COURT OF APPEALS OF VIRGINIA

Record No. 0272-25-1

RICHARD WILLIAM HUMBERT
v.
COMMONWEALTH OF VIRGINIA

Present: Judges O'Brien, Chaney and Raphael

Argued at Williamsburg, Virginia

Opinion Issued October 20, 2026*

FROM THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE
Marjorie A. Taylor Arrington, Judge[1]

Lauren E. Brice, Assistant Public Defender (Virginia Indigent Defense Commission, on briefs), for appellant.

Kelly L. Sturman, Assistant Attorney General (Jason S. Miyares,[2] Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE VERNIDA R. CHANEY

A jury convicted Richard William Humbert of felony hit-and-run, causing a death. The trial court sentenced him to 10 years' incarceration, with 5 years suspended. On appeal, Humbert argues that the evidence was insufficient to prove that he "knew a person was killed or injured." He also contends that the trial court erred by permitting the jury to view his vehicle. Since the evidence permitted the jury to find that the seriousness of the collision would have

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] The Honorable Stephen J. Telfeyan presided over the jury trials. Chief Judge Arrington entered the final order on February 7, 2025.

[2] Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

alerted a reasonable driver to resulting personal injury and the record supports the jury view, this Court affirms the trial court's judgment.

BACKGROUND[3]

A vehicle struck and killed eight-year-old F.H.[4] while he was walking home along South Battlefield Boulevard in Chesapeake around 4:12 p.m. on October 3, 2023. R. 1001-03, 1078-79, 1133. Regina Clemente, who lived on South Battlefield Boulevard, was at home when she heard a loud "bang." R. 1002. She ran outside and found F.H. lying in her yard. She saw no cars on the street. Simultaneously, someone made a 911 call, neighbors started CPR, and Clemente and her husband stopped the through traffic.

Cheryl Askew, a nurse, was driving on South Battlefield Boulevard and noticed a child's shoe in the road and a "child on the side of the road in the grass." R. 1009, 1014. She stopped, performed CPR, and used a defibrillator to try to resuscitate F.H.

Chesapeake Police Officer J. Cook arrived at the scene but did not locate the driver who struck F.H. The forensics officers processed and photographed the crime scene. They found one of F.H.'s shoes at the side of the roadway and the other in a grassy area beside the road. R. 1033-37. F.H. had been wearing both shoes. R. 1455. Officers swabbed a stain on the road. EMS transported F.H. to the hospital, where he was pronounced dead; his body was then taken to the medical examiner's office.

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[3] We recite the facts "in the 'light most favorable' to the Commonwealth, the prevailing party in the trial court." *Pereira v. Commonwealth*, 83 Va. App. 431, 439 n.3 (2025) (quoting *Hammer v. Commonwealth*, 74 Va. App. 225, 231 (2022)). Doing so requires this Court to "discard the evidence of the accused in conflict with that of the Commonwealth, and regard as true all the credible evidence favorable to the Commonwealth and all fair inferences to be drawn therefrom." *Id.* (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)).

[4] We use the minor victim's initials to preserve his and his family's privacy.

Detective Tracy Alexander collected video footage from the homes and businesses in the area. Video from a gas station taken moments before the incident showed a white Honda Civic with an undamaged hood. R. 1089-94, 1808. The license plate was visible. Footage from a towing company showed a white Honda Civic with front-end damage passing the business about two and a half minutes before the first 911 call was received. R. 1078-79, 1081, CW Ex. 19. Security video from a Wawa gas station about 0.3 miles from the scene showed the Civic enter a nearby shopping center parking lot shortly after F.H. was struck. R. 1082-84, 1098. Parking lot surveillance cameras showed the driver exit and inspect the car's hood before driving away. R. 1090, 1098-99.

A license-plate check identified Humbert as the Civic's registered owner. Initial police efforts to locate Humbert and the vehicle were unsuccessful. Detective Albert Fargo found Humbert and his girlfriend in the car outside Humbert's home on the morning of October 5. Detective Alexander arrived, advised Humbert of his *Miranda*[5] rights, and Humbert acknowledged he owned the Civic and agreed to accompany Alexander to police headquarters for an official interview. Alexander also seized Humbert's cell phones.

