

Circuit Court for Prince George's County  
Case No. C-16-CR-23-001988

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 531

September Term, 2024

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KENNETH JEROME DOUGLAS

v.

STATE OF MARYLAND

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Tang,  
Albright,  
Hotten, Michele D.,  
(Senior Judge, Specially Assigned)

JJ.

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Opinion by Albright, J.

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Filed: July 21, 2026

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Kenneth Jerome Douglas, Appellant, was tried by a jury in the Circuit Court for Prince George’s County on charges arising out of a carjacking that occurred on June 26, 2023. The jury found Mr. Douglas guilty of carjacking, theft, motor vehicle theft, and rogue and vagabond. The jury acquitted Mr. Douglas of armed carjacking, second-degree assault, and possession of a dangerous weapon with the intent to injure. On appeal, Mr. Douglas raises one issue for our consideration,<sup>1</sup> which we rephrase as:

Did the trial court err in accepting a legally inconsistent verdict and in denying Mr. Douglas’s new trial motion made on the same basis?

For the following reasons, we answer this question “no,” and affirm the judgment of the circuit court.

### **BACKGROUND**

On the evening of June 26, 2023, Wendy Maldonado drove towards home with her mother, Leticia Saavedra, when another car collided with them on Bladensburg Road. After exiting their vehicle, Ms. Maldonado and Ms. Saavedra saw the other driver, Mr. Douglas, walking towards them with a knife in his hand. Mr. Douglas then got into Ms. Maldonado’s car and began to drive away. At that point, police arrived on the scene.

On July 2, 2023, a grand jury indicted Mr. Douglas for armed carjacking, carjacking, unlawful taking of a motor vehicle, rogue and vagabond, first-degree assault

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<sup>1</sup> Mr. Douglas presented his question as:

Did the trial court err in denying Appellant’s motion for legally inconsistent verdict?

as to Ms. Maldonado, first-degree assault as to Ms. Saavedra, second-degree assault as to Ms. Maldonado, second-degree assault as to Ms. Saavedra, wearing and carrying a dangerous weapon with intent to injure, and theft.

Mr. Douglas was tried in front of a jury on November 29–30, 2024. In addition to Ms. Maldonado and Ms. Saavedra, Officer Charles and Detective Ayoub of the Prince George’s County Police Department testified for the State. Mr. Douglas testified in his own defense. Following the conclusion of evidence, the court provided instructions to the jury to guide deliberations.

With regards to the charge of second-degree assault, the court instructed the jury as follows:

Assault is intentionally frightening another person with a threat of immediate physical harm. In order to convict the Defendant of assault, the State must prove first that the Defendant committed an act with the intent to place Wendy Maldonado in fear of immediate physical harm.

Second, that the Defendant had the apparent ability at that time to bring about physical harm.

Third, that . . . Ms. Maldonado reasonably feared immediate physical harm.

And fourth, that the Defendant’s actions were not legally justified.

And just to clarify, there are two counts of second-degree assault with respect to each victim in this -- alleged victim in this case. The first is Wendy Maldonado. The second is her mother . . . , Leticia Saavedra.

So again, there are two second degree assault charges in this case that you'll have to consider, and this instruction applies to each of them.

Regarding the carjacking charge, the jury was instructed as follows,

In order to convict the Defendant of carjacking, the State must prove: one, that the Defendant obtained unauthorized possession or control of a motor vehicle; two, that the motor vehicle was in the actual possession of another person at that time; and three, that the Defendant used force or violence against that person, or put that person in fear through intimidation or threat

of force or violence in order to obtain the motor vehicle.

A person is in actual possession of a vehicle when that person has control or possession of the vehicle, and is in the vehicle or in the immediate vicinity of the vehicle.

