Circuit Court for Baltimore City
Case No.: 122223019

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 638

September Term, 2023

DEAN REESE

v.

STATE OF MARYLAND

Zic,
Albright,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: February 28, 2025

* 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 Maryland Rule 1-104(a)(2)(B).

On the evening of June 2, 2022, two men entered a 7-Eleven, robbed the store's clerk at gunpoint, and fled. On May 24, 2023, following trial in the Circuit Court for Baltimore City, a jury found Dean Reese, the appellant, guilty of armed robbery, conspiracy to commit robbery, first-degree assault, conspiracy to commit first-degree assault, use of a firearm in a crime of violence, conspiracy to commit use of a firearm in a crime of violence, and unlawful possession of a firearm by a prohibited person, all in relation to that robbery. That same day, the court sentenced him to a net total of 50 years' imprisonment for those offenses.[1]

Thereafter, Mr. Reese noted a direct appeal to this Court, raising the following questions for our review:

1. Did the trial court err in denying Mr. Reese's motion for mistrial and [dismissal of] defense counsel[, which motions were] made by defense counsel [on the basis that] an actual or serious potential conflict of interest [ ] had developed between [Mr. Reese] and his defense counsel?

2. Was the evidence [ ] insufficient to support a finding by any rational trier of fact that Mr. Reese was guilty of the crimes for which he was convicted, including robbery with a deadly weapon, conspiracy to commit robbery with a deadly weapon, use of a firearm in a crime of violence and possession of a firearm as a prohibited person beyond a reasonable doubt?

[1] Specifically, the court sentenced Mr. Reese as follows: 20 years' imprisonment for armed robbery, 20 concurrent years for conspiracy to commit armed robbery, 20 consecutive years for use of a firearm in a crime of violence, and 10 consecutive years for unlawful possession of a firearm by a prohibited person. The court merged the remaining convictions for sentencing.

For the reasons below, we answer these questions in the negative, and therefore, we shall affirm the judgment of the circuit court.

BACKGROUND

As noted earlier, on June 2, 2022, two men entered a 7-Eleven and robbed the store's clerk at gunpoint. Video surveillance footage of the hold-up admitted at trial showed, among other things, one of the assailants removing cash from the cash registers and taking cigarettes before both fled the store.[2]

A GPS tracking device contained in a bundle of cash removed from the 7-Eleven alerted a police detective that the tracker had gone active. Thereafter, the detective tracked the GPS device in real time on his computer. To the detective, it appeared that the device was in a moving car. The detective confirmed that there had been a robbery at the 7-Eleven and alerted patrol officers to the situation. He directed them to the intersection of Bayonne Avenue and White Avenue where the GPS device had come to a stop. The patrol officers found the GPS device on the ground in the grass near the intersection which was about a half mile from the 7-Eleven. The GPS device was damaged and there were pieces of dollar bills scattered around it. Mr. Reese's fingerprints were found on the remains of the GPS device.

Mr. Reese testified in his own defense and denied any participation in the robbery at the 7-Eleven. He said that, on the night of the robbery, he had been walking to a bar

[2] Mr. Reese was not identified by anyone as being depicted in the video. The individual in the video was identified by police as Roy Adams. Mr. Adams is depicted in the video taking the money and cigarettes while the other person crouches nearby.

when he saw what appeared to be money on the ground. He picked up the money, only to find out that it had holes in it and a piece of plastic attached to it. He then dropped the cash and plastic and went to the bar.

We shall relate additional facts as they become germane to our discussion below.

DISCUSSION

I. Motion for Mistrial Based on Conflict of Interest

Mr. Reese's trial lasted three days. On the first day of trial, May 22, 2023, the court heard a motion made by Mr. Reese to discharge his counsel because Mr. Reese disagreed with counsel's advice. Mr. Reese ultimately withdrew that request. Jury selection then began, and a jury was empaneled and sworn. On the second day of trial, May 23, 2023, the State and the defense presented their evidence. Remaining for the third day of trial, May 24, 2023, were, inter alia, jury instructions, closing arguments, and jury deliberations.

