

Circuit Court for Cecil County
Case No. C-07-CR-23-000906

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 640

September Term, 2024

DAJUAN L. ELLERBE

v.

STATE OF MARYLAND

Wells, C.J.
Ripken,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: November 25, 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 Rule 1-104(a)(2)(B).

A jury in the Circuit Court for Cecil County convicted Dajuan Ellerbe, appellant, of conspiracy to commit home invasion, two counts of reckless endangerment, theft between \$1,500.00 and \$25,000.00, two counts of possession of a firearm by a disqualified person, possession of a rifle by a disqualified person, and illegal possession of ammunition. The court sentenced Ellerbe to a total term of 35 years' imprisonment, with all but 13 years suspended.

In this appeal, Ellerbe presents two questions for our review:

1. Did the trial court abuse its discretion in instructing the jury on the exclusive unexplained possession of recently stolen property?
2. Was the evidence adduced at trial sufficient to sustain the convictions for reckless endangerment?

For reasons to follow, we hold that the trial court did not abuse its discretion in instructing the jury on the exclusive unexplained possession of recently stolen property. We further hold Ellerbe's sufficiency claim was not preserved for our review. Accordingly, we affirm the judgments of the circuit court.

BACKGROUND

On August 7, 2023, two masked men broke into an occupied home in Charlestown and stole a rifle, some personal items, and a safe containing approximately \$15,000.00 in cash. Several weeks later, the police obtained a video recording of what appeared to be the stolen rifle inside the bedroom of a residence in nearby Elkton. Upon searching the residence, the police discovered five occupants, one of whom was Ellerbe. A further search revealed several of the items stolen from the Charlestown home. Ellerbe was thereafter

arrested and charged with home invasion, conspiracy to commit home invasion, burglary, conspiracy to commit burglary, assault, reckless endangerment, theft, and various weapons offenses.

Trial

At trial, Janelle Handy, then 18 years old, testified that, on August 7, 2023, she was staying at the home of a friend, Jay-Lynn Ward, in Charlestown.¹ At the time, Ward lived with her mother and father, her younger sister, and her older brother. The home was a single floor, and Ward’s bedroom, where Handy had spent the night, was situated in a hallway that included her brother’s bedroom and a shared bathroom. At approximately 11:00 a.m. that morning, Handy got up to use the bathroom. Upon opening Ward’s bedroom door, Handy observed “two guys in masks outside the door, like, right in front of [her.]” Both men were wearing sweatpants, track suits, and ski masks. One of the men “was shorter” and “kind of like, stocky, or like, bigger,” while “the other one was, like, taller, and more, like, lanky.” The shorter man was “like, five six,” and the taller man was “like six three at most.” Handy testified that the shorter man “had, like, a gun, at, like his hip,” while the other man “was carrying, like a bag that looked like it had a gun in it.”

Handy testified that, after she opened the bedroom door, the shorter man told her to “get back in the room.” When Handy did not immediately comply, the man pushed her and

¹ During certain portions of the trial transcript, Ms. Ward’s first name is spelled “Jay-Lynn;” however, during Ms. Ward’s direct testimony, the transcript identifies her as “Jalen Marie Ward.” Ellerbe refers to her as “Jay-Lynn,” and the State refers to her as “Jalen.” It is unclear which is the correct spelling, so we defer to Ellerbe’s version.

stated: “[G]et the F back in the room. . . . I’m not fucking playing.” The man then took Handy’s phone, which she had been holding, and closed the bedroom door. Around that time, Ward awoke, and shortly thereafter she called the police.

Jamie Russell, Ward’s mother, testified that she was at home in her bedroom napping with her youngest child when the break-in occurred. After hearing “a noise” coming from one of the home’s bedrooms, Russell exited her bedroom and went into the hallway, where she found Handy, who told Russell she “just got robbed.”