The jury ultimately found Mr. Douglas guilty of carjacking, theft, motor vehicle theft, and rogue and vagabond. The jury acquitted Mr. Douglas of armed carjacking, second-degree assault as to Ms. Maldonado, second-degree assault as to Ms. Saavedra, and possession of a dangerous weapon with the intent to injure.<sup>2</sup> After the verdict was read, Mr. Douglas objected based upon inconsistency, arguing that “there was no second-degree assault finding and there was no intent to injure finding. So there’s no finding in terms of a use of force or any type of threat or intimidation to sustain the carjacking verdict.” The court noted the objection but declined to send the jury back to deliberate further.

Following the conclusion of the trial, Mr. Douglas moved for a new trial, once again alleging an inconsistent verdict. Therein, Mr. Douglas contended, among other things, that the trial court had erred in accepting the jury’s return of a legally inconsistent verdict in which he had been acquitted of second-degree assault and found guilty of carjacking. Mr. Douglas argued that both carjacking and the intent to frighten modality of second-degree assault require a finding that the defendant placed the victim in fear

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<sup>2</sup> Prior to the verdict, the court granted Mr. Douglas’s Motion for Judgment of Acquittal with regards to the first-degree assault charges, against both Ms. Maldonado and Ms. Saavedra, based upon a lack of evidence that Mr. Douglas attempted to inflict serious bodily injury on them.

through threat of force, making it legally inconsistent to find Mr. Douglas guilty of carjacking but not guilty of assault.

At the beginning of the sentencing hearing, the court denied Mr. Douglas's new trial motion but did not specifically address Mr. Douglas's inconsistency argument. The court ultimately sentenced Mr. Douglas to a total of thirty years of incarceration, all but ten years suspended, with five years of probation. This appeal followed.

### DISCUSSION

Mr. Douglas presents only one issue for our consideration. He contends, as was argued in his new trial motion, that the trial court erred by accepting a legally inconsistent verdict. Mr. Douglas argues that, under the required evidence test adapted from *Blockburger v. United States*, 284 U.S. 299 (1932), second-degree assault is a lesser included offense of carjacking such that a verdict of guilty on carjacking is legally inconsistent with a verdict of not guilty on second-degree assault. Mr. Douglas equates the element of assault that requires placing the victim in fear of physical harm with the element of carjacking that requires putting the victim in fear through intimidation, such that each of the elements of assault is contained within carjacking.

The State, also relying upon the required evidence test, responds that the guilty verdict as to carjacking is not legally inconsistent with the acquittal on second-degree assault because carjacking does not require the jury to find that the victim was in reasonable apprehension of physical harm, as is required for the intent-to-frighten modality of assault.

A verdict in a criminal case can be inconsistent in two ways: factually or legally. Factually inconsistent verdicts, which occur when “the charges have common facts but distinct legal elements and a jury acquits a defendant of one charge, but convicts him or her on another charge[,]” are permissible in criminal trials. *McNeal v. State*, 426 Md. 455, 458 & 462 (2012) (holding that factually inconsistent verdicts are permissible so as to “preserve the historic role of the jury as the sole fact-finder in criminal jury trials”). Alternatively, legally inconsistent verdicts, which occur when “the jury acts contrary to the instructions of the trial judge with regard to the proper application of the law,” are impermissible and cannot stand in a criminal trial. *Id.* at 458.

One example of a legally inconsistent verdict is where “a defendant is convicted of an offense but acquitted of another offense that has the same elements as the offense of which the defendant was convicted.” *Williams v. State*, 478 Md. 99, 105 (2022). Or, “[i]n other words, verdicts are legally inconsistent where a defendant is acquitted of a ‘lesser included’ crime embraced within a conviction for a greater offense.” *Id.* (cleaned up). We review the question of legally inconsistent verdicts de novo. *Teixeira v. State*, 213 Md. App. 664, 668 (2013).

In this case, we must determine whether the jury’s guilty verdict as to carjacking is legally inconsistent with a not-guilty verdict as to second-degree assault. We must then determine whether the trial court abused its discretion in denying a new trial motion based on the jury having allegedly returned inconsistent verdicts.

