

Circuit Court for Baltimore City
Case No. 121327002

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1134

September Term, 2023

EDDIE KNOX

v.

STATE OF MARYLAND

Graeff,
Albright,
Woodward, Patrick L.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: September 3, 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 persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

On August 8, 2023, a jury in the Circuit Court for Baltimore City convicted Eddie Knox, appellant, of first- and second-degree assault, assault on an elderly individual 65 years or older, reckless endangerment, carrying a dangerous weapon with intent to injure, and carrying a concealed dangerous weapon. The court sentenced him to a total of 28 years imprisonment, with twenty-five years on the conviction of first-degree assault, one year, concurrent, on the conviction of assault of an elderly individual, and three years, consecutive, on the conviction of carrying a dangerous weapon with intent to injure.¹

On appeal, appellant presents the following questions for the Court’s review, which we have rephrased slightly, as follows:

1. Was the evidence sufficient to support appellant’s conviction for first- and second-degree assault, and assault on an elderly individual?
2. Was the evidence sufficient to support appellant’s convictions for wearing or carrying a concealed dangerous weapon and wearing or carrying a dangerous weapon openly with the intent to injure ?
3. Should this court vacate one of the convictions for wearing or carrying a concealed dangerous weapon and wearing or carrying a dangerous weapon openly with the intent to injure when the charges arose out of the same incident?

For the reasons set forth below, we shall affirm in part, and reverse in part, the judgments of the circuit court.

¹ The court merged the reckless endangerment conviction into the assault conviction and the conviction for carrying a concealed dangerous weapon into the conviction for carrying a dangerous weapon with intent to injure.

FACTUAL AND PROCEDURAL BACKGROUND

On October 2, 2021, Baltimore City police responded to a 9-1-1 call for a stabbing on a Greyhound bus traveling to New York City from Atlanta, Georgia. The victim, Juan Rosario, was taken to the University of Maryland Medical System R. Adams Cowley Shock Trauma Center (“Shock Trauma”) for his injuries, and he subsequently spent several weeks recovering at the Fayette Rehabilitative Center.

A three-day trial began on August 4, 2023.² Anthony Siera, a Baltimore City Police Officer assigned to the Horseshoe Casino area, was the State’s first witness. He testified that, on October 2, 2021, at approximately 1:00 p.m., he responded to the 1800 block of Russell Street for a stabbing on a Greyhound bus. The bus driver and passengers were outside the bus. Officer Siera assisted Officer Steiner, who was already on the scene, in holding the suspect while Officer Steiner placed mechanical restraints on appellant. Officer Siera saw a knife on the ground.

When Officer Siera boarded the bus, he saw blood on the floor. Mr. Rosario was seated and bleeding from his head. A young lady was sitting in the seat in front of Mr. Rosario rendering first aid. Officer Siera called for the medic, and once the ambulance arrived, he directed them to Mr. Rosario and secured the scene. He testified that appellant had been sitting in the same bus row as Mr. Rosario, but on the other side of the aisle.

² On January 5, 2022, appellant was deemed incompetent to stand trial and dangerous, and he was committed to the Maryland Department of Health. On June 15, 2022, the court found that defendant was competent to stand trial, but it ordered that he remain at the Clifton T. Perkins hospital until his trial date “to assist in maintaining competency to stand trial.”

The State introduced Officer Siera’s body-worn camera and the crime scene photographs into evidence. Officer Siera identified “a black-handled steak knife with blood on it” in one of the photographs introduced into evidence. He also identified various other evidentiary items depicted in the photographs, including a blood trail to Mr. Rosario’s seat, blood-stained clothing and personal items, and a rubber glove with blood on it. Officer Siera identified appellant on the body-worn camera footage, along with Officer Steiner and Patrick Gravesand, one of the bus passengers who assisted in keeping appellant restrained. The body-worn camera footage also showed several passengers pointing toward appellant as Officer Siera arrived at the scene, as well as a knife on the ground a few feet from appellant.

