Circuit Court for Queen Anne's County
Case No. C-17-CR-21-000232

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND**

No. 1111

September Term, 2021

STEVEN ALBERT WOODALL

v.

STATE OF MARYLAND

Graeff,
Tang
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.
Dissenting Opinion by Kenney, J.

Filed: February 3, 2023

*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.

** At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Following a bench trial, the Circuit Court for Queen Anne's County convicted Steven Albert Woodall, appellant, of driving on a revoked license. The court sentenced him to one year's imprisonment, with all but 15 days suspended, followed by 18 months of unsupervised probation. Appellant noted this appeal, challenging the sufficiency of the evidence to sustain his conviction.[1] For the reasons set forth below, we shall affirm the judgment of the circuit court.

BACKGROUND

I.

As a prelude to the recitation of the facts in this case, we begin with a statutory overview of the Transportation Article of the Maryland Code ("TR") for revoking one's driving privileges in Maryland. Maryland's Motor Vehicle Administration ("Administration") uses a point system for, *inter alia*, the suspension or revocation of drivers' licenses.[2] Md. Code Ann., TR § 16-401 (1977, 2020 Repl. Vol.). Points may be assessed against an individual's license after conviction for violating vehicle laws,

[1] The issue as presented in appellant's brief is:

> Whether a defendant may be convicted of knowingly driving on a revoked license where the State offered no evidence that, after the Motor Vehicle Administration informed the defendant that the revocation was being held in abeyance pending a hearing, the Administration ever notified the defendant of that hearing or of the subsequent revocation.

[2] "Suspend" "means to withdraw temporarily, by formal action of the Administration, an individual's license to drive a motor vehicle on highways in this State, but only for a period specifically designated by the Administration." TR § 11-164. By contrast, "revoke" "means to terminate, by formal action of the Administration, an individual's license to drive a motor vehicle on highways in this State." TR § 11-150.

regulations, or certain criminal statutes. TR § 16-402. For example, a conviction for driving while under the influence of alcohol will result in the assessment of 12 points against an individual's license. TR § 16-402(a)(38). Points assessed will be retained for two years from the date of the violation. TR § 16-407. Accordingly, an accumulation of points within any two-year period (including those arising from multiple events) can result in the individual's license being either suspended or revoked. TR § 16-404(a)(3), (b)(1).

If a certain number of points accumulate on one's license within a two-year period, the Administration is authorized to take action against the licensee, including sending a warning letter or requiring attendance at a driver improvement program. TR § 16-404(a)(1), (2). If a licensee accumulates 12 points, the Administration is required to take more severe action and "issue a notice of revocation." *See* TR § 16-404(b)(1)(ii). The revocation notice shall state the duration of the revocation and advise the licensee of his right to promptly request a hearing before the Administrator.[3] TR §§ 16-404(b)(2)(ii), (iii), 12-203(a). The revocation notice must "[b]e personally served or sent by certified mail, bearing a postmark from the United States Postal Service[.]" TR § 16-404(b)(2)(i).

[3] The Administration has delegated to the Office of Administrative Hearings ("OAH") the power and authority to conduct hearings and render final decisions in hearings as permitted by statute. *See* Md. Code Ann., State Gov't § 10-205 (1984, 2021 Repl. Vol.); TR § 12-104(e); *see also* COMAR 11.11.02.07 (delegating hearing responsibilities to OAH).

If the licensee requests a hearing, the Administration must provide notice and a hearing.[4] *See* TR §§ 12-202, 12-203. Specifically, the Administration's hearing notice must contain, *inter alia*: the "date, time, place, and nature of the hearing;" the "nature of the proposed action that the Administration is to consider;" and the "right of the Administration, on failure of the licensee to appear, to . . . [i]mpose any sanction proposed in the notice." TR § 12-204(1), (4), (9)(ii); COMAR 11.11.02.03(B). The hearing notice must be given at least 10 days before the date of the hearing by either personal delivery or mail to the licensee at the address on record with the Administration.[5] TR §§ 12-202(b)(2), (3), 12-114(a); COMAR 11.11.02.03(C).