During his recorded police interview,[6] Humbert said that he had left the gas station and was driving down South Battlefield Boulevard when "something" struck his car. CW Ex. 29 at 01:05-01:18. He did not stop until he pulled into the parking lot and, seeing no blood, thought he had struck a deer, based on the extent of the damage. CW Ex. 29 at 01:18-01:30, 08:07-08:50. He admitted that the car was not damaged before he struck something on South Battlefield Boulevard but that afterward there was extensive damage to the car's hood, license plate, and passenger side. CW Ex. 29 at 11:43-12:15. Humbert said he had seen news reports that a child

[5] *Miranda v. Arizona*, 384 U.S. 436 (1966).

[6] The jury viewed the interview video during the trial. R. 1110, 1112.

had been struck by a vehicle where he had been, and "hope[d] that wasn't [him]." CW Ex. 29 at 36:20-37:24. Throughout the interview, Humbert denied seeing F.H. in the roadway or on the hood of his car. CW Ex. 29.

Alexander reviewed the data extracted from Humbert's cellphone and determined that he searched local news websites less than an hour after F.H. was struck and continued searching for news about the crash into the next day. R. 1323-25, 1330-31. His searches included what "to do when animal hit ca [sic] and front end damage," "Chesapeake news," and "Chesapeake news today car accident." R. 1332-33, 1338, 1340-41. Later that night, Humbert accessed a news article that reported that a boy had died "in [a] Chesapeake hit-and-run." R. 1333. Another article included a photograph of police at the crash scene. Alexander also determined that Humbert logged into his insurance account about eight minutes after he struck F.H., consistent with the video timestamp when he pulled into the shopping center parking lot. R. 1324, 1339. Nothing suggested that Humbert was using his phone when the incident occurred. R. 1322. After the interview, Alexander charged Humbert with felony hit-and-run resulting in a death.

Before Humbert's first trial, the Commonwealth moved to permit the jury to view Humbert's vehicle. The motion noted Humbert's statement that he had struck a deer. R. 135-36. The Commonwealth asserted that a view "would be essential for the jury to properly and fairly judge the credibility of the testimony." R. 135. Humbert objected to the proposed view. When the court later addressed the mechanics of the viewing, it noted that Humbert had requested that the "vehicle be moved from its location" in the impound lot, where it was "surrounded by other vehicles with apparent body damage." R. 598. The Commonwealth proposed moving the vehicle into the sally port, removing debris and leaves, excluding unrelated vehicles and persons, and allowing the court and counsel to inspect the location before the jurors arrived. R. 598-600. At the pretrial motions hearing, Humbert acknowledged the logistical "efforts that the

Commonwealth [was] making" to satisfy "the defense's concerns." R. 601. The court granted the Commonwealth's motion. The ensuing trial ended in a mistrial because of juror misconduct, and Humbert was retried before a new jury.

Investigator April Palmer photographed the vehicle before processing it so that the photographs would show "exactly how it is found" before "anything is changed or added." R. 1238-39. Palmer remained with the vehicle while it was loaded onto a flatbed tow truck and followed it to the police department's locked, outdoor evidence lot. R. 1214-16. The vehicle was later moved within that lot once or twice. R. 1243-44. Palmer was not present for those moves and could not say whether a flatbed tow truck was used. R. 1244-45. She saw the vehicle again approximately a week before trial. R. 1246. Asked about the tires, Palmer answered that "[e]verything looked inflated" and that the vehicle "looked like it was in the same condition as the last time [she] saw it." R. 1246.

On the morning of the scheduled view at the retrial, the court stated that it wanted to inspect the vehicle before the jurors arrived and hear any renewed objections concerning its condition. R. 1186-91. The court explained that "[u]ntil we look at it and see, we don't know" and indicated that it could "take a different approach" depending on the vehicle's condition and the parties' objections. R. 1189-90.

On the third day of the retrial, before the jurors arrived, the court and counsel inspected the vehicle in the sally port. R. 1275-76. Humbert then renewed his continuing objection to the viewing, emphasizing that more than a year had passed since the collision, that the vehicle had remained outdoors and had been moved, and that photographs taken closer in time to the collision more accurately depicted its earlier condition. R. 1276-78. Humbert thus argued that the vehicle was "not an accurate representation of what the vehicle looked like close in time to the accident" and that the view was "not going to aid the jurors in making a decision." R. 1277.