Several cases are instructive on the governing framework regarding legally inconsistent verdicts. The doctrine originated in *Price v. State*, 405 Md. 10 (2008). There, the Supreme Court of Maryland abandoned its prior practice of permitting inconsistent criminal verdicts and held that a defendant who timely objects before the jury is discharged is entitled to relief from an inconsistent verdict. *Id.* at 28–29. Although the Court did not expressly distinguish between legally and factually inconsistent verdicts, the inconsistency there was legal in nature. *Id.* at 15–16. In his concurring opinion, Judge Harrell explained that a verdict is legally inconsistent when “an acquittal on one charge is conclusive as to an element which is necessary to and inherent in a charge on which a conviction has occurred.” *Id.* at 35–38 (Harrell, J., concurring). Four years later, in *McNeal v. State*, 426 Md. 455 (2012), the Court adopted Judge Harrell's framework from *Price* and re-affirmed the prohibition against legally inconsistent verdicts, while clarifying that factually inconsistent verdicts are permissible. *McNeal*, 426 Md. at 458–59. The Court explained that legally inconsistent verdicts occur when a jury convicts a defendant of one offense while acquitting the defendant of another offense that constitutes an essential element or lesser included offense of the crime of conviction. *Id.* at 458 & n.1.

Later, in *State v. Stewart*, 464 Md. 296 (2019), the Court issued a fractured decision that produced no majority opinion concerning the application of the legally inconsistent verdict doctrine. A three-judge plurality questioned whether Maryland should continue recognizing the doctrine at all, while five judges agreed that *Price* and

*McNeal* remained controlling. *Id.* at 301–02. The Court, however, failed to produce a majority as to whether intent-to-frighten second-degree assault is a lesser included offense of robbery or how the doctrine should apply to the facts presented. *Id.* Thus, although *Stewart* left intact the rule announced in *Price* and *McNeal*, it did not establish a binding precedent regarding the lesser-included-offense issue addressed in that case. *See State v. Falcon*, 451 Md. 138, 162 (2017) (explaining that in determining the precedential significance of a case without a majority opinion, a proposition becomes binding when it “garner[s] the support of four Judges”).

Finally, the Supreme Court clarified the governing analysis in *Williams v. State*, 478 Md. 99 (2022). Recognizing the fractured nature of *Stewart*, the Court in *Williams* explained that *Stewart* “did not undermine or abrogate” the analysis established in *McNeal*. *Id.* at 122. The Court reaffirmed that, in determining whether verdicts are legally inconsistent, a reviewing court compares the elements of the acquitted and convicted offenses as instructed to the jury—not the particular facts, charging documents, or evidence presented at trial—to determine whether the acquitted offense is a lesser included offense of the convicted offense. *Id.* If the acquitted offense contains an element not required for the offense of conviction, the verdicts are not legally inconsistent because it is legally possible for the jury to acquit on one count while convicting on the other.

*Williams* therefore provides the governing framework for evaluating claims of legal inconsistency—that courts must identify the specific offenses submitted to the jury,

determine the accuracy of the instructions presented, and then apply the required evidence test to determine whether the convicted offense necessarily subsumes the acquitted offense.

Here, as there is no dispute that the jury was provided with accurate pattern instructions on both carjacking and assault, we need only examine the elements of the offenses themselves.

To determine whether one charge is a lesser-included offense of another, our courts use the required evidence test adapted from *Blockburger v. United States*, 284 U.S. 299 (1932). *Williams*, 478 Md. at 126. “Under the required evidence test—also known as the same evidence test, Blockburger test, or elements test—Crime A is a lesser-included offense of Crime B where all of the elements of Crime A are included in Crime B, so that only Crime B contains a distinct element.” *Id.* (cleaned up). We consider only the elements of each charge, with no examination of the facts or circumstances of the case at hand. *Id.* at 124.

Applying the required evidence test to the case at hand requires a comparison between the elements of carjacking and the elements of the intent-to-frighten modality of second-degree assault. Both sides concede, and we agree, that carjacking contains at least one element not contained in second-degree assault. We therefore turn our analysis to whether second-degree assault contains any elements not found in carjacking. We find that it does.