The hearing "shall be held within 30 days of the date of the request" for a hearing.[6] TR § 12-203(b)(2); COMAR 11.11.02.03(C) ("A hearing shall be scheduled within 30 days of the date a party requests a hearing."). The Administrator must render a decision within 30 days of the hearing. TR § 12-203(b)(3); *see Motor Vehicle Admin. v. Geppert*, 470 Md. 28, 38 (2020).

[4] If no hearing is requested, the revocation becomes effective at the end of the 10-day period. TR § 16-404(b)(3).

[5] It is the licensee's responsibility to notify the Administration of a change in address within 30 days of the change. TR § 16-116(a).

[6] A postponement of the hearing may be granted by the Administrator for good cause. COMAR 11.11.02.05(A). "A postponement request shall constitute a waiver of the licensee's right to a hearing or a decision within the time periods established by law." COMAR 11.11.02.05(C).

If the licensee fails to appear at the hearing, the Administrator may "impose the sanction proposed in the notice." TR § 12-208(c). If the Administrator imposes a sanction against the licensee, *e.g.*, the Administrator revokes the license, the decision must be served by personal delivery or by mail to the licensee at the address on record with the Administration. TR §§ 12-208(b)(2), 12-114(a)(1), (2). With this statutory scheme in mind, we turn to the evidence adduced at trial.

II.

On January 27, 2021, Deputy George Betts, of the Queen Anne's County Sheriff's Department, was conducting routine traffic enforcement when he observed a vehicle, driven by appellant, which appeared to be speeding. Deputy Betts activated his emergency equipment and stopped the vehicle. He then obtained appellant's driver's license and learned it had been revoked. When the deputy asked appellant about the status of his license, appellant said he was unaware his license had been revoked.

In addition to the deputy's testimony, the State introduced into evidence, and the court admitted, appellant's driving record. The record shows a history of alcohol-related driving offenses ("DUI"). In 1983, appellant was charged with and convicted of DUI. On May 31, 2018, appellant was charged with another DUI. In connection with that charge, appellant's license was suspended on July 16, 2018. On August 27, 2018, the suspension was stayed.

On September 7, 2018, appellant was convicted of the DUI, which resulted in the imposition of 12 points. Thereafter, on March 28, 2019, the Administration mailed

appellant a "point system revocation letter." On or about April 8, 2019, appellant requested a hearing, and the Administration held the revocation "in abeyance." On June 18, 2019, after a hearing, the Administration suspended appellant's license. These events, which are documented in the excerpt of the record below, are collectively referred to as the "2019 Revocation Proceeding."

* VIOLATION DATA

VIOL. DATE	CONVICT. DATE	DISPOSITION	VIOLATION DESCRIPTION	PTS.
		* * *		
05-31-18	09-07-18	1480JZQ	DRIVE/ATTEMPT DR WHILE UNDER THE INF OF ALCOHOL/PER SE (MV)	12*
03-28-19			POINT SYSTEM REVOCATION LETTER MAILED	
04-05-19			IGNITION INTERLOCK NOTICE MAIL MAILED- CONV FOR HIGH BAC	
04-05-19		6M HBAC 090718	INTERLOCK RESTRICTION ON ALL VEHICLES OPERATED	
04-08-19		032819	POINT SYSTEM HEARING REQUESTED REVOCATION HELD IN ABEYANCE	
04-29-19		6M 090718	INTERLOCK RESTRICTION ON ALL VEHICLES OPERATED - REMOVED	
06-18-19		090718 6M ALJ	HEARING-SUSPENDED RETRO-ACTIVE TO	

On April 1, 2020, about a year after the 2019 Revocation Proceeding, appellant was convicted of failing to obey a traffic control device. This violation resulted in the assessment of another point against appellant's license. Thereafter, on July 30, 2020, the Administration sent appellant another "point system revocation letter." On or about August 14, 2020, appellant requested a hearing, and the Administration held the revocation "in abeyance." On September 30, 2020, appellant failed to appear at the hearing, which resulted in the revocation of his license. These events are documented in the excerpt of the record, below:

03-09-20	04-01-20	3HK0E30	FAIL TO OBEY INSTRUCTIONS OF TRAFFIC CONTROL DEVICE(MV)	1
07-30-20			POINT SYSTEM REVOCATION LETTER MAILED	
08-14-20			POINT SYSTEM HEARING REQUESTED REVOCATION HELD IN ABEYANCE	
08-19-20		2018-05-31	POINT SYSTEM REVOCATION LETTER RETURNED BY POSTAL AUTHORITY	
09-30-20			HEARING FAILED TO APPEAR	
09-30-20	09-30-20	ALJ	HEARING-REVOKED	
09-30-20		24C062719	DRIVER LICENSE NOT SURRENDERED	

At the close of the State's case, appellant moved for judgment of acquittal, arguing that the State failed to prove that appellant knew that his license was revoked at the time of the traffic stop on January 21, 2021, approximately five months after appellant requested a hearing. After arguments by both parties, the trial court found appellant guilty of driving on a revoked license:

> I will find [appellant] guilty of Count 2, driving a license [sic] while revoked. Certainly, he was given notice of the revocation. He did request a hearing; that was August of 2020. The fact that this count -- this charge was on January of 2021, he should have known or taken some action to find out what happened with that hearing. The fact that he didn't from August until January, I believe he willfully decided not to follow-up with the MVA and find out what was going on. Having already been through the proceeding in 2019 he knew exactly what was going on. I will find him guilty of that charge.

STANDARD OF REVIEW

Maryland Rule 8-131(c) provides the standard of review for an appeal from a judgment entered following a bench trial. It provides:

> When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

"[I]n a sufficiency of the evidence challenge, the appellate court is not to ask whether it believes that the evidence at trial established guilt beyond a reasonable doubt." *State v. Pagotto*, 361 Md. 528, 534 (2000). "Rather, the court only asks '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.'" *Id*. (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)) (emphasis in original).

DISCUSSION

I.

Appellant was convicted of a single charge of driving while his license was revoked. To prove his guilt of that offense, the State was required to show beyond a reasonable doubt: (1) that appellant was driving a motor vehicle, (2) at the time he was driving, his license was revoked, and (3) that he knew that his license was revoked. *See Steward v. State*, 218 Md. App. 550, 559-60 (2014). Appellant limits his challenge to the third element, that is, whether there was sufficient evidence for the factfinder to conclude, beyond a reasonable doubt, that appellant knew that his license was revoked at the time of the traffic stop.

Knowledge may be proved in one of two ways: (1) by evidence that the defendant had "actual knowledge" that his license was revoked, or (2) by evidence the defendant was "deliberately ignorant or willfully blind" to the revocation. *See id.* at 560 (citing *State v. McCallum*, 321 Md. 451, 457-58 (1991) and *Rice v. State*, 136 Md. App. 593, 604 (2001)).

"Actual knowledge exists when a person has an actual awareness or an actual belief that a fact exists." *Id*. (citation and quotations omitted).

"Deliberate ignorance [or willful blindness], on the other hand, exists when a person believes it is probable that something is a fact but deliberately shuts his or her eyes or avoids making reasonable inquiry with a conscious purpose to avoid learning the truth." *Id*. (citation and quotations omitted). The latter form of knowledge anticipates the situation where a person "[had] reason to think that his driving privilege was being threatened with suspension [or revocation,]" and "knows enough" to support a reasonable inference of deliberate ignorance. *Rice*, 136 Md. App. at 604.