At the outset of the third day of trial, counsel for Mr. Reese moved for a mistrial, and to be removed as Mr. Reese's counsel, on the basis that a conflict between he and Mr. Reese had arisen. Counsel explained to the court that he (counsel) had been caught by courthouse security with 272 Suboxone[3] strips concealed in a pair of pants that had been given to him by Mr. Reese's sister for Mr. Reese to wear to court. Counsel

[3] Suboxone is a medicine used to treat opioid dependence. *Suboxone | NDA #022410*, U.S. FOOD & DRUG ADMIN. (03/13/2023 label) https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/022410s049lbl.pdf.

explained that he (counsel) had been detained and questioned about the concealed drugs for an hour and a half before he was eventually released.

Counsel said he had been put "in a position where it is sort of a conflict because I could end up being a witness against [Mr. Reese] and his sister at some future point" were they to be criminally prosecuted because of the concealment of the Suboxone strips. Counsel explained that, in light of the fact that Mr. Reese had moved to remove him as counsel two days earlier, coupled with the Suboxone situation, if Mr. Reese were to not prevail at trial, someone in the future might "come back and say, gosh, maybe you weren't fighting hard enough for him because you were upset with him[.]"

The court denied counsel's requests to be relieved of his representation of Mr. Reese and to declare a mistrial. The court noted that no one knew whether Mr. Reese had any involvement in, or knowledge of, concealing the Suboxone. The court then said:

> You are an attorney. You're supposed to represent your client zealously. As far as we know now, there is no conflict.
>
> Yes, we did go through him wanting to fire you initially. We went through that. It sounded like it was a misunderstanding. That involved the stipulation to the conviction and the fingerprinting which was resolved. You have tried the entire case. All that is left is closing argument and the instructions. So as an attorney who took an oath when you were sworn in and a professional, I don't understand why you can't give a zealous argument on behalf of your client. And I think that we should proceed.
>
> If there are other issues that come up along the way, then we can deal with them or whatever judge or whatever -- whoever can deal with them when they happen.

The court then asked Mr. Reese if he wished to proceed with the rest of the trial represented by counsel or if he wished for a mistrial to be granted which would result in a

postponement followed by a new trial. Mr. Reese chose to proceed with counsel and the court acquiesced, as follows:

THE COURT:	So really, Mr. Reese, what I'm saying to you is I think we should proceed with the instructions and the closing arguments. Your attorney is requesting a mistrial as I said, at which time the case will get postponed for another day. So your options are to proceed or get the mistrial.
[MR. REESE]:	I'm trying to proceed.
THE COURT:	You wish to proceed?
[MR. REESE]:	Yes.
THE COURT:	All right. Despite what you heard [defense counsel] just stating?
[MR. REESE]:	Yes.
THE COURT:	We're going to proceed. All right. We're going to get the jury.

On appeal, Mr. Reese claims that the foregoing situation created an "actual or serious potential" conflict of interest which was brought to the attention of the court during trial. He further claims that, in such circumstances, prejudice is presumed and the conflict is non-waivable. As a result, notwithstanding that he asserted at trial that he wanted to "proceed" with his current lawyer, Mr. Reese now claims that the trial court erred in not declaring a mistrial and in not relieving counsel of his representation of Mr. Reese. We disagree.

The Sixth Amendment and Article 21 of the Maryland Declaration of Rights, guarantees the right to counsel which includes the right to conflict-free counsel. *Lettley v. State*, 358 Md. 26, 33–34 (2000). "A defense attorney's representation must be untrammeled and unimpaired, unrestrained by commitments to others; counsel's loyalty

must be undivided, leaving counsel free from any conflict of interest." *Taylor v. State*, 428 Md. 386, 409 (2012) (cleaned up). Though not always coextensive with the Sixth Amendment, ethical rules preclude representation when "there is a significant risk" that counsel's representation will be "materially limited . . . by a personal interest of the attorney." Md. Rule 19-301.7(a)(2).

When a trial court is notified about the possibility of a conflict of interest before or during trial, the court "must take adequate steps to ascertain whether the conflict[] warrant[s] separate counsel." *Wheat v. United States*, 486 U.S. 153, 160 (1988).[4] Under those circumstances, "trial courts . . . have an independent duty to ensure that criminal defendants receive a trial that is fair and does not contravene the Sixth Amendment." *Id*.