Officer Siera was the primary officer on the scene in charge of the investigation. He directed other responding officers to get information from witnesses and obtain contact information. At the conclusion of his “on the scene investigation,” there was only one suspect, appellant. Officer Siera filed charges against appellant.

Willie Craft, a Baltimore City police detective for the Southern District, took over the investigation from Officer Siera. Detective Craft reached out to Greyhound to obtain video footage from the date of the stabbing, but Greyhound advised that it was not available because the bus driver never pressed the button to start recording when the attack began. Detective Craft testified that he was “[s]tonewalled” by Greyhound when he requested the passenger list and passenger contact information, stating that “[t]heir main concern was being sued.” He was unable to reach the bus driver because the bus company refused to

provide his contact information. He was also unable to contact Patrick Gravesand, the passenger who held appellant until police arrived, because his number was disconnected.

Detective Craft visited Mr. Rosario while he was hospitalized at Shock Trauma, but Detective Craft was unable to speak with Mr. Rosario because he was sedated. On October 18, 2021, after Mr. Rosario was transferred to the Fayette Home for Rehabilitation, Detective Craft interviewed him. Detective Craft activated his body-worn camera during the interview, which the State introduced into evidence for purposes of identifying Mr. Rosario. In the course of his investigation, Detective Craft learned that Mr. Rosario's date of birth was March 20, 1947.

Mr. Rosario, who resided in New York City, did not provide Detective Craft with an address or phone number where he could be reached, or any emergency contact information. After Mr. Rosario was discharged from the rehabilitation center, Detective Craft bought Mr. Rosario dinner, a pair of shoes, and a train ticket to return to New York. He was not able to make contact with Mr. Rosario after that.

Detective Craft obtained a search warrant for the denim jacket appellant was wearing at the scene of the stabbing, and the State introduced the denim jacket and photographs of the jacket into evidence. Officer Siera's body-worn camera, which Detective Craft reviewed, showed that appellant had been wearing the denim jacket at the time of the stabbing. Detective Craft testified that a black-handled metal steak knife was recovered from the crime scene.

The State played a portion of the 9-1-1 call made by Tyra Ramsey, a passenger who rendered first aid to Mr. Rosario after the stabbing. The recording reflected the operator telling the passenger to stop the bleeding by placing a cloth on the victim’s head, which the caller indicated was bleeding. The caller stated that other passengers were holding the “guy with the knife.” She stated that the victim, who was 74 years old, was bleeding through the cloth.

The State’s final witness was forensic scientist Ivana Hebb, who the court accepted as an expert serologist.³ On March 17, 2022, Ms. Hebb performed a forensic screening of the denim jacket that appellant was wearing on the date of the stabbing. Eight stains on the jacket, marked A through H, tested positive for presumptive human blood. The stains were located on the arm, top, front, and sides of the denim jacket. On cross-examination, Ms. Hebb acknowledged that testing does not indicate how the blood got on the jacket.

At the close of the State’s case, appellant’s counsel moved for a judgment of acquittal on all counts based on insufficiency of the evidence. As relevant to this appeal, Counsel argued that there was no direct testimony that appellant stabbed Mr. Rosario or did so with an intent to kill or injure him. Counsel stated that the knife was not admitted into evidence, and there was no testimony that appellant carried or transported the knife.

The State argued that the body-worn camera footage showed “multiple individuals pointing in the direction” of Officer Steiner standing with appellant, along with the passenger who had apprehended appellant after the stabbing. There was a bloody knife on

³ Serology is the study of bodily fluids.

the ground in front on them, within feet of appellant, and the footage showed that appellant’s hands were “wet and bloody.” Counsel argued that no individuals other than the victim had blood on them. The State noted that circumstantial evidence was to be weighed the same as direct evidence, that testimony adequately established Mr. Rosario’s age, and that the act of stabbing someone in the head and arm while that person is trapped in a bus seat indicated an attempt to kill.

