FILED
November 25, 2025
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

State of West Virginia,
Plaintiff Below, Respondent

v.) No. 23-108 (Harrison County 20-F-191-3)

Chasity Wodzinski,
Defendant Below, Petitioner

MEMORANDUM DECISION

Petitioner Chasity Wodzinski appeals her conviction and sentence, as set forth in the January 24, 2023, order of the Circuit Court of Harrison County, for death of a child by a parent, guardian, custodian, or person in position of trust by knowingly allowing child abuse by another person.[1] The petitioner argues that the circuit court erred in 1) denying her motion for judgment of acquittal based on the sufficiency of evidence, inconsistent verdicts, and variance between the bill of particulars and the evidence at trial; 2) refusing to dismiss the indictment because it did not charge an offense; and 3) denying her motion for a new trial based upon the court's refusal to admit evidence of her codefendants' convictions. Upon our review, finding no substantial question of law and no prejudicial error, we determine that oral argument is unnecessary and that a memorandum decision affirming the circuit court's order is appropriate.

Keaton Boggs, who was five years old, died on March 19, 2020, from a traumatic brain injury that was believed to have resulted from physical abuse. The petitioner, her husband Peter Wodzinski Jr., and her mother Michelle Boggs—who are adult relatives who lived in the same home as the child—were jointly indicted for death of a child by a parent, guardian, or custodian, or person in a position of trust. *See* W. Va. Code § 61-8D-2a. The indictment disjunctively alleged two theories of criminal liability: first, that each defendant caused Keaton's death, in violation of West Virginia Code § 61-8D-2a(a);[2] or second, that each defendant knowingly allowed another

[1] The petitioner is represented by counsel Jeremy Cooper. The State appears by Attorney General John B. McCuskey and Assistant Attorney General Mary Beth Niday. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel.

[2] *See* W. Va. Code § 61-8D-2a(a) (providing that it is a felony "[i]f any parent, guardian or custodian, or person in a position of trust in relation to a child maliciously and intentionally inflicts

person to inflict injuries that caused Keaton's death, in violation of West Virginia Code § 61-8D-2a(b).[3] The circuit court granted the petitioner's motion to sever her trial, and Mr. Wodzinski and Ms. Boggs were tried separately. Both Mr. Wodzinski and Ms. Boggs were convicted of knowingly allowing abuse that resulted in Keaton's death [§ 61-8D-2a(b)], and they were not convicted of inflicting the abuse that caused Keaton's death [§ 61-8D-2a(a)]. This Court affirmed their convictions in *State v. Wodzinski*, No. 21-0640, 2022 WL 9923848 (W. Va. Oct. 17, 2022) (memorandum decision), and *State v. Boggs*, No. 22-634, 2024 WL 313868 (W. Va. Jan. 25, 2024) (memorandum decision).

Before trial, the petitioner filed a motion for a bill of particulars asking the State to disclose what evidence it intended to use against her. The State responded that it would be relying on circumstantial evidence, including text messages from the petitioner in which she admitted that she physically harmed Keaton and covered the bruises with makeup. The State also disclosed that it intended to use text messages from the petitioner, Mr. Wodzinski, and Ms. Boggs to prove that she "knowingly allowed [Keaton] to suffer child abuse" in 2019 and 2020.[4] The State also expressed its intention to submit evidence that the petitioner did not take Keaton to the doctor on January 3, 2020, because "his face and head were covered in bruises[,]" and she "did not seek medical treatment following [Keaton's] penis injury in February 2020[.]" Finally, the State notified the petitioner that it intended to introduce the petitioner's statements to medical professionals and police, in which she claimed that Keaton "self-harmed, that he was accident prone[,] and that the family dog knocked him down the steps." In a supplemental response to the petitioner's motion for a bill of particulars, the State indicated that Keaton's fatal injury occurred between March 15, 2020, and March 20, 2020, but its medical experts were unable to determine exactly "what caused the child's death[.]"