Dylan Sadler, Ward’s older brother, testified that he was at work when the break-in occurred. Upon returning home a short time later, Sadler discovered his bedroom “was ransacked” and several of his belongings were missing, including a rifle, two pairs of sneakers, a belt, jewelry, and a safe containing approximately \$15,000.00 in cash. Sadler subsequently provided a description of the missing items to the police. Sadler testified that, at some point after the robbery, he was on the social media site Snapchat, where he saw his missing rifle in the background of a video posted on an account associated with Dajuan Ellerbe. Sadler testified that he eventually sent the video to the police.

Detective Alyson Jackson of the Cecil County Sheriff’s Office, one of the investigators assigned to the case, testified that, in October 2023, she was contacted by Sadler, who provided her with the video purportedly depicting Sadler’s stolen rifle in the background. After viewing the video, Detective Jackson was able to determine the video had been recorded in the bedroom of a home in Elkton. On October 24, 2023, Detective Jackson executed a search warrant at the Elkton home, where she found Ellerbe and several

other occupants. A further search of the home revealed the following relevant items: a rifle with a serial number matching the one stolen from the Charlestown home; a safe with a serial number matching the one stolen from the Charlestown home; two pairs of sneakers that “appeared to be the same shoes” stolen from the Charlestown home; and two additional firearms.

Detective Jackson testified that she also seized Ellerbe’s cell phone, from which she recovered a series of text messages between Ellerbe and another individual, Shamarr Chandler, “discussing the home invasion.” In those messages, which were admitted into evidence, Ellerbe and Chandler discussed obtaining Sadler’s address and then “stri[k]ing this week” when “everybody leave [sic] for work in the morning.” In another message sent a day before the home invasion, Ellerbe told Chandler that “tomorrow is the big day[.]” The police also recovered, from Ellerbe’s phone, a video recorded at approximately 1:00 p.m. on August 7, 2023, the day of the home invasion. That video, which was admitted into evidence, showed Chandler in Ellerbe’s bedroom along with “a stack of cash” and some of the items allegedly stolen during the home invasion.

Ellerbe testified in his own defense, admitting he and Chandler “had talked about going to the victim Dylan Sadler’s house and stealing some money” but claiming that, at some point, he “kind of stepped back and pretty much decided like this isn’t something that I’d be interested in doing anymore.” Ellerbe testified that neither he nor Chandler participated in the home invasion. As to the items found in his possession, Ellerbe claimed someone contacted Chandler “and said that he got the stuff” and “he was about to be on

his way to him.” Ellerbe stated the individual then came to Ellerbe’s house and “started laying stuff out” and asking if they “wanted anything, like to buy.” Ellerbe admitted he purchased some of the items and allowed the individual to keep other items at the house. Ellerbe testified he was 6’5” tall.

Motion for Judgment of Acquittal – Reckless Endangerment

At the close of the State’s case, defense counsel moved for judgment of acquittal on all charges, including the charge of reckless endangerment. Defense counsel argued the State had failed to prove Ellerbe was one of the two men who broke into the Charlestown home on August 7, 2023. The court denied the motion as to the charge of reckless endangerment. Later, at the close of all evidence, defense counsel renewed the motion, raising the same grounds in support. The court again denied the motion as to the charge of reckless endangerment.

Jury Instruction – Unexplained Possession of Recently Stolen Property

Prior to jury instructions, the State requested that the court give Maryland Criminal Pattern Jury Instruction 4:32.3 – INFERENCE FROM EXCLUSIVE UNEXPLAINED POSSESSION OF RECENTLY STOLEN GOODS. That instruction reads:

Exclusive possession [either alone or with others] of recently stolen property, unless reasonably explained, may be evidence of theft. If you find that the defendant was in possession of the property shortly after it was stolen, and the defendant’s possession is not otherwise explained by the evidence, you may, but are not required to, find the defendant guilty of theft.