The court denied the motion for judgment of acquittal, noting the evidence found at the crime scene, evidence of Mr. Rosario’s serious injuries, and testimony of the responding officers and the expert serologist. After appellant elected not to testify, and the defense rested, the court denied counsel’s renewed motion for judgment of acquittal.

After the jury returned its verdict, and the court sentenced appellant, he noted this appeal.

DISCUSSION

I.

Assault Convictions

Appellant’s first contention is that the evidence was insufficient to sustain his assault convictions, i.e. first- and second-degree assault and assault on an elderly individual. He asserts that the State did not present evidence that he caused Mr. Rosario’s injuries, much less intentionally or recklessly or with the intent to cause serious physical injury to Mr. Rosario.

The State contends that the “evidence sufficed to sustain [appellant’s] assault convictions.” It asserts that the evidence supported the jury’s finding that appellant was the one who stabbed Mr. Rosario, noting that the 9-1-1 caller said that other passengers were holding the guy with the knife, police discovered a bloody knife near appellant, and there were blood stains on appellant’s denim jacket. With respect to the intent to cause serious injury, the State argues that stabbing a person in the head with a knife creates a substantial risk of death, and Mr. Rosario’s lengthy treatment at shock trauma and a rehabilitation center “demonstrated the severity of his injuries.”

In assessing the sufficiency of the evidence, we apply the following standard of review:

This Court reviews claims of insufficiency of the evidence by determining “whether *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Howling v. State*, 478 Md. 472, 493, 274 A.3d 1124 (2022) (emphasis in original). To accomplish this task, we view the evidence “in [a] light most favorable to the State,” and give due deference to the jury’s “findings of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses.” *White v. State*, 363 Md. 150, 162, 767 A.2d 855 (2001) (quoting *McDonald v. State*, 347 Md. 452, 474, 701 A.2d 675 (1997)).

Vanderpool v. State, 261 Md. App. 163, 180, *cert. denied*, 487 Md. 461 (2024). Our 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 offense charged beyond a reasonable doubt.” *Hammond v. State*, 257 Md. App. 99, 125 (2023) (quoting *DeGrange v. State*, 221 Md. App. 415, 420-21 (2015)).

Md. Code Ann., Crim. Law (“CR”) § 3-203 (2021 Repl. Vol.) provides that a “person may not commit an assault.” “Second-degree assault ‘encompasses three modalities: (1) intent to frighten, (2) attempted battery, and (3) battery.’” *Hammond*, 257 Md. App. at 126 (quoting *Snyder v. State*, 210 Md. App. 370, 382 (2013)). A battery in the second degree occurs when there is (1) an unlawful, (2) application of force, (3) to the person of another. *See Koushall v. State*, 479 Md. 124, 150 (2022). Second-degree assault is elevated to first-degree assault when certain statutory aggravating factors are involved, including, as relevant here, “intentionally caus[ing] or attempt[ing] to cause serious physical injury to another.” CR § 3-202(b)(2)(i). “Serious physical injury” is a physical injury that “(1) creates a substantial risk of death; or (2) causes permanent or protracted serious: (i) disfigurement; (ii) loss of the function of any bodily member or organ; or (iii) impairment of the function of any bodily member or organ.” CR § 3-201(d) (2024 Supp.).

Appellant contends that the evidence was insufficient to show that he “caused any offensive physical contact to Mr. Rosario.” To be convicted of second-degree assault, the State must prove: (1) that the defendant caused offensive physical contact with or harm to the victim; (2) the contact was the result of an intentional or reckless act and was not accidental; and (3) the contact was not consented to by the victim or legally justified. *Nicolas v. State*, 426 Md. 385, 403-04 (2012).

