2025

Court Below—Superior Court
of the State of Delaware

Cr. ID No. N2407006568

Submitted: August 12, 2026

Decided: October 26, 2026

Before **SEITZ**, Chief Justice; **LEGROW** and **GRIFFITHS**, Justices.

ORDER

After careful consideration of the parties’ briefs and the record on appeal, it appears to the Court that:

(1) Kaseem Drayton appeals from his convictions for strangulation and sexual harassment arising from an incident involving his then-girlfriend, Aniya Smith-Montgomery (“Smith”). He raises two claims on appeal. First, he argues that the Superior Court erred by declining to give the jury a missing-evidence instruction after the police allowed Smith to collect video evidence without police oversight. Second, Drayton challenges several evidentiary rulings, contending that each warrants reversal and that their cumulative effect deprived him of a fair trial. Because both claims lack merit, we affirm.

(2) Drayton lived with his sister in Pennsylvania but often stayed at Smith's apartment in Delaware. One summer evening, Drayton accused her of infidelity. The argument, which began in Smith's living room, escalated into a physical altercation. Smith testified that Drayton slapped and strangled her before attempting to rape her vaginally. Smith retreated to her bedroom and stayed there until Drayton fell asleep on the couch. She then left the apartment to seek help but, because of severe weather, returned. The next morning, Smith drove Drayton to his sister's home in Pennsylvania; after dropping him off, she contacted the police.

(3) Officers interviewed Smith and then accompanied her to Christiana Hospital where a forensic nurse, Kayla Williams, examined her. Williams observed that Smith had bloodshot eyes, neck swelling, and a bite mark on her tongue. Williams concluded that these findings were consistent with strangulation. Williams also performed a basic sexual-assault exam on Smith. Smith declined a comprehensive exam because she said Drayton had not penetrated her vagina.¹

(4) After the forensic exam, police interviewed Smith again. During that interview, Sergeant Eric Christopher learned that Smith had installed a motion-activated camera in her living room. The camera did not record continuously; instead, it recorded a short clip whenever it detected motion. Sergeant Christopher

¹ App. to Opening Br. dated Feb. 19, 2026, at A367 (Trial Tr. July 29, 2025, at 191:14–19) (Kayla Williams).

asked Smith to provide all clips recorded on the night of the alleged assault. Smith sent eight clips, but she did not provide any footage from before or after the alleged assault. Of the eight clips, some depicted Drayton strangling Smith; others depicted him, naked, removing her shirt and holding a pillow over her face. Sergeant Christopher did not inspect the camera or review its stored content.

(5) Two weeks later, officers arrested Drayton at his sister's home in Pennsylvania. Detective Sean Raftery, a member of the United States Marshals Task Force, which locates and apprehends fugitives, took part in the arrest. Detective Raftery recorded the arrest on his body-worn camera. Drayton was later extradited to Delaware.

(6) A grand jury indicted Drayton on one count each of strangulation, menacing, first-degree unlawful sexual contact, second-degree unlawful imprisonment, and sexual harassment. The case proceeded to a three-day jury trial.

(7) At trial, the State introduced the eight clips from Smith's living room camera. The State also played footage from Smith's initial interview with Sergeant Christopher, during which Smith identified Drayton as her assailant from a photograph. During trial, Sergeant Christopher and the prosecutor repeatedly referred to Smith as the "victim." Defense counsel did not object.

(8) The State also played Detective Raftery's body-worn-camera footage of Drayton's arrest in Pennsylvania. The video showed several Task Force officers

surrounding Drayton and arresting him with their guns drawn. After the arrest, Drayton told the officers that his name was “Jaquan Jackson,” to which Detective Raftery responded, “I know you’re Kaseem Drayton. Don’t even lie.”

(9) Finally, the State presented testimony from Kayla Williams, the forensic nurse who examined Smith. Williams testified that trauma could impair a person’s ability to recall the precise sequence of events. Defense counsel objected, arguing that the State had not laid the necessary foundation to offer that testimony. The court overruled the objection.