The State filed a pretrial motion in limine to exclude evidence of the guilty verdicts against the petitioner's codefendants, arguing that the verdicts were not relevant to prove whether the petitioner was a perpetrator of crimes against the victim. The circuit court granted this motion, reasoning that "a guilty verdict of a co-defendant is admissible only for impeachment purposes where a co-defendant has testified[,]" and the petitioner's codefendants ultimately did not testify at the petitioner's trial. The court also ruled that "the law requires us to live with inconsistent verdicts, and Cleckley's *Handbook on Evidence* states that a defendant has a right to have their

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upon a child under his or her care . . . substantial physical pain, illness, or any impairment of physical condition by other than accidental means, thereby causing the death of a child").

[3] *See* W. Va. Code § 61-8D-2a(b) (providing that it is a felony "[i]f any parent, guardian, or custodian, or person in a position of trust in relation to a child knowingly allows any other person to maliciously and intentionally inflict . . . substantial physical pain, illness or any impairment of physical condition by other than accidental means, which thereby causes the death of such child").

[4] Ultimately, the State did not introduce any of the text messages it identified in its bill of particulars into evidence at trial.

guilt or innocence determined by the evidence presented against them and not what happened in someone else's trial." The court concluded that "the evidence of the other convictions is not exculpatory, the probative value of references to the guilty verdicts is not [sic] outweighed by the prejudicial effect on the Defendant, and allowing references to the guilty verdicts would be misleading and confusing to the jury."

At trial, Anna Coberly testified that even though Ms. Boggs obtained legal guardianship of her grandson Keaton after his father died in June 2019, the child lived with the petitioner and Mr. Wodzinski because Ms. Boggs's poor health made caring for him difficult. Similarly, Janet Warner testified that Keaton lived with the petitioner and her husband because Ms. Boggs was in poor health and could not take care of him.

Michael Camden testified that when he was a special investigator for the West Virginia State Police, he interviewed the petitioner on two occasions on March 18-19, 2020. During these interviews, the petitioner admitted that when she was living with Keaton, Mr. Wodzinski, and Ms. Boggs in February 2020, she noticed a two-inch-long cut on Keaton's penis and scrotum, but no one in the home sought medical treatment for that injury. The petitioner told Investigator Camden that she did not know how Keaton suffered his fatal injury, but two weeks prior, the family dog knocked Keaton down a flight of steps. The day after this fall, the petitioner noticed bruising on Keaton's back, but she did not believe that Keaton's fatal injury was caused by this fall. The petitioner said that she asked Ms. Boggs to take Keaton to the hospital after the fall down the steps, but Ms. Boggs refused because she was "afraid that we'll get in trouble."[5] The petitioner also stated that on March 17, 2020, she left the house in Lost Creek around 11 a.m. to go to the store, and when she returned around 3 p.m., Keaton was lying unresponsive in his bed. During this time, the petitioner stated that Keaton was with Ms. Boggs and Mr. Wodzinski. The petitioner also said that Keaton had complained of a headache for "[t]he last couple days[.]" On March 19, 2020, the petitioner reported that she was informed by doctors that Keaton's injury occurred "at least" twelve hours prior to Keaton's arrival at the hospital. The petitioner stated "[t]hat would be in the middle of the night. And we were all there. All of us were there." When questioned about "all the bruising" that doctors observed on Keaton's body, the petitioner stated "[t]hat is where he fell down the steps." The petitioner also admitted that she initially lied to police when she stated that Ms. Boggs was at home with Keaton and Mr. Wodzinski on March 17, 2020, when the petitioner went to the store. Instead, the petitioner stated that Ms. Boggs went with her to the store between 11 a.m. and 3 p.m. on that day. The petitioner said she did not know why Ms. Boggs wanted her to lie about her whereabouts on March 17, 2020, but "she just kept saying, 'That way nobody looks guilty.'"[6]

Dr. Casey McCluskey, who was qualified as an expert in pediatric critical care, testified that she treated Keaton on March 18, 2020, after he was transported via helicopter to Ruby

[5] The petitioner also stated that she could not take Keaton to the hospital because she did not have legal custody.