[4] When a claim involving a potential conflict of interest is not timely brought to the trial court's attention, and is raised in a collateral proceeding, the defendant has the burden of establishing that an actual conflict of interest arose. In order to establish that an actual conflict of interest arose, the defendant must show that the conflict "adversely affected [the] lawyer's performance[.]" *Cuyler v. Sullivan*, 446 U.S. 335, 350 (1980); *Strickland v. Washington*, 466 U.S. 668, 692 (1984) (cleaned up); *Taylor*, 428 Md. at 398. Determining whether a conflict "affected the representation" requires consideration of the three-part test adopted in *Taylor*, 428 Md. at 415–16. Under that test, a conflict adversely affected the lawyer's performance, and is therefore an actual conflict of interest, if the client can establish:

> (1) a plausible alternative defense strategy or tactic that [] defense counsel might have pursued;
>
> (2) that the alternative strategy or tactic was objectively reasonable under the facts of the case known to the attorney; and
>
> (3) that the defense counsel's failure to pursue that strategy or tactic was linked to the actual conflict.

Id. at 416 (cleaned up).

at 161. A trial court has options in how to fulfill this duty, but failure to do so leaves none:

> The trial court is required to either appoint separate counsel, or to take adequate steps to ascertain whether the risk was too remote to warrant separate counsel. If the trial court fails to take adequate steps or improperly requires joint or dual representation, then reversal is automatic, without a showing of prejudice, or adverse effect upon the representation.

Lettley, 358 Md. at 39 (cleaned up).

A "trial court cannot vitiate the right to counsel of choice without first scrutinizing closely the basis for the claim." *State v. Goldsberry*, 419 Md. 100, 123 (2011) (cleaned up). In *Goldsberry*, the Supreme Court of Maryland addressed what is required of a trial court in making "the important and weighty assessment presented by a choice of counsel issue." *Id*. at 121. In *Goldsberry*, the Court recognized that the baseline considerations for such an assessment are founded on the Supreme Court's pronouncement that the "proper balance is struck when the [trial] court recognizes a presumption in favor of the defendant's counsel of choice, which may be overcome not only by a demonstration of actual conflict but by a showing of a serious potential for conflict." *Id*. at 120 (cleaned up).

A criminal defendant can waive an attorney's conflict of interest. *Holloway v. Arkansas*, 435 U.S. 475, 483 n.5. (1978). "[W]here the potential conflict is in fact an actual one, only inquiry will enable the judge to avoid all possibility of reversal by either seeking waiver or replacing a conflicting attorney." *Duvall v. State*, 399 Md. 210, 235 (quoting *Mickens v. Taylor*, 535 U.S. 162, 173 (2002) (cleaned up)). "Although, at times, a defendant may waive his right to conflict-free counsel without jeopardizing the

propriety of the trial . . . , a defendant's waiver of the conflict is not always sufficient to cure the conflict." *Alexis v. State*, 209 Md. App. 630, 661 (2013), *aff'd*, 437 Md. 457 (2014) (cleaned up). "[W]here a court justifiably finds an actual conflict of interest, there can be no doubt that it may decline a proffer of waiver, and insist that defendants be separately represented." *Wheat*, 486 U.S. at 162. Courts are

> allowed substantial latitude in refusing waivers of conflicts of interest not only in those rare cases where an actual conflict may be demonstrated before trial, but in the more common cases where a potential for conflict exists which may or may not burgeon into an actual conflict as the trial progresses.

Id. at 163.

A circuit court's decision regarding the disqualification of counsel is reviewed for an abuse of discretion. *Alexis v. State*, 437 Md. 457, 475–77 (2014). A court's decision is an abuse of discretion when it is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Gray v. State*, 388 Md. 366, 383 (2005) (cleaned up). "Because we give such deference to a trial court's decision under the abuse of discretion standard of review, it is well established that the exercise of discretion ordinarily will not be disturbed by an appellate court." *Alexis*, 437 Md. at 478 (cleaned up).