In *State v. McCallum*, 321 Md. 451 (1991), Justice Chasanow of the Maryland Supreme Court[7] elaborated on the knowledge requirement and illustrated findings that might support a finding of knowledge:

> Deliberate ignorance requires a conscious purpose to avoid enlightenment; a showing of mere negligence or mistake is not sufficient. Also, "deliberate ignorance" is a *form* of knowledge, not a *substitute* for knowledge. Therefore, if [the defendant] actually believed that his driver's license was not suspended, he could not be guilty of the offense.
>
> . . . Deliberate ignorance should be established if [the defendant] believed it was probable that his license was suspended and if he deliberately avoided contact with the MVA to evade notice. For example, the trier of fact could find that: 1) based on his failure to pay district court fines and failure to

[7] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See also* Md. Rule 1-101.1(a) ("From and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland….").

> appear in court, [the defendant] knew that it was probable that his license was suspended; 2) [the defendant] failed to fulfill his obligation to keep MVA apprised of his current address, or that he failed to contact MVA after learning that for several months his mail was destroyed, and 3) [the defendant] deliberately avoided contact with MVA to avoid receiving notice of the suspension of his driver's license. These findings should justify a conclusion that [the defendant]'s intentional avoidance of notice of his suspension satisfied the *mens rea* requirement and was the equivalent of actual knowledge of his suspension.

Id. at 461 (Chasanow, J., concurring) (emphasis in original) (footnote omitted).

In *Rice v. State*, 136 Md. App. 593 (2001), the defendant was convicted of an alcohol-related driving offense, accumulating eight points on his license. *Id*. at 596. The Administration sent the defendant a notice of suspension letter by certified mail, which was returned as undelivered. *Id*. Thereafter, his license was suspended. *Id*. at 597. The defendant testified that he did not know his license was suspended and "had no idea" that his license was going to be suspended after his court proceeding on the driving offense. *Id*. The trial court found the defendant guilty. *Id*. We affirmed the conviction, reasoning that the defendant "was not a novice in matters pertaining to the MVA." *Id*. at 605. His driving privileges had been suspended in the past and he was assessed eight points upon being convicted of the alcohol-related driving offense. *Id*.

As to the defendant's ignorance of the Administration's notice requirements, we explained:

> It is immaterial whether appellant was informed by the court that assessed those points that the law requires the MVA to notify a person who has accumulated 8 points that, absent a request for a hearing, his license will be suspended. *"[E]veryone is 'presumed to know the law regardless of conscious knowledge or lack thereof, and [is] presumed to intend the*

> *necessary and legitimate consequences of [his] actions in its light.'"* Once appellant was convicted of DUI and had 8 points assessed against him, he had reason to believe that the MVA would take action to suspend his driving privilege.

Id. at 605 (internal citation omitted) (emphasis added).

In *Steward v. State*, 218 Md. App. 550 (2014), we affirmed a conviction for driving suspended. The pertinent facts, quoted from the opinion, are as follows:

> [The defendant]'s driver's license was previously suspended in May of 1998 after [she] failed to appear at a hearing in the District Court to contest a citation for driving without a license. In July of 2009 the MVA reinstated [the defendant]'s license after [she] paid the outstanding ticket and accepted the assessment of five points against her drivers' license. Because five points had been assessed against [her] drivers' license in less than two years, in August of 2009, at the direction of the MVA, [the defendant] attended a point system conference.
>
> [The defendant]'s drivers' license was again suspended in December of 2010 after she failed to appear in the district court to contest a speeding ticket. That suspension was lifted on January 3, 2011, after [she] appeared at the courthouse and paid the outstanding fine. The speeding citation resulted in the assessment of another point against [her] driver's license, as a result of which the MVA directed her to attend a driver improvement program. [The defendant's] failure to attend the required driver improvement program led to the third suspension of [her] license in February of 2011, which remained in effect at the time she was pulled over on February 22, 2012.

Id. at 561 (footnote omitted). At trial, the defendant claimed she did not know her license had been suspended until she was informed by the stopping officer. *Id*. She explained that she was evicted from her apartment and never received notices from the Administration stating that she was required to attend a driver improvement program or that her license was suspended as a result of her failure to attend the program. *Id*. at 561-62. Indeed, the record reflected those notices were returned by the postal service. *Id*. at 562.

