

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2375

September Term, 2015

CLIFTON MAURICE FOSTION

v.

STATE OF MARYLAND

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

PER CURIAM

Filed: July 22, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Convicted of malicious destruction of property under \$1,000, after a bench trial in the Circuit Court for Washington County, Clifton Maurice Fostion, appellant, challenges the sufficiency of the evidence supporting his conviction. Specifically, he contends that the State failed to prove he possessed specific intent to damage the property and that he acted with malice. *See Shell v. State*, 307 Md. 46, 65 (1986) (noting that to prove the offense of malicious destruction of property, the State must show that the defendant had “both a deliberate intention to injure the property of another and malice”).

In analyzing the sufficiency of the evidence admitted at a bench trial to sustain a defendant’s convictions, “we ‘review the case on both the law and the evidence,’ but will not ‘set aside the judgement . . . on the evidence unless clearly erroneous,’ giving due regard to the trial court’s opportunity to judge the credibility of the witnesses.” *Wilson v. State*, 319 Md. 530, 535 (1990) (quoting Maryland Rule 8–131(c)).

Viewing “the evidence in the light most favorable to the State,” *see Wilson*, 319 Md. at 535–36, as we are required to do, we conclude that the State presented sufficient evidence to support Fostion’s conviction. The trial court could reasonably find that Fostion intended to damage the victim’s car and acted with malice based on the victim’s testimony that Fostion pounded on the window of her vehicle in an attempt to fight one of the occupants and that, when that occupant pepper sprayed him, Fostion grabbed a wrench and struck the vehicle at least three separate times, shattering both of the driver’s side windows and “demolishing” the rear driver’s side door. *See Jones v. State*, 213 Md. App. 208, 218 (2013) (“In determining a defendant’s intent, the trier of fact can infer the requisite intent from surrounding circumstances such as the accused’s acts, conduct and words.” (internal

quotation marks and citation omitted)); *In re: Daniel S.*, 103 Md. App. 282, 286-88 (1995) (finding sufficient circumstantial evidence that the appellants acted deliberately and with malice, and therefore to support their convictions for malicious destruction of property, when they pounded bottle caps into a kitchen table, carved out pieces of the linoleum floor, and ground cigarettes into the linoleum floor).

**JUDGMENT OF THE CIRCUIT
COURT FOR WASHINGTON
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**