Accordingly, in this case, we must determine whether the trial court abused its discretion when it determined that the alleged conflict of interest in this case was not so serious that it could not be legitimately waived.[5] The trial court heard from Mr. Reese's

[5] Mr. Reese makes no suggestion that his on-the-record waiver, of whatever conflict of interest may have existed, was not done knowingly and intelligently.

counsel about his concerns stemming from the conflict of interest wherein counsel stated that, in the future, he might have to testify against his client in a potential criminal case, and that the Suboxone situation, coupled with the fact that Mr. Reese had sought to discharge counsel two days earlier, could create the situation where someone in the future might "come back and say, gosh, maybe you weren't fighting hard enough for him because you were upset with him[.]"

The court initially noted that counsel was an attorney who was ethically bound to "represent [his] client zealously[.]" The court then explained the situation that had occurred a few days earlier when Mr. Reese sought to discharge counsel over a misunderstanding which had since been resolved. The court noted that no one knew whether Mr. Reese had any involvement in, or knowledge of, concealing the Suboxone. Importantly, the court observed that the putative conflict arose on the last day of trial where counsel's only remaining obligation was closing argument and participation in jury instructions. Finally, the court remained open to address any "other issues that come up along the way."

From that standpoint, while the court expressed its desire to proceed with the trial with counsel representing Mr. Reese, the court left the decision, about whether to proceed with counsel or accept a mistrial in order to obtain new counsel, up to Mr. Reese personally. Mr. Reese, aware of all that had transpired to that point and aware of his options, chose to proceed with trial represented by counsel.

We do not find the trial court's actions to be "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems

minimally acceptable." *Gray*, 388 Md. at 383 (cleaned up). The court's implicit finding that the conflict that arose in this case was not of the sort that it could not be waived seems to us to be reasonable under the circumstances present here where the conflict was speculative and arose on the last day of trial where there was little left to be done.[6] In our view, when the court elected to accept Mr. Reese's decision to keep his lawyer and proceed with the trial, the court respected the "presumption in favor of the defendant's counsel of choice"[7] and implicitly determined that Mr. Reese's choice was not overcome by the conflict. Under the circumstances of this case, we therefore discern no abuse of discretion in the trial court's accepting Mr. Reese's choice.

II. Sufficiency of Evidence

Mr. Reese next claims that the evidence of his criminal agency is legally insufficient to support his convictions.[8] Mr. Reese asserts that the fingerprint evidence—which he characterizes as "a single one of his fingerprints" found on a "piece of plastic connected with some mangled bills found on the ground a few miles" from the location

[6] Mr. Reese makes no suggestion that the conflict in this case had any impact on counsel's actions. Rather, as noted earlier, Mr. Reese asserts that the conflict in this case was so severe that prejudice is presumed. Our holding that the conflict in this case was not so severe that it could not be waived also removes any possibility that prejudice would be presumed even if the conflict had not been waived.

[7] *Alexis*, 437 Md. at 479–80 (cleaned up).

[8] Evidence of criminal agency is used to establish a criminal defendant's participation in an offense. To secure a conviction, the State must prove not only the elements of a crime beyond a reasonable doubt, but criminal agency as well. *State v. Simms*, 420 Md. 705, 722 (2011). Proof beyond a reasonable doubt of the defendant's presence at the scene suffices as proof of criminal agency. *Id.*

of the robbery—was required to be corroborated and was not. He asserts that, because the sole evidence linking him to the robbery of the 7-Eleven was uncorroborated, the evidence is legally insufficient.

The State claims that this specific insufficiency-of-the evidence argument is not preserved, Mr. Reese having failed to raise it below. The State also asserts that Mr. Reese waived, rather than merely forfeited, this argument because Mr. Reese did concede that there was "very little" evidence of his criminal agency.

A. Standard of Review

The standard of review for determining whether there is sufficient evidence to support a conviction 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 beyond a reasonable doubt." *State v. Coleman*, 423 Md. 666, 672 (2011) (cleaned up); *see also Perry v. State*, 229 Md. App. 687, 696 (2016). Our role as an appellate court focuses the scope of our review:

> The purpose is not to undertake a review of the record that would amount to, in essence, a retrial of the case. Rather, because the finder of fact has the unique opportunity to view the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence.