[6] Recordings of the petitioner's interviews with police were admitted into evidence.

Memorial Hospital. Dr. McCluskey was advised by the attending neurosurgeon that Keaton had "a bad head injury and there wasn't a surgical intervention . . . that would help" him. When Dr. McCluskey observed Keaton for the first time, she "saw a child who right away looked like he had been significantly beat up . . . he had bruises all over his body" and "a laceration to his penis." Keaton also had "two black eyes and extensive bruising all over his forehead." Dr. McCluskey described a photograph of Keaton that was taken at the hospital, noting that he "had multiple different bruises both on the side of his face and his cheek, by his ear, on his forehead and . . . they looked to me like they were in different stages of healing[,]" which indicates "[t]hat they did not all happen at the same time." Dr. McCluskey observed that another picture of Keaton showed the laceration to Keaton's genital area and "multiple bruises down his legs, and on his hips and the side of his body." Dr. McCluskey also opined that the bruising observed on Keaton's lower body "were not areas that I would expect just from normal wear and tear kids being kids and playing." The photos of Keaton were admitted into evidence.

Dr. McCluskey spoke to the petitioner after she examined Keaton. The petitioner informed Dr. McCluskey that Keaton "woke up normal" that morning, but he "said that he had a headache[,]" and he went back to bed to take a nap. Dr. McCluskey expressed her "concerns that somebody had done something to him" given the "extensive bruising all over his body" and "his brain injury" and asked her if Keaton had "any injuries that they knew of that he had prior to coming in." The petitioner responded that "Keaton had tripped over the dog and fallen down some stairs and had some bruising on his back" and that "he had cut his own penis" with a knife that he found in the kitchen. Dr. McCluskey testified that a fall down the steps did not explain "the full extent of bruising on his body. And a child doesn't lacerate their own penis. . . . Generally, kids in the 5-10 age group are not cutters. They don't self-harm that way." Dr. McCluskey explained that "this was a deep laceration. . . . [I]t wasn't just skin, it was through the subcutaneous fat underneath, and so I did not feel that he had done this to himself." Dr. McCluskey also testified that Keaton should have been taken to a doctor to treat the laceration, but no one did so. Dr. McCluskey further testified that on March 19, 2020, Keaton "did not show any brain activity. It was consistent with brain death, and I declared him dead." Dr. McCluskey opined that the cause of Keaton's death was "non-accidental trauma resulting in brain death." Dr. McCluskey further opined that Keaton's injuries were consistent with child abuse, and they were not consistent with self-harm. Dr. McCluskey further stated that "I did not feel that the stories, the explanations that had been given to me were accurate." On cross-examination, Dr. McCluskey admitted that she did not know what caused Keaton's fatal brain bleed.

Meredith Linger, a sexual assault nurse examiner at Ruby Memorial Hospital, testified that she performed "a full medical forensic exam on Keaton" on March 19, 2020. Ms. Linger described several photos taken of Keaton during the exam, which showed extensive bruising all over his body and a burn mark on his arm. Ms. Linger noted that one photograph depicted a deep, "four-centimeter laceration to Keaton's penis" and scrotum that was healing at the time of the exam. Ms. Linger also performed a second exam on Keaton on March 20, 2020, in which she noticed "scar tissue" on Keaton's penis that was indicative of another laceration that was not seen during the

previous exam. Ms. Linger also "saw bruising to the right side of Keaton's testes" during the second exam.

Dr. Donald Pojman, an expert in the field of forensic pathology with the West Virginia Office of the Chief Medical Examiner, testified that he performed an autopsy on Keaton on March 25, 2020. After detailing his findings, Dr. Pojman opined that the cause of Keaton's death was "blunt force injuries of the head" and the manner of his death was homicide. Dr. Pojman stated that he did not believe that Keaton's injuries were caused by falling down steps. During cross-examination, Dr. Pojman admitted that he could not establish when the blunt force trauma occurred and that he did not know whether the petitioner was present when Keaton suffered this injury.