Here, although there was no eyewitness testimony regarding the attack, there was evidence that Mr. Rosario suffered a serious head laceration and that another passenger, Patrick Gravesand, restrained appellant—whose denim jacket was covered in blood—until

the police arrived. A bloody knife was also found on the ground a few feet from where appellant was detained outside the bus. The body-cam footage shows several passengers pointing in the direction of appellant, who was being held by Mr. Gravesand when Officer Siera arrived on the scene. Additionally, the 9-1-1 caller said that the assailant was being detained by other passengers, indicating that appellant was the assailant. Based on this evidence, the jury reasonably could infer that appellant was the person who assaulted Mr. Rosario on the bus. *Tetso v. State*, 205 Md. App. 334, 390 (2012) (“[G]enerally, proof of guilt based in whole or in part on circumstantial evidence is no different than proof of guilt based on direct eyewitness accounts.”) (quoting *Neal v. State*, 191 Md. App. 297, 314 (2010)), *cert. denied*, 428 Md. 545 (2012).

Appellant argues, however, that the evidence presented failed to establish beyond a reasonable doubt that that Mr. Rosario’s injuries resulted from “an intentional or reckless act [that] was not accidental” or that appellant’s actions were not legally justified. We disagree.

The jury may infer intent to cause an offensive physical contact to Mr. Rosario based on circumstantial evidence, including appellant’s conduct and the surrounding circumstances. *Chilcoat v. State*, 155 Md. App. 394, 403, *cert. denied*, 381 Md. 675 (2004). *Accord Smallwood v. State*, 343 Md. 97, 104 (1996) (intent may be proved by circumstantial evidence). Here, the evidence that appellant stabbed the victim in the head with a knife permitted the jury to find that appellant intended to cause an offensive physical conduct. With respect to appellant’s argument that Mr. Rosario’s injuries could have been

caused by an accident or that he was legally justified in stabbing Mr. Rosario, appellant does not point to any evidence supporting that argument. In evaluating sufficiency of the evidence, “exculpatory inferences do not exist. They are not a part of that version of the evidence most favorable to the State’s case.” *Cerrato-Molina v. State*, 223 Md. App. 329, 351, *cert. denied*, 445 Md. 5 (2015). In assessing sufficiency of evidence, we do not “second-guess the jury’s determination when there are competing rational inferences available.” *Smith v. State*, 415 Md. 174, 183 (2010).

With regard to the first-degree assault conviction, appellant contends that “there was nothing about [his] conduct that demonstrated an intent to cause a serious physical injury to Mr. Rosario and there was no evidence of Mr. Rosario’s injury.” He distinguishes this case from *Chilcoat*, 155 Md. App. at 402-04, where there was evidence that the victim suffered skull fractures requiring surgery, and *Cathcart v. State*, 169 Md. App. 379, 383 (2006), *vacated on other grounds*, 397 Md. 320 (2007), where the evidence showed the victim lost consciousness after being choked and suffered a jaw fracture and broken bones. Appellant asserts that there was no evidence here of the treatment Mr. Rosario received or whether his head injury was “a shallow wound, a scrape, a deep gash, etc.” We disagree.

The evidence showed that Mr. Rosario suffered a head injury that required treatment at Shock Trauma, “the designated **trauma hospital** in Maryland to treat the most severely injured and critically ill patients.” *Facts: R Adams Cowley Shock Trauma Center, Univ. of Md.*, Univ. of Md. Med. Sys., available at: <https://perma.cc/S3HL-JREC> (last visited August 28, 2025). Detective Craft testified that, when he visited him at Shock Trauma,

Mr. Rosario was sedated and unable to communicate. After being treated at Shock Trauma, Mr. Rosario spent more than one month at a rehabilitation center before final discharge. Detective Craft testified that a large amount of blood came from the victim during the incident, and the 9-1-1- call indicated that Mr. Rosario bled through the shirt being pressed on his head wound. Based on Mr. Rosario’s treatment at a trauma center, the length of his overall recovery, and the location of his wound, it was reasonable for the jury to infer that appellant intended, and Mr. Rosario suffered, a serious physical injury. *See, e.g., Lewis v. State*, 263 Md. App. 631, 645, 651 (2024) (knife stabbing causing facial laceration, and arm and chest wounds requiring highest level of trauma care, caused “serious physical injury” under first-degree assault statute). *Accord Thornton v. State*, 397 Md. 704, 737 (2007)(determination whether injury involved “vital part of the human anatomy” relevant to intent to commit first-degree assault).