Derr v. State, 434 Md. 88, 129 (2013), *cert. denied*, 573 U.S. 903 (2014) (cleaned up). Our concern is not whether the verdict accords with "what appears to be the weight of the evidence." *State v. Albrecht*, 336 Md. 475, 478–79 (1994). Rather, our sole concern is

> whether the verdicts were supported with sufficient evidence—that is, evidence that either showed directly, or circumstantially, or supported a

> rational inference of facts which could fairly convince a trier of fact of the defendant's guilt of the offenses charged beyond a reasonable doubt.

Id. "[W]e are constrained to view the evidence in the light most favorable to the verdict." *Johnson v. State*, 156 Md. App. 694, 715–16 (2004). In considering the evidence in the record, the question is not "whether the evidence *should have* or *probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded any rational fact finder." *Fraidin v. State*, 85 Md. App. 231, 241 (1991) (emphasis in original).

"Maryland has long held that there is no difference between direct and circumstantial evidence." *Hebron v. State*, 331 Md. 219, 226 (1993). A conviction may be sustained on the basis of circumstantial evidence so long as the circumstances, taken together, support an inference of guilt beyond a reasonable doubt. *Taylor v. State*, 346 Md. 452, 458 (1997). Such inferences "must rest upon more than mere speculation or conjecture." *Smith v. State*, 415 Md. 174, 185 (2010). "We do not second-guess the jury's determination where there are competing rational inferences available." *Id*. at 183.

The Supreme Court of Maryland has "been adamant" that the issue of the sufficiency of the evidence is not preserved for appeal if no motion for judgment of acquittal is made at trial, or, if made, not made with particularity. *Wallace v. State*, 237 Md. App. 415, 432 (2018) (citing *State v. Lyles*, 308 Md. 129, 135 (1986)).

> A criminal defendant who moves for judgment of acquittal is required by Md. Rule 4-324(a) to state with particularity all reasons why the motion should be granted, and is not entitled to appellate review of reasons stated for the first time on appeal.

Starr v. State, 405 Md. 293, 302 (2008) (cleaned up). "On appeal from a jury trial, appellate review of sufficiency of evidence is available only when the defendant moves for judgment of acquittal at the close of all the evidence and argues precisely the ways in which the evidence is lacking." *Hobby v. State*, 436 Md. 526, 540 (2014) (cleaned up). An argument challenging the sufficiency of the evidence is waived on appeal if it was not made at trial. *Id*.

B. Mr. Reese's Motion for Judgment of Acquittal

At the close of the State's case, Mr. Reese moved for judgment of acquittal on the basis that the evidence was legally insufficient. When doing so, however, he never made the argument that he now makes on appeal, i.e., that the evidence is insufficient to establish his criminal agency. Instead, he argued that there was no evidence that the store clerk had anything taken from him as alleged in certain counts of the indictment, that there was no evidence of the value of the items that were taken from the 7-Eleven and that there was insufficient proof of the identity of Mr. Reese's co-conspirator.

At the close of all of the evidence, Mr. Reese argued that there was insufficient evidence to support the counts charging conspiracy and assault. Specifically, he argued that there was no evidence of a criminal agreement to support the conspiracy charge, that there was insufficient proof of the co-conspirator's identity, and that there was insufficient evidence of physical injury and/or that a firearm was used to support the

assault charges. He then commented that those were the only points he could argue despite there being "very little" evidence regarding his client's identity.

C. Analysis

We agree with the State that Mr. Reese did not preserve the sufficiency of the evidence argument he now makes on appeal (suggesting that the evidence of his criminal agency was legally lacking). In fact, Mr. Reese specifically declined to make that argument at trial when he acknowledged that the arguments he did make were the only ones he could make despite there being "very little" evidence of criminal agency.

Apparently anticipating that this Court might determine that his sufficiency challenge is not preserved for appeal, Mr. Reese invites us, via footnote, to overlook the lack of preservation and review his contention as plain error pursuant to Maryland Rule 8-131. Alternatively, Mr. Reese invites us to entertain on direct appeal a claim that he was denied his right to effective assistance of counsel when his lawyer failed to argue the insufficiency of the evidence on the same grounds he advances on appeal. We decline both of Mr. Reese's invitations.