Finally, Dr. Brian Policano, a pediatrician in Bridgeport, West Virginia, testified that the petitioner and Ms. Boggs brought Keaton to an appointment at his office on January 29, 2020. Dr. Policano testified that, during the visit, Ms. Boggs signed "a third-party authorization form" that allowed the petitioner to bring Keaton to his appointments and make medical decisions. Dr. Policano testified that the petitioner could have used that authorization form to bring Keaton to his office for future medical appointments, and he further opined that a four-centimeter laceration on Keaton's penis would have "most likely" required acute care from a physician.

The State rested its case, and the petitioner moved for a judgment of acquittal arguing that there was no evidence that the petitioner was present when Keaton suffered his fatal injury. The circuit court held the petitioner's motion in abeyance and allowed the case to proceed. The petitioner presented no evidence. After deliberation, the jury convicted the petitioner of death of a child by a parent, guardian, or custodian by knowingly allowing child abuse by any other person. *See* W. Va. Code § 61-8D-2a(b).

The petitioner filed post-trial motions for judgment of acquittal, new trial, and arrest of judgment. In its order denying these motions, the court found that the State presented sufficient evidence to sustain the petitioner's conviction. The court found that the petitioner did not dispute that she was Keaton's custodian, and that Keaton was "under her care, custody, or control because [Keaton] lived with the [petitioner]." Further, in her statement to police, the petitioner admitted that Keaton "was living with her at the time of his death and that she provided care for him including feeding and bathing." Regarding the evidence that the petitioner knowingly allowed another person to "maliciously and intentionally inflict substantial physical pain, illness, or impairment" upon Keaton, the court found that the State introduced the petitioner's statement to police, in which she admitted that "she had suspicion that someone, being her mother or her husband, [was] physically abusing" Keaton. The State also introduced photos of Keaton, taken at Ruby Memorial Hospital, "which showed the nature and severity of his injuries, to which all were obvious to any onlooker." In the petitioner's statement to police, she admitted "that she had knowledge of the injuries, including the laceration to his genital area, because she would give him baths." Further, the State introduced testimony from Dr. McCluskey and Ms. Linger that "reiterated how obvious and severe the nature of [Keaton's] injuries presented as abuse." To prove that abuse caused Keaton's death, "Dr. Pojman testified that the fatal injury would not have been

caused by the [petitioner's] only explanation that [Keaton] was pushed down the stairs by the dog multiple weeks prior." Dr. Pojman also testified that Keaton "would have had a drastic change in attitude immediately following the injury, including lethargy." The petitioner stated that Keaton "had a headache the morning of March 18, 2020, and that he got up early before the other kids but then went back to bed." Additionally, during her interview with police, the petitioner admitted that a physician at the hospital "told the family that the injury would have occurred at least twelve (12) hours prior to when [Keaton] presented at the hospital, stating that this placed her and the other two defendants at home at the time of the injury." The court further found that the petitioner made "several inconsistent statements" to police and admitted that "she had asked [Keaton] if her husband had ever hurt him, and that she left [Keaton] with her husband as the only adult in the house for several hours before [Keaton] was found unresponsive."

The circuit court also denied the petitioner's motion for a new trial, which was based upon the court's refusal to allow evidence of her codefendants' convictions. Citing this Court's ruling in *State v. Swims*, 212 W. Va. 263, 271, 569 S.E.2d 784, 792 (2002), the court ruled that "typically convictions of co-defendants are used when co-defendants testify, and because of the concern that the probative value of said evidence was not [sic] substantially outweighed by any risk of unfair prejudice, confusing the issues, and misleading the jury." The court denied the motion because the codefendants' convictions were not exculpatory, and neither of her codefendants testified at her trial.