The Commonwealth responded that the jury was not confined to photographs merely because photographs existed and that, given the vehicle's size, viewing it was "the only way for the jury to have an accurate perspective of the item." R. 1277. It also argued that comparison with the admitted photographs showed that the vehicle had not been changed "in any meaningful or discernible way." R. 1278.

After inspecting the vehicle and hearing the parties' arguments, the court ruled: "For the same reasons stated before, the Court has allowed the viewing. I'll continue to allow the viewing." R. 1279. The debris previously on the vehicle had been removed, and the court determined that no instruction concerning leaves was necessary. R. 1279. The court instructed the jurors that they could walk around the vehicle but could not touch it or discuss their observations during the view. R. 1281-82.

At the close of the Commonwealth's case-in-chief, Humbert moved to strike the hit-and-run charge, arguing that the evidence was insufficient to establish that Humbert knew he had struck a person with his car.

Michael Miller, a crash investigator with ARL Crash Investigations, testified that South Battlefield Boulevard was an "asphalt-paved" road with one lane in each direction, no sidewalks, and small culverts off the roadway before the residences that lined the street. R. 1391. The speed limit on South Battlefield Boulevard was 45 miles per hour. Miller testified that it was sunny on October 3, 2023, but that tall trees cast shadows across portions of the roadway; some areas were illuminated, and others were shaded. R. 1392.

At the conclusion of all the evidence, Humbert renewed his motion to strike, arguing that there was no direct evidence of how the collision occurred or of his line of sight and emphasizing that he had "maintained throughout that he thought he hit a deer." R. 1537. The court again denied the motion and found that the issue was a question of fact for the jury.

After closing arguments and deliberations, the jury returned a guilty verdict against Humbert for felony hit-and-run resulting in serious injury or death. Humbert moved to set aside the verdict, which the trial court took under advisement. After argument, the trial court directed the parties to file formal motions and responses on the issue, and continued the matter for argument and sentencing. At the subsequent hearing, Humbert argued that no evidence showed how the collision occurred or where F.H. was when he was struck and that nothing contradicted Humbert's recorded statement that he believed he had struck a deer. R. 1709-10.

The Commonwealth responded that the parties agreed on the facts but diverged over what those facts meant. R. 1712-13. It argued that the evidence permitted the conclusion that Humbert knew or should have known he had struck the child with his car when the sound of the crash was so loud that it caused neighbors inside their homes to rush outside to investigate. R. 1713. The Commonwealth further argued that Humbert's searches on his phone immediately after the crash showed that he knew that he had struck a child, not a deer. R. 1714-17.

The trial court observed that it was undisputed that Humbert had hit something. R. 1714-15. The court denied his motion to set aside the verdict because it was not "plainly wrong" and there was credible evidence to support the jury's conclusion. The court then sentenced him to 10 years' incarceration, with 5 years suspended.

ANALYSIS

I. The evidence was sufficient to prove the requisite knowledge of injury.

"In the context of a jury trial, a trial court does 'not err in denying [a] motion to strike the evidence [when] the Commonwealth present[s] a *prima facie* case for consideration by the fact finder.'" *Vay v. Commonwealth*, 67 Va. App. 236, 249 (2017) (alterations in original) (quoting *Hawkins v. Commonwealth*, 64 Va. App. 650, 657 (2015)). When the defendant "elects to introduce evidence in his own behalf after the denial of a motion to strike the Commonwealth's evidence, any

further challenge to the sufficiency of the evidence at trial or on appeal is to be determined from the entire record." *Murillo-Rodriguez v. Commonwealth*, 279 Va. 64, 74 (2010).