Possession means knowingly having the property on one’s person or knowingly having the property within one’s control or at one’s disposal. In deciding whether the defendant’s possession was sufficiently close in time to

the theft to be evidence of participation in the theft, you should consider all the surrounding circumstances, including such factors as the type of property stolen, how the defendant may have come into possession, and the amount of time between the theft and the defendant's possession.

MPJI – Cr 4:32.3.

Defense counsel objected to the instruction, arguing that, for the instruction to be applicable, the evidence must show that the possession of recently stolen property was unexplained. Defense counsel argued the instruction was inapplicable because Ellerbe “gave a reasonable explanation as to how he came into possession of the recently stolen property.” The trial court disagreed and found that it was up to the jury, as the factfinder, to determine the reasonableness of Ellerbe's explanation. Later, during its general instructions, the court instructed the jury on the exclusive unexplained possession of recently stolen property.

Ultimately, the jury convicted Ellerbe of conspiracy to commit home invasion, two counts of reckless endangerment, theft between \$1,500.00 and \$25,000.00, two counts of possession of a firearm by a disqualified person, possession of a rifle by a disqualified person, and illegal possession of ammunition. This timely appeal followed. Additional facts will be supplied as needed below.

DISCUSSION

I. The Court Properly Instructed on Possession of Recently Stolen Goods

Parties' Contentions

Ellerbe contends the trial court erred in instructing the jury on the exclusive unexplained possession of recently stolen property. Ellerbe notes that, in cases in which this Court has held such an instruction was proper, the defendants offered no explanation for their possession of recently stolen goods. Therefore, Ellerbe maintains “it is the presence or absence of an explanation, not the explanation’s reasonableness, that negates the propriety of the theft inference instruction.” Ellerbe insists that because he provided an explanation for his possession of the stolen goods, the instruction was improperly given.

The State argues the trial court properly exercised its discretion in instructing the jury regarding Ellerbe’s possession of recently stolen property. The State contends the reasonableness of Ellerbe’s explanation was a question for the jury and argues that, if the jury believed Ellerbe’s explanation was reasonable, it knew, based on the language of the instruction, to disregard any inference from Ellerbe’s possession of the stolen goods; however, if the jury did not believe the explanation was reasonable, the jury could, but was not required to, infer Ellerbe was guilty of theft. The State further argues that, even if the court abused its discretion in giving the instruction, any error was harmless.

Analysis

Generally, a trial court is required to instruct the jury on the applicable law. *Hollins v. State*, 489 Md. 296, 307–08 (2024). On the other hand, instructions concerning

evidentiary inferences, like the one at issue here, are generally not required. *Id.* at 308. Rather, “a trial court has discretion not to give the instruction ‘even if a party requests’ it ‘and the necessary predicate for such an instruction has been established.’” *Id.* (quoting *Harris v. State*, 458 Md. 370, 405–06 (2018)). Furthermore, “a trial court has no discretion to give an inferential instruction where the facts do not support the inference.” *Id.* at 309. The question here, then, is whether the disputed instruction was supported by the evidence and, if so, whether the trial court abused its discretion in choosing to give the instruction.

We have long held “[p]ossession of recently stolen goods, absent a satisfactory explanation, permits the drawing of an inference . . . that the possessor was the thief . . . or, where the theft was compounded, that the possessor was also the burglar.” *Hall v. State*, 225 Md. App. 72, 81–82 (2015) (citations omitted). “The general rule is that there is an inference of guilt which arises from the possession of recently stolen property.” *Boswell v. State*, 5 Md. App. 571, 576 (1968). “Once the inference arises, the burden is cast upon the possessor of such goods to give a reasonable explanation of how it came into his possession.” *Id.* at 577.

We have also held that where a defendant is found in possession of recently stolen goods and where the defendant subsequently provides an explanation as to how he came into possession of those goods, the credibility of that explanation is to be determined by the factfinder. *See Streat v. State*, 11 Md. App. 543, 548 (1971). As we later explained, “[t]he reasonableness of the explanation given by the [defendant] as to his possession of the [stolen goods], as with all other matters of fact, [is] for the triers of fact to determine.”