Even if appellant’s argument that Mr. Rosario did not suffer a “serious physical injury” had merit, we have held that “an attempt to cause ‘serious physical injury,’ not merely a completed injury” will suffice to sustain a conviction for first-degree assault. *Brown v. State*, 182 Md. App. 138, 179 (2008). As the State correctly notes, “a jury may infer the necessary intent [to cause a serious physical injury] from an individual’s conduct and the surrounding circumstances, whether or not the victim suffers such an injury.” *Chilcoat*, 155 Md. App. at 403.

The Supreme Court of Maryland has held that “the use of a deadly weapon directed at a vital part of the human body” can show an intent to kill. *State v. Raines*, 326 Md. 582,

591, *cert denied*, 506 U.S. 945 (1992). Here, a jury could reasonably infer from the evidence that appellant stabbed Mr. Rosario in the head with a knife with the intent to cause him serious physical injury. *Williams v. State*, 100 Md. App. 468, 473 (1994) (“Stabbing a victim in the neck or lower face and then again in the chest-shoulder area could reasonably be deemed to be an act creating a substantial risk of death or serious physical injury to the victim of the stabbing.”). The evidence was sufficient to support appellant’s convictions for assault.

II.

Weapons Convictions

Md. Code Ann., Crim. Law § 4-101(c)(1) – (2) provides, in relevant part, that:

(c)(1) A person may not wear or carry a dangerous weapon of any kind concealed on or about the person.

(2) A person may not wear or carry a dangerous weapon, chemical mace, pepper mace, or a tear gas device openly with the intent or purpose of injuring an individual in an unlawful manner.

Appellant was convicted of two weapons offenses, a violation of each subsection.

Appellant contends that both weapons convictions should be vacated, making two separate arguments. First, he argues that the evidence was insufficient to sustain his convictions for wearing or carrying a dangerous weapon, both concealed and openly with the intent to injure, because there was no evidence that he “carried the steak knife separately from his alleged use of it to assault Mr. Rosario.” He asserts that the mere use of a weapon in an assault, and “the momentary possession of a weapon incidental to that use are insufficient to support a conviction for either iteration of the crime of wearing or carrying

a dangerous weapon.” Second, appellant argues that the unit of prosecution for the offenses is the carrying of a weapon, and a defendant cannot both carry a weapon openly and concealed at the same time. Accordingly, appellant argues that one of these convictions must be vacated.

The State contends that appellant’s argument that there was insufficient evidence to show that he wore or carried the knife beyond the time it took to attack the victim was not raised in his motion for acquittal, and therefore, it is not preserved for this Court’s review. In any event, the State contends that the contention is without merit, asserting that the jury could reasonably infer that appellant concealed the steak knife as he rode the bus and openly carried it across the aisle to attack Mr. Rosario. The State further argues that, because the evidence supported a finding that appellant possessed the knife openly and concealed at separate times, both “convictions should stand.”

A.

Preservation

We begin with the State’s argument that appellant’s claim that the evidence was insufficient to support his weapons convictions is not preserved for this Court’s review. Rule 4-324(a) provides that, when moving for judgment of acquittal, the defendant “shall state with particularity all reasons why the motion should be granted.” “Grounds that are not raised in support of a motion for judgment of acquittal at trial may not be raised on appeal.” *Jones v. State*, 213 Md. App. 208, 215 (2013), *aff’d*, 440 Md. 450 (2014).