"When an appellate court reviews the sufficiency of the evidence underlying a criminal conviction, its role is a limited one." *Commonwealth v. Garrick*, 303 Va. 176, 182 (2024). "The judgment of the trial court is presumed correct and will not be disturbed unless it is 'plainly wrong or without evidence to support it.'" *Pijor v. Commonwealth*, 294 Va. 502, 512 (2017) (quoting Code § 8.01-680). We ask whether "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Cappe v. Commonwealth*, 79 Va. App. 387, 398 (2024) (quoting *Vasquez v. Commonwealth*, 291 Va. 232, 248 (2016)). "If there is evidentiary support for the conviction, 'the reviewing court is not permitted to substitute its own judgment, even if its opinion might differ from the conclusions reached by the finder of fact at the trial.'" *McGowan v. Commonwealth*, 72 Va. App. 513, 521 (2020) (quoting *Chavez v. Commonwealth*, 69 Va. App. 149, 161 (2018)).

> The driver of any vehicle involved in an accident in which a person is killed or injured . . . shall immediately stop as close to the scene of the accident as possible without obstructing traffic . . . and report his name, address, driver's license number, and vehicle registration number forthwith to the State Police or local law-enforcement agency.

Code § 46.2-894.[7] A driver is "involved in an accident" when there is "physical contact between the driver's vehicle and another vehicle, person, or object." *Evans v. Commonwealth*, 82 Va. App. 612, 627 (2024) (quoting *Robinson v. Commonwealth*, 274 Va. 45, 53 (2007)).

[7] Under Code § 46.2-894, the "driver shall also render reasonable assistance to any person injured in such accident." If the driver is unable to comply, he "shall, as soon as reasonably possible, make the required report to the State Police or local law-enforcement agency." *Id.*

Code § 46.2-894 "imposes three categories of obligations" on the driver of a vehicle involved in an accident. *Evans v. Commonwealth*, 82 Va. App. 612, 625 (2024). It requires the driver to: (1) stop, (2) report information to certain individuals, and (3) render reasonable aid to injured persons. *Id.* at 625-26. Those obligations "require[] positive, affirmative action." *Herchenbach v. Commonwealth*, 185 Va. 217, 220 (1946). The Commonwealth "can establish [a

To violate the statute, the "driver must be aware that harm has been done; it must be present in his mind that there has been an injury; and then, with that in his mind, he must deliberately go away without making himself known." *Payne v. Commonwealth*, 277 Va. 531, 544 (2009) (quoting *Herchenbach v. Commonwealth*, 185 Va. 217, 220 (1946)). The Commonwealth must prove "that the defendant possessed actual knowledge of the occurrence of the accident, and such knowledge of injury which would be attributed to a reasonable person under the circumstances of the case." *Kil v. Commonwealth*, 12 Va. App. 802, 811 (1991). "Knowledge of injury may be imputed to a driver 'where the fact of personal injury is visible or where the seriousness of the collision would lead a reasonable person to assume there must have been resulting injuries.'" *Neel v. Commonwealth*, 49 Va. App. 389, 395 (2007) (quoting *People v. Carter*, 243 Cal. App. 2d 239, 241 (Cal. Ct. App. 1966)).

Humbert argues that the trial court erred in denying his motions to strike and to set aside the jury verdict because the evidence failed to prove that he "knew a person [had been] killed or injured." He adds that the nature of the impact, the damage to the car, and his behavior after the crash were insufficient to show that a reasonable person should have known that a person was killed or injured.

The evidence permitted the jury to find the requisite knowledge. Humbert does not dispute that he knew an accident had occurred. Thus, the disputed question is whether a rational jury could find that the circumstances would have alerted a reasonable person that personal injury had resulted from the collision. *See Kil*, 12 Va. App. at 811; *Neel*, 49 Va. App. at 395.

The circumstances permitted the jury to find that this was not an accident causing only minor property damage. The collision was substantial enough that Clemente heard the "bang"

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defendant's] guilt by proving [that the defendant] failed to perform any one of [those three] duties under the statute." *Evans*, 82 Va. App. at 626 (alterations in original) (quoting *O'Connell v. Commonwealth*, 48 Va. App. 719, 733 (2006)).

from inside her home and immediately went outside to investigate. R. 1002. Humbert himself regarded the resulting damage as significant enough to indicate that he had struck something large, "like a deer." CW Ex. 29 at 08:07-08:50. He acknowledged that the Civic had been undamaged before the collision but afterward had extensive damage to the hood, license plate, and passenger side. CW Ex. 29 at 08:07-08:50, 11:43-12:15. He drove to a nearby parking lot, exited the vehicle, and inspected the damage himself before driving away. R. 1090, 1098-99. Describing what he saw, Humbert told police, "You could see the hit." CW Ex. 29 at 11:43-12:15.