Finally, the circuit court denied the petitioner's motion for arrest of judgment, rejecting the petitioner's claim "that the State did not sufficiently put her on notice of the proof it intended to use" at trial. The court found that the State's supplemental response to the motion for bill of particulars was sufficient because "it stated generally what type of evidence it was going to rely on at trial[.]" The court further found that the indictment and the State's responses to the bill of particulars "provided the [petitioner] sufficient notice of the offenses that she was charged with, what the State said it would rely upon, and that the [c]ourt had proper jurisdiction over this matter." At sentencing, the court imposed an indeterminate term of fifteen years to life imprisonment.

On appeal, the petitioner argues that the circuit court erred in denying her motion for judgment of acquittal based on insufficient evidence. The petitioner admits that Keaton died because of a head injury but argues that the State did not present evidence that the petitioner knowingly allowed abuse that caused Keaton's death. We apply a de novo standard of review when reviewing the circuit court's denial of the petitioner's motion for judgment of acquittal. *See State v. Juntilla*, 227 W. Va. 492, 497, 711 S.E.2d 562, 567 (2011). Further, we have ruled that

> [t]he function of an appellate court when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, is sufficient to convince a reasonable person of the defendant's guilt beyond a reasonable doubt. Thus, the relevant inquiry 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 proved beyond a reasonable doubt.

Syl. Pt. 1, *State v. Guthrie*, 194 W. Va. 657, 461 S.E.2d 163 (1995).

In this case, both Dr. McCluskey and Ms. Linger testified that Keaton's injuries were obvious and severe, and Dr. McCluskey opined that the bruises she observed "all over his body" had not happened at the same time, because they were in different stages of healing. Photographs depicting those injures were admitted into evidence. The petitioner stated that she was aware of prior, non-fatal injuries inflicted on Keaton in the months leading up to his death, and she tried "to find out what's going on" when she asked Keaton if anyone hurt him. In February 2020, the petitioner was aware of the laceration to Keaton's genital area, and she did not take Keaton for any medical treatment even though Ms. Boggs had signed a third-party authorization form that would have allowed her to take Keaton to his pediatrician. Although the petitioner stated that Keaton denied being abused by any family members, she continued to speculate about who might be responsible for the child's injuries. She told an investigator that "[f]or awhile, at the beginning, I thought maybe my mom [Ms. Boggs]" was responsible because "she has a hard time" with children due to her health problems. Despite her suspicion that someone in the household was inflicting injuries on Keaton, the petitioner left Keaton alone with her husband for several hours on the day that the child was found unresponsive. Dr. McCluskey rejected the petitioner's explanation that the laceration to Keaton's private area was self-inflicted, and Dr. Pojman dismissed the petitioner's explanation that Keaton's fatal injury was caused by a fall down the stairs several weeks prior. The petitioner also admitted that she was home twelve hours prior to Keaton's hospitalization, and that this placed her and the other two codefendants at home at the time of the injury. Further, the petitioner admitted that she lied to Investigator Camden when she told him that Ms. Boggs was home with Keaton and Mr. Wodzinski between 11:00 a.m. and 3 p.m. on March 17, 2020, the day that Keaton was found unresponsive in his bed. Viewing this "evidence in the light most favorable to the prosecution," we conclude that the court did not err when it denied the petitioner's motion for judgment of acquittal. *See Guthrie*, 194 W. Va. at 663, 461 S.E.2d at 169, Syl. Pt. 2, in part.

The petitioner also alleges that the circuit court erred in denying her motion for judgment of acquittal because all three codefendants were convicted of knowingly allowing Keaton's fatal abuse to occur, but no one was convicted of perpetrating the fatal abuse; thus, she asserts that her conviction is inconsistent with her codefendants' convictions.[7]

We have recognized that "[a]ppellate review of inconsistent verdicts is not generally available." Syl. Pt. 5, in part, *State v. Bartlett*, 177 W. Va. 663, 355 S.E.2d 913 (1987) (citing *State v. Hall*, 174 W. Va. 599, 328 S.E.2d 206 (1985)). This rule is grounded in "the Government's inability to invoke review, the general reluctance to inquire into the workings of the jury, and the possible exercise of lenity[.]" *Hall*, 174 W. Va. at 603, 328 S.E. 2d at 211 (citing *United States v.*

[7] The petitioner raises this issue for the first time on appeal, but we will nevertheless address it.