Maryland Rule 8–131(a) provides that,

> Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court, but the Court may decide such an issue if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal.

Although this Court has discretion to review unpreserved errors pursuant to Maryland Rule 8-131(a), the Maryland Supreme Court has emphasized that appellate courts should "rarely exercise" that discretion because "considerations of both fairness and judicial

efficiency ordinarily require that all challenges that a party desires to make to a trial court's ruling, action, or conduct be presented in the first instance to the trial court[.]" *Ray v. State*, 435 Md. 1, 23 (2013) (cleaned up). A court's discretion to engage in plain error review is constrained by the following limitations: "(1) there must be error (that the defendant did not affirmatively waive); (2) the error must be 'clear and obvious, i.e., not subject to reasonable dispute; and (3) the error must be material, meaning that it affected the outcome of the trial." *Steward v. State*, 218 Md. App. 550, 566 (2014) (cleaned up).

We find that there was no clear and obvious error affecting the outcome of the trial because, as is indicated *infra* in footnote 8, the evidence of Mr. Reese's fingerprint on the stolen GPS device shortly after the robbery was sufficient for a rational juror to find that he was involved in the robbery. Thus, Mr. Reese has not satisfied the threshold burden of proving a plain and material error. *See Steward*, 218 Md. App. at 566. Under the circumstances presented, we decline to overlook the lack of preservation. Moreover, to the extent that Mr. Reese waived—rather than merely forfeited[9]—his argument that the evidence is insufficient to support a finding of his criminal agency, plain error review is

[9] A right is forfeited when the right-holder fails to timely assert that right, whereas a right is waived when the right-holder intentionally relinquishes or abandons a "known" right. *State v. Rich*, 415 Md. 567, 580 (2010) (citing *United States v. Olano*, 507 U.S. 725, 733 (1993)). Mr. Reese intentionally relinquished the right to make this argument—that the evidence was insufficient to support a finding of his criminal agency—when his counsel argued other bases of insufficiency but declined to argue further. This right was known to defense counsel, who acknowledged that the arguments he had made (which did not include insufficient evidence of criminal agency) were "the only ones" he could make, and commented on the lack of evidence "that [Mr. Reese] was involved with any robbery of that store." In noting the existence of a possible argument as to the sufficiency of the evidence to prove Mr. Reese's involvement in the robbery but failing to particularize that argument, Mr. Reese waived the right to do so on appeal.

not available. *See Rich*, 415 Md. at 580 ("Forfeited rights are reviewable for plain error while waived rights are not.").

We also decline to address Mr. Reese's claim that he was denied his Sixth Amendment right to effective assistance of counsel within the meaning of *Strickland*, 466 U.S. 668, and its progeny, when his counsel failed to make the insufficiency of the evidence argument he now makes on appeal for the first time. As the Maryland Supreme Court has repeatedly pointed out, although it is possible for an appellate court to address a claim of ineffective assistance of counsel on direct appeal, "post-conviction proceedings are preferred with respect to ineffective assistance of counsel claims because the trial record rarely reveals why counsel acted or omitted to act, and such proceedings allow for fact-finding and the introduction of testimony and evidence directly related to allegations of the counsel's ineffectiveness." *Bailey v. State*, 464 Md. 685, 704 (2019) (cleaned up).[10]

CONCLUSION

We therefore affirm the judgment of the circuit court.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY

[10] In any event, were we to address the sufficiency of the evidence of Mr. Reese's criminal agency, we would find it legally sufficient. Taken in the light most favorable to the State, the evidence adduced at trial showed that Mr. Reese's fingerprint was found on a GPS tracking device that had minutes earlier been stolen from the 7-Eleven. From that evidence, a rational juror could reasonably draw the inference that Mr. Reese was involved in the robbery of the 7-Eleven. That the evidence may have also supported some other inference, i.e., that Mr. Reese innocently picked up the device believing he had found cash on the ground, is of no import. "Choosing between competing inferences is classic grist for the jury mill." *Cerrato-Molina v. State*, 223 Md. App. 329, 337 (2015).

AFFIRMED. COSTS TO BE PAID BY APPELLANT.

The correction notice(s) for this opinion(s) can be found here:

https://www.mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/0638s23cn.pdf