Neel illustrates the relevant distinction. There, the other driver described the damage to her car as so minor that "[she could] hardly tell [it was] there"; she remained behind the wheel, told a deputy that she and her passengers were "okay," and moved her vehicle. *Neel*, 49 Va. App. at 392, 396-97. By contrast, *Neel* discussed *Kil*, where the impact extensively damaged the right side of the defendant's van, scattered glass across its front seat, threw the bodies of three victims 45 to 135 feet, and was described by residents inside nearby homes as a "loud noise." *Id.* at 397 (citing *Kil*, 12 Va. App. at 812-13). Although the collision here was less severe in some respects, it shared two of those markers of seriousness: Clemente heard the impact from inside her home, and Humbert's Civic sustained extensive damage. R. 1002, 1090; CW Ex. 29 at 11:43-12:15.

Humbert contends that the Commonwealth failed to prove that he knew "at the time of the accident." The relevant question is whether he "knew or should have known personal injury, as opposed to property damage, had resulted from the collision at the time he fled the scene." *Neel*, 49 Va. App. at 397-98 (footnote omitted). The collision occurred in daylight on a road bordered by driveways and residences, and the impact was loud enough that Clemente heard it from inside her home. R. 1002, 1391-92. Together with the force of the collision and resulting

damage described above, those circumstances permitted the jury to find that a reasonable driver knew or should have known personal injury had resulted when he left the scene. *See Neel*, 49 Va. App. at 395.

That distinction is important here. *Neel* cautioned that felony hit-and-run liability cannot rest solely on "the happening of an accident and a failure to investigate." *Id.* at 398. The jury's verdict here did not rest merely on the occurrence of an accident and Humbert's failure to investigate. The evidence instead included the force of the collision, the extensive damage Humbert personally observed, and Humbert's own recognition that whatever he struck must have been something large, "like a deer." CW Ex. 29 at 08:07-08:50. Those circumstances supplied affirmative evidence from which the jury could find that the seriousness of the collision would have alerted a reasonable person to resulting personal injury. *See Neel*, 49 Va. App. at 395.

Humbert emphasizes that South Battlefield Boulevard lacked sidewalks, that there was a "low-lying area" on the southbound side near where F.H. was found, that portions of the roadway were shaded, that the roadway was level while the adjacent terrain sloped downward, and that no evidence established that he actually saw F.H. before or during the impact. R. 1391-92; CW Ex. 29. However, actual visibility of the injured person is not the only means of proving the element of knowledge. *Neel* expressly recognizes that knowledge may be imputed either when personal injury is visible or when "the seriousness of the collision would lead a reasonable person to assume there must have been resulting injuries." 49 Va. App. at 395 (citation omitted). Thus, the absence of evidence that Humbert actually saw F.H. did not preclude the jury from finding the requisite knowledge based on the seriousness of the collision and the extensive damage it caused, which Humbert personally inspected.

Humbert's conduct after the collision permitted the jury to evaluate the credibility of his claimed belief that he struck a deer. He inspected the vehicle almost immediately and accessed

his insurance account about eight minutes after the collision. R. 1090, 1098-99. Less than an hour after the collision, he began searching local news, and later that night he viewed a report that a boy had died in a Chesapeake hit-and-run. R. 1323-25, 1339, 1837. He later told police that when he learned a child had been struck there, he "hope[d] that wasn't [him]." CW Ex. 29 at 36:20-37:24. Although some of Humbert's post-collision conduct, including his animal-related internet search, was consistent with his asserted belief that he struck a deer, the jury was entitled to consider all of his conduct in assessing the credibility of his explanation. That conduct alone did not establish Humbert's knowledge at the moment of the collision, but the jury could consider it with the seriousness of the collision and the extensive damage it caused.