Powell, 469 U.S. 57, 68 (1984)). The petitioner argues that this rule does not apply in situations "where a guilty verdict on one count logically excludes a finding of guilty on the other." *Id.* (quoting *Powell*, 469 U.S. at 69 n.8). However, the petitioner does not adequately explain how her verdict is logically excluded by the verdicts against her codefendants. *See United States v. Collins*, 412 F.3d 515, 519-520 (4th Cir. 2005) (holding that the acquittal of a codefendant, who was the defendant's only alleged co-conspirator, did not entitle the defendant to a reversal of his conviction for conspiracy on the ground of inconsistent verdicts). There are "any number of possible explanations for the jury's acquittal" of the petitioner and her codefendants for causing Keaton's death. *See Schiro v. Farley*, 510 U.S. 222, 233 (1994) (rejecting the application of the collateral estoppel doctrine in a criminal case) (quoting *Dowling v. United States*, 493 U.S. 342, 352 (1990)). Absent any insight into the evidence presented at the codefendants' trials, their convictions may have been a product of "the possible exercise of lenity" by their respective juries. *See Powell*, 469 U.S. at 68. Further, the petitioner fails to cite any factually analogous cases to support her position that her conviction is logically inconsistent with the verdicts against her codefendants. *See* W. Va. R. App. P. 10(c)(7) (requiring briefs to clearly exhibit "the points of fact and law presented . . . and citing the authorities relied on"). Thus, the court did not err when it declined to disturb the jury's verdict based on the petitioner's claim of inconsistency.

The petitioner also claims that the circuit court erred in denying her motion for judgment of acquittal because of an alleged variance between the theory set forth in the State's bill of particulars and the evidence presented at trial. The petitioner argues that the State's responses "put her on notice to defend against defined conduct that long predated the circumstances that caused the child's death, while also leading her to try to defend completely undefined conduct taking place closer to the child's death." In other words, she contends that the State's responses did not proffer any evidence that she knowingly allowed Keaton to be abused between February 28, 2020, and March 18, 2020.

A bill of particulars is a "discovery device" and we apply the law relating to non-disclosure of court-ordered discovery when "determining whether a bill of particulars is sufficient[.]" *State v. Meadows*, 172 W. Va. 247, 254, 304 S.E.2d 831, 838 (1983); *see* Syl. Pt. 2, in part, *State v. Grimm*, 165 W. Va. 547, 270 S.E.2d 173 (1980) (holding that non-disclosure of pretrial discovery is "fatal . . . where such non-disclosure is prejudicial. The non-disclosure is prejudicial where the defense is surprised on a material issue and where the failure to make the disclosure hampers the preparation and presentation of the defendant's case"). Here, the petitioner essentially complains that the State's responses in the bill of particulars did not include sufficient evidence that she knowingly allowed the fatal abuse to occur. However, she does not argue that she was "surprised on a material issue" at trial, or that her defense was hampered by surprise. *See Grimm* at 547, 270 S.E.2d at 174, Syl. Pt. 2, in part. As discussed above, the State presented sufficient evidence to sustain the petitioner's conviction, and the court did not err when it denied her motion for judgment of acquittal.