In affirming the conviction, we reiterated that a driver is presumed to know the law regardless of conscious knowledge or lack thereof. *Id*. at 559 (citing *Rice*, 136 Md. App. at 605). We explained that, based on the defendant's previous suspensions and attendance at a point system conference in August of 2009, "a jury could reasonably infer that [she] knew that if she acquired any more points on her license within a two year period, she would be required to attend a driver improvement program. The jury could also infer that [the defendant] knew that her drivers' license would be suspended if she failed to attend the required program." *Id*. at 562.

That the defendant did not receive notices from the Administration, due to her intervening homelessness, did not negate her knowledge that there would be consequences to her privilege to drive. We explained,

> Though we are persuaded that [the defendant] did not have actual knowledge of her suspension because she did not receive mail at her former address following her eviction, *her failure to contact the MVA to inquire about the status of her license* or to timely notify them of her new address *indicates that her failure to know the status of her drivers' license was a result of her own intentional inaction*. Therefore, despite [the defendant]'s arguments to the contrary, we are persuaded that based on the evidence presented, a reasonable jury could have concluded, beyond a reasonable doubt, that [she] was willfully ignorant of the fact that her driver's license was in a "suspended" status when she undertook to drive a vehicle on February 22, 2012, and therefore, she was guilty of the offense of driving with a suspended license.

Id. at 563 (emphasis added).

II.

Appellant argues that the court erred in convicting him because the evidence was insufficient to establish that he knowingly drove on a revoked license. According to appellant, the record does not show that the hearing notice nor the decision revoking his license was ever sent to him. The State, on the other hand, contends that the evidence was sufficient where appellant, having just been through the same experience a year earlier, surely understood that revocation hearings are scheduled promptly, and that after two, three, four, or certainly five months, he ought to have made an inquiry. Instead, according to the State, appellant did nothing, leaving the factfinder to reasonably infer that appellant avoided contact with the Administration because he knew, or was deliberately ignorant of the fact that his license was revoked. We agree with the State.

The evidence established that appellant knew that his privilege to drive was in jeopardy when he received the "points system revocation letter" in July 2020, as confirmed by his subsequent request for a hearing in August. Because appellant requested a hearing, the Administration "held" the "revocation" "in abeyance." Abeyance, however, is by definition impermanent; the notation in the record conveyed a *temporary* deferment of the revocation that was clearly looming. *See* Abeyance, Black's Law Dictionary (11th ed. 2019) (defining "abeyance" as "temporary inactivity; suspension"); Abeyance, Merriam-Webster (2023), https://www.merriam-webster.com/dictionary/abeyance (defining "abeyance" as "a state of temporary inactivity"). What appellant apparently argues, at bottom, is that, unless the State proved that notices of the hearing and subsequent

revocation were sent to him, the abeyance status negated appellant's knowledge of the revocation at the time of the traffic stop.

If the driving record simply comprised the post-March 2020 entries, *supra*, then appellant's sufficiency challenge would be compelling. But the other entries in the record demonstrate that appellant was not a novice when it came to both the Administration and the revocation process. *See Steward*, 218 Md. App. at 561. Appellant's record reflects that he was charged with and convicted of DUI in 1983, resulting in the assessment of points against his license; his license was suspended in 2018 in connection with his most recent DUI, which suspension was subsequently stayed; he was then convicted of that charge, resulting in the assessment of 12 points; and, as stated, he had just gone through the 2019 Revocation Proceeding the year before.