Humbert also relies on the prosecutor's statement in rebuttal that he "knew that he hit [F.H.] when he found that article" later that evening. R. 1622. Read in context, however, the Commonwealth did not concede that Humbert lacked the requisite knowledge when he left the scene. It repeatedly argued that the disputed element was whether Humbert "knew or should have known" that another person was injured or killed, and moments after the statement Humbert quotes, the prosecutor argued that Humbert knew at approximately 4:12 p.m. that he had struck F.H. and that serious injury was involved. R. 1587, 1623-24. In any event, the jury could convict on the alternative "should have known" basis, and the evidence supported that finding. *See Wood v. Commonwealth*, 57 Va. App. 286, 306 (2010) (explaining that "[w]hether an alternate hypothesis of innocence is reasonable is a question of fact").

Thus, the evidence was sufficient to support the jury's finding that the circumstances would have alerted a reasonable person that personal injury had resulted from the collision.

II. The trial court did not abuse its discretion by permitting the jury to view Humbert's vehicle.

Code § 19.2-264.1 provides that:

> The jury in any criminal case may, at the request of either the attorney for the Commonwealth or any defendant, be taken to

> view the premises or place in question, or any property, matter or thing relating to the case, when it shall appear to the court that such view is necessary to a just decision.

Whether to permit a view "lies within the discretion of the trial court." *Quesinberry v. Commonwealth*, 241 Va. 364, 378 (1991). In exercising that discretion, a trial court "should only grant [a view] when it is reasonably certain that it will be of substantial aid to the jury in reaching a correct verdict." *Prieto v. Commonwealth*, 283 Va. 149, 178 (2012) (quoting *P. Lorillard Co. v. Clay*, 127 Va. 734, 744 (1920)). On appeal, "only 'when reasonable jurists could not differ can we say [that] an abuse of discretion has occurred.'" *Smith v. Commonwealth*, 48 Va. App. 521, 530 (2006) (quoting *Hernandez-Guerrero v. Commonwealth*, 46 Va. App. 366, 370 (2005)).

A. *The view could substantially aid the jury.*

Humbert argues that because the photographs, videos, and testimony depicted the Civic and its damage, an in-person view could be helpful but was not "necessary" within the meaning of Code § 19.2-264.1.[8]

Humbert's argument treats the availability of other evidence depicting the vehicle as defeating Code § 19.2-264.1's "necessary to a just decision" requirement. Virginia's jury-view precedent does not impose that categorical limitation. *P. Lorillard* recognized that a view may itself furnish an "additional source of proof" and that in such a case, "the view should be granted" as it would be of "substantial aid to the jury in reaching a correct verdict." 127 Va. at 745 (quoting *Abernathy v. Emporia Mfg. Co.*, 122 Va. 406, 424 (1918)). Thus, the mere availability of testimony or photographs does not foreclose a view. Rather, the question remains

[8] Humbert also contends that, by arguing harmless error in the alternative, the Commonwealth "seemingly concedes that the viewing of the vehicle was not necessary." However, the Commonwealth made that argument only in the alternative; its principal argument was that the view was "necessary to a just decision."

whether the court could reasonably conclude that seeing the property itself would substantially aid the jury in deciding an issue before it.

Other decisions describe the function of a view more narrowly. The Supreme Court has described the purpose of a view as enabling the jury "to apply the testimony disclosed upon the trial." *Kearns v. Hall*, 197 Va. 736, 741 (1956). It has similarly determined that the view may "explain and clarify" the evidence presented in court. *Culpepper v. Neff*, 204 Va. 800, 806 (1964).

Quesinberry is especially instructive. Although Code § 19.2-264.1 contains the same "necessary to a just decision" language at issue there, the trial court did not recite that phrase. *Quesinberry*, 241 Va. at 378-79. It instead called the view "proper" and explained that it "would help the jury understand the oral testimony, the sworn testimony that they have heard in the courtroom." *Id.* The Supreme Court affirmed because the view allowed the jury "to understand the size and dimensions of the building and how these factors related to the crimes." *Id.* at 379. *Quesinberry* is consistent with the conclusion that a trial court's failure to recite the word "necessary" does not, by itself, render a view improper under Code § 19.2-264.1. It also illustrates that a view may satisfy the statutory standard when it assists the jury in understanding physical dimensions relevant to the evidence.