The petitioner also argues that the circuit court erred in denying her post-trial motion for arrest of judgment because "the allegations contained in the various responses to the request for the bill of particulars do not coherently describe any offense." Rule 34 of the West Virginia Rules of Criminal Procedure provides that "[t]he court on motion of a defendant shall arrest judgment if

the indictment or information does not charge an offense or if the court was without jurisdiction of the offense charged." We have held that "[g]enerally, the sufficiency of an indictment is reviewed *de novo.* An indictment need only meet minimal constitutional standards, and the sufficiency of an indictment is determined by practical rather than technical considerations." Syl. Pt. 2, *State v. Miller*, 197 W. Va. 588, 476 S.E.2d 535 (1996). We have also held that

> [a]n indictment is sufficient under Article III, § 14 of the West Virginia Constitution and W.Va. R.Crim.P. 7(c)(1) if it (1) states the elements of the offense charged; (2) puts a defendant on fair notice of the charge against which he or she must defend; and (3) enables a defendant to assert an acquittal or conviction in order to prevent being placed twice in jeopardy.

Syl. Pt. 7, *State v. Wallace*, 205 W. Va. 155, 517 S.E.2d 20 (1999). The petitioner does not argue that her indictment fails to state the elements of the offenses charged, or that she cannot assert her acquittal or conviction to avoid double jeopardy. The indictment clearly put the petitioner on notice that she was charged with two alternate theories under West Virginia Code § 61-8D-2a: for intentionally inflicting injuries that caused Keaton's death, or for knowingly allowing the injuries that caused Keaton's death. We conclude that the indictment gave the petitioner "fair notice of the charges" against which she must defend, and that the court did not err in denying the petitioner's motion to arrest judgment.

Finally, the petitioner alleges that the circuit court erred in denying her motion for new trial based upon the court's refusal to admit evidence of her codefendants' convictions. "We review the rulings of the circuit court concerning a new trial and its conclusion as to the existence of reversible error under an abuse of discretion standard," factual findings are reviewed for clear error, and questions of law are reviewed de novo. Syl. Pt. 3, in part, *State v. Vance*, 207 W. Va. 640, 535 S.E.2d 484 (2000). This Court reviews the circuit court's "evidentiary rulings . . . under an abuse of discretion standard." Syl. Pt. 4, in part, *State v. Rodoussakis*, 204 W. Va. 58, 511 S.E.2d 469 (1998).

This assignment of error essentially repackages the petitioner's inconsistent verdict argument, claiming that "it is logically impossible" for the petitioner to have knowingly allowed her codefendants to inflict the fatal abuse, because neither of them was convicted of inflicting the fatal abuse. Thus, she claims that her codefendants' guilt is inconsistent with the petitioner's conviction, and her codefendants' convictions should have been admitted into evidence. *See* Syl. Pt. 5, *State v. Frasher*, 164 W. Va 572, 263 S.E.2d 43 (1980) (holding that "[f]or evidence of the guilt of someone other than the accused to be admissible, it must tend to demonstrate that the guilt of the other party is inconsistent with that of the defendant"). The petitioner also argues that the codefendants' convictions should have been admitted because this evidence "provides a direct link to someone other than" the petitioner to the crime. *See* Syl. Pt. 1, in part, *State v. Harman*, 165 W. Va. 494, 270 S.E.2d 146 (1980) (holding that "[i]n a criminal case, the admissibility of testimony implicating another person as having committed the crime hinges on a determination of whether the testimony tends to directly link such person to the crime, or whether it is instead purely

speculative"). However, as we explained above, the codefendants' convictions for knowingly allowing the fatal abuse of Keaton to occur are not inconsistent with the petitioner's guilt for that same charge. We agree with the circuit court that the probative value of the codefendants' convictions was "substantially outweighed by a danger of unfair prejudice, confusing the issues, and misleading the jury," *see* W. Va. R. Evid. 403, because only the petitioner was on trial. Thus, we conclude that the circuit court did not abuse its discretion when it refused to admit evidence of the codefendants' convictions.

For the foregoing reasons, we affirm.

Affirmed.

ISSUED: November 25, 2025

CONCURRED IN BY:

Chief Justice William R. Wooton
Justice C. Haley Bunn
Justice Charles S. Trump, IV
Justice Thomas H. Ewing
Senior Status Justice John A. Hutchison