In the motion for acquittal at the end of the State’s case, appellant’s counsel argued as follows:

Your honor, with regards to . . . the wear, carrying a deadly – dangerous weapon or knife, we have actually no testimony of my client carrying the knife or transporting it in any way other than we heard somebody say – no, we don’t have that into evidence. . . . But primarily, Your Honor, it’s the sufficiency of evidence argument as to all of the counts, that the State has not proved, even in the light most favorable to the State, for any of the counts in the indictment.

Appellant’s counsel renewed his motion for acquittal based on sufficiency of the evidence for all counts after resting his case.

Although this argument was not fleshed out in the same way it is in the brief on appeal, we conclude that the argument that there was no evidence of carrying was sufficient to preserve the sufficiency issue on appeal. Accordingly, we turn to the merits of the appellant’s argument.

B.

Sufficiency of the Evidence

1.

Wear or Carry Openly with Intent to Injure

As appellant notes, to support a conviction for wearing or carrying a dangerous weapon openly with the intent to injure, the evidence must show more than appellant’s mere use of the knife to commit an assaultive crime. In *Thomas v. State*, 143 Md. App. 97, 123, *cert. denied*, 369 Md. 573 (2002), we discussed the distinction between “carrying” a dangerous weapon with intent to injure and merely using a dangerous weapon to injure

someone. *Id.* In that case, we held there was insufficient evidence to support defendant’s conviction for carrying a weapon openly with intent to injure based on his use of a hammer and knife located in the room where he assaulted the victim. *Id.* at 122-23. We explained:

In order to establish the offenses in issue . . . the State was required to prove more than mere use of the weapons by appellant or recovery of them in his one-room residence, in the vicinity of the victim. If we were to adopt the State’s position, it would mean that almost any time a person commits an offense with a dangerous weapon, he or she could also be convicted of having carried the weapon openly, with intent to injure.

Id. at 123.

We further examined this issue in *Chilcoat*, 155 Md. App. at 407-08, where the accused picked up a beer stein from a nearby table and walked a few steps to the victim, who he struck with the stein. We held that *Chilcoat*’s moving toward the victim holding the beer stein was incidental to the assault, and therefore, the evidence was insufficient to support a conviction for carrying a weapon openly with the intent to injure. *Id.* at 413.⁴

Appellant contends that the State presented no evidence that he carried the steak knife separately from the use of it to assault Mr. Rosario. We are not persuaded.

As the State notes, the circumstances here are distinguishable from *Chilcoat* and *Thomas*. In those cases, the defendants assaulted the victims with weapons that happened to be accessible in the vicinity of the crime, and the weapons were in the defendants’ possession momentarily, just to commit the assault. *See Thomas*, 143 Md. App. at 123

⁴ Our holding in *Chilcoat* was based on the rationale articulated in *State v. Stouffer*, 352 Md. 97, 113 (1998), where we noted that merely moving a short distance in the course of a fatal assault could be so incidental to the assault that it would not establish the “carrying” element to support the separate crime of kidnapping.

(knife and hammer were in defendant’s residence); *Chilcoat*, 155 Md. App. at 409-411 (beer stein located on table at residence of victim).

Here, by contrast, the assault was committed on a public Greyhound bus where a steak knife typically would not be found. Under these circumstances, a jury could reasonably infer that appellant brought the knife onto the bus and openly carried it when he crossed the aisle to attack the victim. The evidence also showed that the knife was found on the ground outside the bus after the attack, within a few feet of appellant. The jury could reasonably infer that appellant continued to carry the knife after stabbing Mr. Rosario, and that his possession of the knife was more than momentary and spontaneous.

This situation is more like the facts in *Chisum v. State*, 227 Md. App. 118, 140 (2016), where the defendant went to his car, retrieved a weapon, returned to a shed to attack the victim, and maintained possession of the knife while walking back to the car after the attack. *Id.*⁵ *Accord Harrod v. State*, 65 Md. App. 128, 131, 140 (1985) (defendant carried weapons from a separate location in the residence to commit the assault). The evidence here was sufficient to support appellant’s conviction of wearing or carrying a weapon openly with the intent to injure.