Similarly, in *Smith*, this Court discussed the historical purpose of jury views, explaining that Virginia's statutory practice derived from an English statute permitting a view to enhance the jurors' "better understanding" of the evidence. 48 Va. App. at 529 (quoting *Litton v. Commonwealth*, 101 Va. 833, 846 (1903)). There, an aerial photograph depicting the apartment complex was admitted into evidence, and Smith conceded that the photographs provided "a fair and accurate depiction of the building." *Id.* at 530. This Court affirmed the view of the building because it "helped the jury understand the layout of the apartment complex, the location of the

window and the parking lot, and how 'these factors related to the crimes.'" *Id.* (quoting *Quesinberry*, 241 Va. at 379). Thus, the availability of an accurate photographic depiction did not preclude the trial court from concluding that an in-person view would materially assist the jury in understanding and applying the evidence.[9]

Humbert's contrary cited authorities do not impose a stricter rule. *Cutchin v. Roanoke*, 113 Va. 452 (1912), affirmed the denial of a view because "[t]he testimony of the witnesses was all sufficient to explain the situation" and the condition of the door lock "offered no difficulty which the jury could not as readily solve by the testimony of others as by a personal inspection." *Id.* at 477. Similarly, *Chesapeake & Ohio Ry. Co. v. Nickel*, 157 Va. 382 (1931), affirmed a denial where the relevant premises had changed and testimony, blueprints, and photographs furnished "sufficient information" for the jury to decide the case. *Id.* at 394-95. In *Tross v. Commonwealth*, 21 Va. App. 362 (1995), this Court affirmed a denial where the trial court was uncertain how much the crime scene had changed and photographs, diagrams, and other evidence already established the store's layout. *Id.* at 382-83.

Each case affirmed a trial court's discretionary decision to deny a view on the record before it. None held that a trial court must deny a view whenever photographs, diagrams, or testimony are also available. Instead, those decisions reinforce the case-specific nature of the inquiry and the broad discretion entrusted to the trial court.

[9] At oral argument, Humbert distinguished *Quesinberry* and *Smith* on the ground that those cases involved comparatively complex locations. However, neither case makes architectural complexity dispositive. *Quesinberry* upheld a view because seeing the premises assisted the jury in understanding the "size and dimensions" and how those features related to the crimes. 241 Va. at 379. *Smith* similarly upheld a view because it helped the jury understand physical relationships relevant to the evidence, notwithstanding photographs that fairly and accurately depicted the premises. 48 Va. App. at 530. Here, the relevant physical relationship was the extent and location of the collision damage in relation to the vehicle as a whole.

Here, the vehicle and its damage were not collateral to the parties' theories; they were central to the disputed knowledge element. Humbert stopped to inspect the Civic shortly after the collision, and the nature and extent of the damage bore directly on what the collision would have communicated to a reasonable driver. Humbert acknowledged that his Civic was undamaged before the collision, that the collision caused extensive damage to the hood, license plate, and passenger side, and that, after inspecting the vehicle, "[y]ou could see the hit." CW Ex. 29 at 11:43-12:15.

The jury had photographs of that damage, but the Commonwealth argued that an in-person view was "the only way for the jury to have an accurate perspective of the item." R. 1277. The trial court could reasonably conclude that the view would help the jurors apply the photographic and testimonial evidence by allowing them to observe the full vehicle and place the photographed damage in physical context—not to supply evidence beyond what was presented in court. *See Culpepper*, 204 Va. at 806. Because the view served that narrower function, we need not decide how far a view may serve as independent proof. Just as the views in *Quesinberry* and *Smith* assisted the juries in understanding physical dimensions and relationships that photographs or testimony also depicted, the court could reasonably conclude that viewing the Civic would assist this jury in evaluating the extent and physical significance of the damage Humbert himself had inspected. *See Quesinberry*, 241 Va. at 379; *Smith*, 48 Va. App. at 530.

The view also did not introduce any subject that was not already before the jury. The jury had already seen photographs and surveillance footage of the Civic and heard Humbert's recorded description of the damage. The view concerned that same physical evidence.