(10) Before closing arguments, Drayton requested a missing-evidence instruction. He argued that Sergeant Christopher failed to preserve potentially exculpatory evidence by allowing Smith to choose which living room clips to provide to the police. Drayton claimed that Sergeant Christopher should have accessed Smith’s security camera application and reviewed the stored footage himself. The Superior Court denied the request. It concluded that Drayton’s argument did not “rise to a level that [the Court] need[ed] to give the [missing-evidence] instruction. There [was] simply not sufficient evidence in this record that [the] State had evidence in its possession that it failed to turn over.”

(11) The jury acquitted Drayton of first-degree unlawful sexual contact and second-degree unlawful imprisonment but convicted him of strangulation, menacing, and sexual harassment. This appeal followed.

(12) We review the denial of a request for missing evidence instruction *de novo*.² We review a trial judge’s evidentiary rulings for abuse of discretion.³ We review errors that were not raised at the trial level for plain error.⁴

(13) Drayton first argues that the Superior Court erred by declining to give a missing-evidence instruction. He contends that the police violated his due process rights by allowing Smith to decide which videos were relevant. Although the police have a “duty to collect and preserve material evidence that might exculpate a defendant,” that duty does not extend to every piece of evidence that might later prove useful to the defense.⁵ Rather, “the police must have had a reason, at the time, to believe the specific evidence might be exculpatory.”⁶ When the State bears responsibility for the loss of material evidence,⁷ the jury may be instructed that it may infer the missing evidence would have tended to show the defendant’s innocence.⁸

² *McNair v. State*, 990 A.2d 398, 403 (Del. 2010).

³ *Houston v. State*, 251 A.3d 102, 108 (Del. 2021).

⁴ *Small v. State*, 51 A.3d 452, 456 (Del. 2012).

⁵ See *Daniels v. State*, 703 A.2d 643, 1997 WL 776202, at *1–2 (Del. Dec. 4, 1997) (“The police need only collect and preserve potentially exculpatory evidence[.]”).

⁶ *Coleman v. State*, 289 A.3d 619, 627 (Del. 2023) (internal citations omitted).

⁷ *Lolly v. State*, 611 A.2d 956, 961 (Del. 1992) (holding that when the State failed to gather or preserve exculpatory evidence, “an appropriate jury instruction is required as a matter of due process under the Delaware Constitution.”).

⁸ *McNair*, 990 A.2d at 403.

(14) We recently addressed a similar issue in *Boulden v. State*.⁹ There, the police reviewed doorbell-camera footage that captured an exchange between the complaining witness and the defendant.¹⁰ After concluding that the recording did not visually capture the incident, police preserved only its audio by recording it on an officer’s body-worn camera.¹¹ The defendant sought a missing-evidence instruction based on the State’s failure to preserve the video component of the footage.¹² The Superior Court denied the request because it found that the police had no duty to collect the video footage at the time.¹³ The court reasoned that the body-worn camera recording of the audio preserved the relevant evidence.¹⁴ We affirmed.¹⁵

(15) This case is similar to *Boulden*. Sergeant Christopher testified that he “felt confident that [the police] received everything from that night based on [his] review of the video itself.” He also testified that he “didn’t have any reason to think” that Smith had withheld material evidence because “[t]hings were lining up as far as the video that [he] watched.” Sergeant Christopher had no reason to believe that

⁹ 2026 WL 1256898 (Del. May 7, 2026) (TABLE).

¹⁰ *Id.* at *1.

¹¹ *Id.*

¹² *Id.* at *3.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *See id.* at *1.

additional exculpatory footage existed and therefore had no reason to seek additional clips from Smith.¹⁶ The Superior Court did not err by declining to give a missing-evidence instruction under these circumstances.

(16) Drayton also challenges several of the trial court’s evidentiary rulings, which he claims were errors that, individually and cumulatively, deprived him of a fair trial.¹⁷ We assess each claim individually and then determine whether the purported errors cumulatively deprived Drayton of a fair trial.

(17) Drayton first argues that the Superior Court erred by admitting the video of Smith’s initial interview with police, in which she identified Drayton as her assailant. He contends that the video’s risk of unfair prejudice substantially outweighed its probative value under Delaware Rule of Evidence (“D.R.E.”) 403. Relatedly, Drayton argues that the State had no need to offer additional identification evidence because he did not dispute Smith’s in-court identification.