Based on appellant's prior experience with the 2019 Revocation Proceeding, a factfinder could have concluded that once appellant requested a hearing upon receiving the notice of revocation in August 2020, he knew that a hearing would be scheduled and a decision would be rendered within a couple of months of his request.[8] First, because appellant is presumed to know the law (*see Rice*, 136 Md. App. at 605; *Steward*, 218 Md. App. at 559), a factfinder could reasonably infer that appellant knew (1) the hearing had to

[8] Although the driving record lacks an entry showing that the Administration sent the hearing notice, this does not mean that notice was not sent by the Administration. To be sure, the same record lacks an entry showing that the Administration sent a hearing notice in connection with the 2019 Revocation Proceeding, yet notice was apparently sent because appellant attended the hearing (there is no entry reflecting that he failed to appear at the 2019 hearing).

be scheduled within 30 days of his request (*see* TR § 12-203(b)(2); COMAR 11.11.02.03(C)); (2) if he did not appear at the hearing, the Administrator could impose the sanction proposed in the notice of revocation (*see* TR § 12-208(c)); and (3) the Administrator was required to render its decision within 30 days after the hearing (*see* TR § 12-203(b)(3)). Even assuming appellant lacked conscious knowledge of these statutory deadlines, the factfinder could still reach the same conclusion because the deadlines were consistent with appellant's experience the prior year when the hearing occurred within about two months of the hearing request and the Administrator's decision occurred on the day of the hearing.[9]

Viewed in the light most favorable to the State, the evidence presented at trial supported the conclusion that, at the time of the traffic stop, which occurred about five months after appellant requested a hearing, appellant had reason to think that his driving privilege was being threatened with revocation, and he knew enough to support a reasonable inference of deliberate ignorance. *See Rice*, 136 Md. App. at 604. The factfinder could have concluded that appellant's failure to contact the Administration about the status of the requested hearing, given his prior experience with the 2019 Revocation Proceeding, was a result of his own intentional inaction. *See Steward*, 218 Md. App. at 562-63. On this premise, the factfinder could reasonably infer that appellant had been

[9] The driving record does not show why the 2019 hearing was held about sixty days, not thirty days, after appellant's request for hearing. While it is possible that the hearing was postponed for cause, *see* n.6, we need not resolve the question.

avoiding contact with the Administration because he had reason to believe that his license had been revoked.

Appellant contends that the evidence established that he was not avoiding contact with the Administration because he promptly responded to the revocation letter with a request for a hearing.[10] Even assuming *arguendo* that we agree with appellant and draw different inferences from the same evidence, our review of the sufficiency of the evidence constrains us to defer "to any possible reasonable inferences the [trier of fact] could have drawn from the admitted evidence." *Walker v. State*, 206 Md. App. 13, 40 (2012). It is not the function of this Court to determine that "the trial judge could have made other inferences from the evidence[,]" but rather to ask "whether the inference he did make was supported by the evidence." *State v. Smith*, 374 Md. 527, 557 (2003).

Finally, appellant argues that the trial court misapplied the legal standard for knowledge when it stated, "[Appellant] should have known or taken some action to find out what happened with that hearing." It is evident that the court was familiar with the case law illustrating the correct legal standard. During trial, both parties laid out the appropriate standard for knowledge, quoting extensively from *Rice* and *McCallum*. Further, it is presumed that judges know and apply the law. *State v. Chaney*, 375 Md. 168,

[10] Appellant suggests that he "awaited to receive notice from the MVA as to the time and place of his revocation hearing" and notice of the hearing might have been delayed due to the COVID-19 pandemic. There was no evidence presented at trial to suggest that Administration notices were delayed due to the COVID-19 pandemic. Accordingly, we decline to consider facts that were not admitted in evidence. *See, e.g.*, *Att'y Grievance Comm'n v. O'Neill*, 477 Md. 632, 648 n.12 (2022) (declining to consider facts and evidence not presented to the hearing judge).

181-84 (2003). The trial court's use of the phrase "should have known" was a colloquial manner of explaining why it found that appellant was deliberately ignorant. The trial court essentially conveyed that appellant's experience with the 2019 Revocation Proceeding should have led him to inquire about the hearing status, and his failure to follow up on the revocation proceeding in 2020 demonstrated intentional avoidance of learning about his license status. For all these reasons, we affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR QUEEN ANNE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

Circuit Court for Queen Anne's County
Case No. 17-CR-21-000232

UNREPORTED

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OF MARYLAND

No. 1111

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STEVEN ALBERT WOODALL

v.