Since the significance of that damage bore directly on the disputed element of knowledge, the court could reasonably conclude that the view would provide "substantial aid" to

the jury in applying the photographic and testimonial evidence and reaching a just decision. *Prieto*, 283 Va. at 178 (quoting *P. Lorillard*, 127 Va. at 744).

B. *The record supported a finding that the vehicle remained substantially the same in the respects relevant to the jury's inquiry.*

Humbert separately contends that the Civic had been stored outdoors for more than a year and had been moved within the impound lot, so the Commonwealth could not establish that its current condition remained similar enough to its condition after the collision.

The Supreme Court has approved a view where "[e]vidence adduced at trial demonstrated that the scene was substantially the same at the time of the view as it was when the crimes occurred." *Quesinberry*, 241 Va. at 379. In *Smith*, for example, the offense occurred at night, but the jury viewed the scene during daylight. 48 Va. App. at 530. There, this Court held that the obvious difference was "not the kind of dissimilarity that could mislead the jurors or cause them to ignore the evidence offered at trial." *Id.*

P. Lorillard does not require a different result. There, the trial court denied a requested view because "the accident happened some [18] months prior when conditions may have been different," and the record contained an "absence of any evidence that conditions were the same." *P. Lorillard*, 127 Va. at 743, 745. Here, by contrast, the record contained affirmative evidence bearing on the vehicle's condition. Palmer testified that the Civic had not been driven while in police custody and that, apart from paint chips she collected, it had not been altered; "[e]verything was left the way that it was found." R. 1237-38. Palmer also explained that her initial photographs documented the vehicle "exactly how it [was] found" before "anything [was] changed or added." R. 1238-39. On cross-examination, Palmer acknowledged the limits of her knowledge, explaining that the Civic had been stored outdoors, had been moved once or twice, and she was not present for those moves. R. 1243-45. Thus, unlike *P. Lorillard*, the record here

contained evidence from which the trial court could adequately compare the vehicle's earlier and current conditions.

Humbert further raised concerns about the vehicle's outdoor storage, accumulated debris, and the moves Palmer had not personally observed. R. 1276-78. However, after inspecting the Civic, Humbert did not identify any specific feature of the collision damage that had changed. The Commonwealth similarly emphasized that the defense had not "pointed to a single thing about this car that appears to be different at all" and argued that the Civic had not changed "in any meaningful or discernible way." R. 1278-79.

Nonetheless, the court did not resolve the changed-condition issue in the abstract. On the morning of the jury view, the court stated that it wanted to inspect the Civic before the jurors arrived because "[u]ntil we look at it and see, we don't know," and it explained that it could "take a different approach" after considering the vehicle's current condition and any renewed objections. R. 1189-90. The court and counsel then inspected the vehicle. R. 1276. Only after that inspection and after hearing Humbert's specific changed-condition objection and the Commonwealth's response did the court rule—"For the same reasons stated before, the Court has allowed the viewing. I'll continue to allow the viewing." R. 1279. The debris had been removed before the jurors arrived, and Humbert agreed that no instruction concerning the leaves on the vehicle was necessary. R. 1279. The jurors were instructed not to touch the vehicle or discuss their observations. R. 1281-82.

Although Palmer did not testify that the Civic remained identical to its October 5 condition, the court had a basis for assessing whether any changes were material. The court had contemporaneous photographs admitted into evidence, testimony about the vehicle's custody and later movement, and the vehicle itself, which was before the court in the sally port when Humbert renewed his objection. R. 1238-46, 1276-79. After inspecting the Civic, Humbert

identified no specific change to the collision damage. On that record, the court could reasonably conclude that the Civic remained substantially the same in the respects relevant to the jury's inquiry and that any differences attributable to the outdoor storage identified by Humbert were not likely to mislead the jury.

The record thus supports the trial court's exercise of discretion on both grounds. First, the view could substantially aid the jury in evaluating evidence central to the knowledge element. Second, the record supported a finding that the Civic remained substantially the same in the respects relevant to the jury's inquiry. We, therefore, hold that the court did not abuse its discretion by permitting the view.[10]

CONCLUSION

Accordingly, this Court affirms the trial court's judgment.

Affirmed.

[10] Since we find no error, we do not reach the Commonwealth's alternative argument that any error was harmless.