(18) A trial judge has broad discretion under D.R.E. 403 to balance the probative value of the evidence against its potential for unfair prejudice.¹⁸ Here,

¹⁶ See *Turner v. State*, 894 A.2d 407, 2006 WL 453247, at *2 (Del. Feb. 24, 2006) (TABLE) (affirming a trial court’s denial of missing-evidence instruction regarding videotapes that were automatically erased every thirty days); *Schaffer v. State*, 184 A.3d 841, 2018 WL 1747793, at *4–5 (Del. Apr. 10, 2018) (TABLE) (affirming trial court’s refusal to give missing-evidence instruction because police had no duty to locate a missing iPad for potential exculpatory contents).

¹⁷ Specifically, Drayton argues that “[w]hile any of these errors might or might not have carried sufficient prejudice to require a new trial, together they do.” Opening Br. 36.

¹⁸ See *Clark v. State*, ---A.3d---, 2026 WL 1642882, at *9 (Del. June 8, 2026) (“The determination of whether the probative value of a particular piece of evidence is substantially outweighed by the

although Smith identified Drayton in court, she referred to him as “Jaquan Jackson,” an alias Drayton had used. The State explained that it bore the burden of connecting that name to Drayton and offered the out-of-court identification to corroborate Smith’s in-court identification. Because Drayton’s identity was at issue, the Superior Court acted within its discretion by admitting the evidence.¹⁹

(19) Drayton argues in the alternative that the identification video improperly bolstered Smith’s credibility. The record does not support that claim. The State offered the video as substantive evidence to link Smith’s use of “Jaquan Jackson” to Drayton—not to bolster her credibility. Because Drayton’s identity remained at issue, the Superior Court did not abuse its discretion in admitting the identification video.

(20) Drayton next argues that the Superior Court erred by allowing the State to play Detective Raftery’s body-worn camera footage of his arrest. The State began playing the video without objection. Defense counsel objected about two minutes and thirty-two seconds into the recording, which is when Drayton began discussing prior contacts with law enforcement. The Superior Court sustained the objection

danger of unfair prejudice is a matter which falls particularly within the discretion of the trial court[.]”).

¹⁹ See *McMullen v. State*, 253 A.3d 107, 117 (Del. 2021) (holding that a witness’s out-of-court statement is not cumulative if the “statement and her trial testimony differed in an important way.”). Drayton also argues that the video implied that he had prior contacts with law enforcement. He did not raise that objection below, so it is forfeited. At trial, Drayton objected only on cumulativeness grounds.

and stopped the video. Because Drayton received the relief he requested, there is no error for us to review.²⁰

(21) Drayton also argues that the Superior Court erred by allowing Kayla Williams to testify about trauma-related biological responses because she is a forensic nurse—not a psychologist. A witness may testify as an expert if she is qualified by knowledge, skill, experience, training, or education and when the testimony will assist the factfinder.²¹ The trial judge has discretion to assess the witness’s qualifications and the testimony’s relevance to the issues in dispute.²²

(22) Here, the State laid an adequate foundation for Williams’s expertise on trauma-related symptoms. Williams testified about her education, professional certification, and clinical experience. She also received specialized training in helping victims of violence, including victims of sexual assault, domestic violence, and strangulation. After considering that background, the Superior Court overruled

²⁰ Drayton also challenges portions of the video that played before his objection, specifically the portions that showed the number of officers involved in his arrest, Detective Raftery’s statements about Drayton’s use of another name, and the footage of him handcuffed outside of his sister’s home. Because defense counsel did not object to this footage, we review its admission for plain error. Drayton has not met that standard. When defense counsel asked whether the number of officers was typical in cases involving interstate action, Detective Raftery explained that the Marshals Task Force commonly deploys a large number of officers for multiple reasons. He also confirmed that the practice was not specific to Drayton. That testimony provided context for the officers’ presence and display of firearms, dispelling any suggestion that the show of force was directed at Drayton. The video’s admission was therefore not plainly erroneous.

²¹ *Goodridge v. Hyster Co.*, 845 A.2d 498, 503 (Del. 2004).