⁵ Because appellant was not sentenced on any of the weapons convictions, we determined that the issue of sufficiency was moot, but we still analyzed the merits of appellant’s claim. *Chisum v. State*, 227 Md. App. 118, 140 (2016).

2.

Wearing or Carrying a Concealed Weapon

As indicated, CR § 4-101(c)(1) provides that “[a] person may not wear or carry a dangerous weapon of any kind concealed on or about the person.” To prove a violation of CR § 4-101(c)(1), the State must establish that: (1) the weapon in question was one of the weapons listed or considered to be a dangerous or deadly weapon; (2) the defendant was wearing or carrying the weapon; and (3) the weapon was concealed upon or about the person. *In re Colby H.*, 362 Md. 702, 711–12 (2001).

There is no argument here that the steak knife qualified as a dangerous weapon under the statute. And, as indicated, we have concluded that a reasonable jury could infer that appellant was “carrying” it on the bus. The remaining issue for a conviction under CR § 4-101(c)(2), therefore, is whether there was sufficient evidence to show that it was concealed. We hold that there was not.

“[A] weapon is concealed if it is so situated as not to be discernible by ordinary observation by those near enough to see it . . . in the usual associations of life.” *Shipley v. State*, 243 Md. 262, 269 (1966). Absolute invisibility, however, is not required, and a conviction will be upheld where conditions exist, such as darkness, that prevent a weapon from being seen through routine observation. *Id.* (inference that knife blade was shielded by driver’s legs and feet in darkness was permissible). *Accord Smith v. State*, 18 Md. App. 612, 618, *cert. denied*, 269 Md. 766 (1973) (pistol in front seat not discernable at nighttime without interior light on); *United States v. Robson*, 391 F.Supp.2d 383, 391 (D. Md. 2005)

(whether machete located in tractor trailer cab that was higher off ground than ordinary vehicle was concealed was question for jury).

Here, the knife was discovered during daylight hours on the ground outside the bus. There was no testimony regarding where the knife was kept before it was used or discovered on the ground. We do not know whether the appellant held the knife in his hand during the long the bus ride, kept it in his bag or pocket, or concealed it with a body part while sitting in his seat. There was no evidence regarding the lighting on the bus. The prosecutor stated in opening statement that appellant “took a black handled steak knife out of his bag and repeatedly stabbed” Mr. Rosario, but we have found no evidence supporting this theory. *See Polk v. State*, 183 Md. App. 299, 311 (2008) (agreed statement of facts stating knife was “wedged near the dash” was insufficient to uphold concealed weapon conviction because evidence did not establish where knife was located in vehicle or how it was positioned); *Clemons v. State*, 9 Md. App. 127, 130-31, *cert. denied*, 258 Md. 726 (1970) (speculation that gun was kept in concealed location was “pure conjecture” when witness testified only that defendant “pulled a gun”).

Under these circumstances, the evidence was not sufficient to support appellant's conviction for wearing or carrying a concealed dangerous weapon. Accordingly, we reverse appellant's conviction under CR § 4-101(c)(1).⁶

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY ON THE
CONVICTION FOR WEARING AND
CARRYING A CONCEALED
DANGEROUS WEAPON REVERSED;
JUDGMENTS OTHERWISE AFFIRMED.
COSTS TO BE PAID ONE-THIRD BY
MAYOR AND CITY COUNCIL OF
BALTIMORE AND TWO-THIRDS BY
APPELLANT.**

⁶ Given our holding in this regard, we need not consider appellant's argument, based on *Eldridge v. State*, 329 Md. 307, 314-15 (1993), that the unit of prosecution is the carrying of a deadly weapon, whether concealed or openly, and therefore, one of his weapons convictions should be vacated.