Jordan v. State, 24 Md. App. 267, 276 (1975). We expounded on this issue in *Dinkins v. State*, 29 Md. App. 577 (1976):

It is only the unexplained, exclusive possession of recently stolen goods which permits the inference that the possessor is the thief. The mere fact that there is some evidence tending to explain the possession consistent with innocence does not bar the judge in a bench trial from drawing the inference or in a jury trial from instructing the jury on the inference. The trier of fact must weigh the explanation to determine whether it is reasonable or ‘plausible,’ or ‘satisfactory.’ It is not bound to accept or believe any particular explanation any more than it is bound to accept the correctness of the inference.

Id. at 582–83.

We hold the trial court did not abuse its discretion in instructing the jury on the inference from exclusive unexplained possession of recently stolen property. It is undisputed that Ellerbe was in possession of recently stolen goods, which triggered the inference that Ellerbe stole the goods. For that inference to be negated, Ellerbe’s possession needed to be reasonably explained. That is, Ellerbe could not negate the inference by offering *any* explanation; he needed to offer a *reasonable* explanation. And, whether Ellerbe’s explanation was “reasonable” was a matter of fact for the jury to decide. If the jury determined Ellerbe’s explanation was reasonable, then, under the plain language of the instruction, it was not permitted to draw any inference from his exclusive possession of the recently stolen goods. If, however, the jury determined the explanation was not reasonable, then it could, but was not required to, find Ellerbe guilty of theft.

Accordingly, the trial court was not precluded from giving the instruction simply because Ellerbe provided some explanation for his possession of the recently stolen

property. The instruction was otherwise supported by the evidence, and we cannot say that the court abused its discretion in choosing to give the instruction. Accordingly, we affirm.

II. The Evidence Was Sufficient to Sustain the Conviction for Reckless Endangerment.

Parties' Contentions

Ellerbe contends the evidence adduced at trial was insufficient to sustain his convictions for reckless endangerment. Ellerbe notes that, to sustain his convictions, the State needed to show he engaged in conduct that created a substantial risk of death or serious physical injury to another. He argues that, in his case, the evidence did not establish “the degree of risk required to justify the reckless endangerment convictions.” Ellerbe contends “the fact that a person held a gun in the vicinity of two people during a home invasion but did not brandish or fire it is not enough” to sustain the convictions.

The State contends Ellerbe’s sufficiency claim is unpreserved because the argument he now raises on appeal was not the same argument he raised at trial in support of his motion for judgment of acquittal. The State further contends that, even if preserved, Ellerbe’s argument is without merit.

Analysis

We agree with the State that Ellerbe’s sufficiency claim was not properly preserved. Maryland Rule 4-324 states that, when a defendant moves for judgment of acquittal at the close of the evidence, he “shall state with particularity all reasons why the motion should be granted.” Md. Rule 4-324(a). Under that rule, “a defendant is required to argue precisely

the ways in which the evidence should be found wanting and the particular elements of the crime as to which the evidence is deficient.” *Montgomery v. State*, 206 Md. App. 357, 385 (2012) (cleaned up) (citations omitted). Furthermore, “a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal.” *Cagle v. State*, 235 Md. App. 593, 604 (2018) (citations omitted).

Here, when Ellerbe moved for judgment of acquittal at trial, he argued the evidence was insufficient because the State had failed to prove he was one of the two men who broke into the Charlestown home on August 7, 2023. At no point did Ellerbe argue, as he does here, that the evidence was insufficient because the conduct of the assailants did not rise to the level of reckless endangerment. Accordingly, Ellerbe’s sufficiency claim is unpreserved. Therefore, we affirm on this issue as well.

**JUDGMENTS OF THE CIRCUIT COURT
FOR CECIL COUNTY AFFIRMED; COSTS
TO BE PAID BY APPELLANT.**