STATE OF MARYLAND

Graeff,
Tang,
Kenney, James A. III
(Senior Judge, Specially Assigned),

Dissent by Kenney, J.

Filed: February 3, 2023

The majority opinion, citing *State v. Pagotto*, 361 Md. 528, 534 (2000), states that the question to be asked by an appellate court 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." Slip op. at 8 (quotation marks omitted). I agree. As stated by the now Supreme Court of Maryland in *Koushall v. State*, 479 Md. 124, 148-49 (2022), our review is limited to "whether the verdict was supported by sufficient evidence, direct or circumstantial, which could fairly convince a trier of fact of the defendant's guilt of the offenses charged beyond a reasonable doubt." (Quotation marks and citation omitted.) Appellant was convicted of knowingly driving on a revoked license. And in this appeal, the issue is not whether appellant actually knew that his license was revoked, but whether he "knew enough to support a reasonable inference of deliberate ignorance." Slip op. at 15.

In the concurrence in *State v. McCallum*, 321 Md. 451, 461 (1991) (Chasanow, J., concurring), Justice Chasanow explained that "[d]eliberate ignorance" is a form of knowledge and "requires a conscious purpose to avoid enlightenment; showing of mere negligence or mistake is not sufficient." To prove deliberate ignorance, it is necessary to establish beyond a reasonable doubt that the defendant "believed it was probable that his license was suspended" and that he "deliberately avoided contact with the MVA to evade notice." *Id.* Evidence that could support a finding that a defendant believed that suspension was probable included failing to pay a fine or appear in court for an offense, failing to keep MVA apprised of a current address or failing to contact MVA "after learning that for

several months [defendant's] mail was destroyed," or other proof of "deliberately avoid[ing] contact with MVA to avoid receiving notice of the suspension of his driver's license." *Id.*

According to the majority, a factfinder, based on appellant's "prior experience with the 2019 Revocation Proceeding," concluded that "once appellant requested a hearing upon receiving the notice of revocation in August 2020, he knew that a hearing would be scheduled and a decision would be rendered within a couple of months of his request." Slip op. at 14. And, because the appellant is presumed to know the law, "a factfinder could reasonably infer that appellant knew" that the hearing had to be scheduled within 30 days, and if he did not appear at the hearing, the sanction could be imposed "within 30 days after the hearing[.]"[11] *Id.* at 14-15. But even "assuming appellant lacked conscious knowledge of these statutory deadlines, the factfinder could still reach the same conclusion because the deadlines were consistent with appellant's experience the prior year[.]" *Id.* at 15. Based on this inferred and presumed knowledge, the majority holds that a rational factfinder could conclude that appellant's inaction was intentional and infer that he was "avoiding contact with the [MVA] because he had reason to believe that his license had been revoked." *Id.* at 16. On this record, I believe that is a "bridge too far."

There is no evidence of actual knowledge because there is no evidence that he received notice of the requested hearing, and in the notice to him acknowledging the

[11] As noted in the Slip Opinion: The hearing in 2019 was held "about sixty days, not thirty days, after appellant's request for hearing." Slip op. at 15 n.9.

hearing request, appellant was advised that revocation was "held in abeyance." Pending that hearing, appellant was advised that revocation was "held in obeyance." The inferential conclusion that he was deliberately ignorant stems from his failure to contact the MVA when he did not receive notice of a scheduled hearing for five months in the midst of a pandemic. What appellant's 2019 MVA record indicates is that when he was confronted with the risk of revocation he asked for and attended the requested hearing. There is no evidence of a change of address or other action similar to those suggested in *McCallum*. Credibility was not an issue in this case because appellant was not at the hearing.

In short, I am not persuaded that the evidence was sufficient to "fairly convince a trier of fact of the [appellant's] guilt of the offense[] charged beyond a reasonable doubt." *Koushall*, 479 Md. at 148-49 (quoting *Taylor v. State*, 346 Md. 452, 457 (1997)). For that reason, I respectfully dissent.