²² *Id.*

Drayton’s objection. On this record, the court acted within its discretion in permitting the testimony.²³

(23) Drayton contends next that the Superior Court erred by allowing Sergeant Christopher and the prosecutor to repeatedly refer to Smith as the “victim.” Drayton did not object at trial, so we review for plain error. Plain errors are “material defects which are apparent on the face of the record, which are basic, serious, and fundamental in their character, and which clearly deprive an accused of a substantial right, or which clearly show manifest injustice.”²⁴

(24) In *Jackson v. State*,²⁵ this Court cautioned against referring to the complaining witness as the “victim” when the defendant disputes that a crime occurred based on a justification or consent defense.²⁶ But *Jackson* did not impose a categorical ban on the term.²⁷ Instead, we recognized that law enforcement officers often use “victim” as shorthand for “complaining witness” and held that, absent an objection, the prosecutor’s use of the term was not plain error.²⁸ We likewise

²³ *Id.* (holding that “[w]e review a trial judge’s decision to admit or exclude expert testimony for an abuse of discretion[,]” and noting with approval that “the trial judge took great care to ‘gauge the competing positions of the parties concerning the expertise of the proposed witnesses[.]’”).

²⁴ *Suber v. State*, 360 A.3d 203, 210 (Del. 2026) (quoting *Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986)).

²⁵ 600 A.2d 21 (Del. 1991).

²⁶ *Id.* at 25.

²⁷ *Id.*

²⁸ *Id.* at 24–25.

declined to find plain error in a case where the defense was that no crime occurred and three police officers referred to the complaining witness as the “victim” eleven times.²⁹

(25) Drayton’s claim raises the same concern we addressed in *Jackson*. Drayton’s defense was that no sexual contact occurred or, alternatively, that any sexual contact was consensual. Sergeant Christopher referred to Smith as the “victim” seventeen times during his testimony. As *Jackson* recognized, law enforcement officers often use “victim” as a term of art for a “complaining witness.”³⁰ Absent a contemporaneous objection, that usage does not constitute plain error.³¹ The prosecutor used the term “victim” four times. Although repeated use of the term warrants caution given the nature of Drayton’s defenses, the references here did not create a material defect that was basic, serious, and fundamental, clearly deprived Drayton of a substantial right, or resulted in manifest

²⁹ *Green v. State*, 238 A.3d 160, 183–84 (Del. 2020). *Green* noted tension with this Court’s prior holding in *Mason v. State*, 692 A.2d 413 (Del. 1997) (TABLE). In *Mason*, we held that “reference to a complainant as a ‘victim’ is not objectionable in all cases where the commission of a crime is disputed; it is only objectionable in those cases where consent is the sole defense.” *Id.* at *2. *Green* stated its holding “should not be viewed as an affirmation” of that rationale and cited to *Jackson* to “suggest that the practice is objectionable whenever the defense, as here, is that no crime was committed against the complainant.” *Green*, 238 A.3d 160, n.95. But we need not resolve that tension here because, even assuming the references were objectionable under *Jackson*, Drayton has not established plain error.

³⁰ *Jackson*, 600 A.2d at 24–25.

³¹ *Id.* at 25.

injustice.³² The jury heard competing accounts and was instructed that it alone was responsible for determining the facts and assessing the credibility of the witnesses. The parties presented the disputed events to the jury through testimony, the 911 call, forensic evidence, and video footage. Nothing in the challenged terminology prevented the jury from resolving the disputed issues for itself.³³

(26) Finally, Drayton claims that the alleged errors cumulatively resulted in an unfair trial. Where there are multiple errors at trial, we weigh their cumulative effect to determine whether, combined, they were “prejudicial to substantial rights [so] as to jeopardize the fairness and integrity of the trial process.”³⁴ Because all of Drayton’s claims of error are without merit, his claim of cumulative error fails.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ N. Christopher Griffiths
Justice

³² See, e.g., *Suber v. State*, 360 A.3d 203, 210 (Del. 2026) (describing plain error standard of review).

³³ We do not endorse the repeated use of “victim” in a case where the existence or criminal character of the alleged conduct is disputed. Counsel should object when such references occur so that the trial court may address the issue in the first instance.

³⁴ *Johnson v. State*, 129 A.3d 882, 2015 WL 8528889, at *3 (Del. Dec. 10, 2015) (TABLE).