The pattern jury instruction for carjacking, MPJI 4:04, lists its elements as

- (1) that the defendant obtained unauthorized possession or control of a motor vehicle;
- (2) that the motor vehicle was in the actual possession of another person at that time; and
- (3) that the defendant *used force or violence against that person or put that person in fear, through intimidation or threat of force or violence*, in order to obtain the motor vehicle. A person is in actual possession of a vehicle when that person has control or possession of the vehicle and is in the vehicle or in the immediate vicinity of the vehicle.

MPJI 4:04 (emphasis added).

Per the pattern instruction for the intent-to-frighten modality of assault, MPJI 4:01, the elements are

- (1) that the defendant committed an act with the intent to place [the victim] in fear of immediate [offensive physical contact] [physical harm];
- (2) that the defendant had the apparent ability, at that time, to bring about [offensive physical contact] [physical harm]; and
- (3) that [the victim] reasonably feared immediate [offensive physical contact] [physical harm]; [and]
- [(4) that the defendant's actions were not legally justified.]

MPJI 4:01.

Upon a review of the elements, we agree with the State that second-degree assault of the intent-to-frighten modality contains elements not required to prove carjacking. Although not a majority opinion, Justice Watts's opinion in *Stewart*, reasoned that although robbery requires proof that the defendant took property through force or threat of force, it does not necessarily require proof of the distinct elements required for intent-to-frighten assault. 464 Md. at 329–30. Specifically, intent-to-frighten assault requires proof that the defendant acted with the intent to place the victim in fear of immediate

physical harm, that the defendant had the apparent ability at the time to bring about that harm, and that the victim reasonably feared immediate physical harm. *Id.* Justice Watts reasoned that a defendant could commit robbery through actual force or violence without intending to frighten the victim or causing the victim to experience reasonable fear of immediate physical harm. *Id.* Because robbery does not invariably require proof of every element of intent-to-frighten assault, Justice Watts concluded that second-degree assault was not a lesser-included offense of robbery and that the verdicts were not legally inconsistent. *Id.*

The same logic applies here. Even assuming Mr. Douglas is correct that the “put [the victim] in fear, through intimidation or threat of force or violence” portion of the third element of carjacking encompasses the first three elements of second-degree assault, that is not the only way to prove carjacking. Like robbery as discussed in *Stewart*, here, a defendant could commit carjacking through use of force or violence without an intent to frighten the victim or cause the victim to experience reasonable fear of immediate physical harm. Therefore, second-degree assault of the intent to frighten modality does include elements not required to prove carjacking. Further, because our analysis rests solely on the elements of the relevant offenses without consideration of the facts, it does not matter whether it was logical in this case for the jury to find Mr. Douglas guilty of carjacking by use of threat or force as opposed to the other ways of proving carjacking’s third element. Second-degree assault includes elements not found in carjacking, and therefore is not a lesser-included offense.

In an attempt to overcome this, Mr. Douglas points to language from *Spitzinger v. State*, 340 Md. 114, 127 n.4 (1995), in which the court referred to carjacking’s “underlying offenses of robbery, theft, and assault.” We remain unpersuaded by this argument, as *Spitzinger* dealt with merger of sentences, and the relevant footnote focused on the General Assembly’s stated intent to allow a consecutive sentence for armed carjacking or carjacking, not on whether the underlying offenses were lesser-included offenses. Further, the relevant language in *Spitzinger* was dicta and not pertinent to the court’s holding in the case.

As we have determined that the intent-to-frighten modality of second-degree assault is not a lesser-included offense of carjacking, we further find that there was no legal inconsistency in finding Mr. Douglas guilty of carjacking and not guilty of second-degree assault. The circuit court did not err in denying the motion for a new trial.

**JUDGMENT OF THE CIRCUIT COURT  
FOR PRINCE GEORGE’S COUNTY  
AFFIRMED; COSTS TO BE PAID BY  
APPELLANT.**