Circuit Court for Allegany County
Case No.: 01-K-17-18393

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1344

September Term, 2017

REGINALD MURRAY

v.

STATE OF MARYLAND

Fader, C.J.,
Beachley,
Thieme, Raymond G., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Fader, C.J.

Filed: January 24, 2019

*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.

A jury in the Circuit Court for Allegany County convicted Reginald Murray of driving with a suspended license.[1] The trial court sentenced Mr. Murray to one year's imprisonment, with all but 90 days suspended, followed by 12 months of unsupervised probation. The trial court subsequently granted Mr. Murray's motion for modification and reduced his sentence to time served. Mr. Murray now challenges the sufficiency of the evidence to sustain his conviction. We conclude that the evidence was sufficient and so affirm.

BACKGROUND

On December 9, 2016, Cumberland City Police Officer Ashley Athey conducted a "well-being" check at 728 Maryland Avenue, where she encountered Mr. Murray. The two spoke briefly and Officer Athey allowed Mr. Murray to drive away. After she subsequently learned that Mr. Murray's Maryland driver's license was under suspension, Officer Athey filed an application for charges for driving with a suspended license. Officer Athey testified to those facts at trial.

The State also introduced into evidence at trial a one-page excerpt of Mr. Murray's driving record from Maryland's Motor Vehicle Administration ("MVA") and a "three-year driving record" for Mr. Murray from the Pennsylvania Department of Transportation. The Maryland document identifies his address as 1404 Frederick Street in Cumberland. It also states that the MVA mailed him a notice of suspension on August 8, 2016, that his license

[1] Mr. Murray was also charged with driving without a license but the State entered a *nolle prosequi* as to that charge.

was officially suspended on August 29, 2016, and that the suspension was withdrawn on December 28, 2016. The Pennsylvania record indicates that Mr. Murray first obtained a Pennsylvania license in 1988, that the issue date for his current license was April 4, 2016, and that on October 24, 2014 he had experienced both a restoration of his operating privileges and a downgrade of his commercial driver's license. The record does not explain either the restoration or the downgrade, nor does it identify whether he had held a Pennsylvania driver's license continuously since 1988 or if his license there had lapsed or been forfeited while he was living elsewhere.

Mr. Murray testified that he last lived in Maryland in 2009, when his address was 1404 Frederick Street in Cumberland, the same address currently on file with the MVA. After first moving to West Virginia, Mr. Murray moved to Pennsylvania in 2011. He testified that he retained his Maryland driver's license, even though it was suspended when he moved in 2009, until sometime after he moved to Pennsylvania. At some point, he claims, he "turned [his] Maryland license over to Pennsylvania[.]" On the day in question, Mr. Murray was visiting his girlfriend, who lives at the 728 Maryland Avenue address and with whom he occasionally stays.

Mr. Murray testified that he did not know that his Maryland license was suspended when he drove on December 9, 2016 and that he did not learn that it had been suspended until he later received a summons at his girlfriend's house notifying him of the charges he faced. He eventually learned that the license had been suspended due to unpaid child support. On cross-examination, Mr. Murray admitted that he was familiar with the MVA license suspension process, including that the MVA sends notices of suspension by mail

and that the driver must then take action to get the license "unsuspended." After the court sentenced him, Mr. Murray filed this appeal.

DISCUSSION

Mr. Murray contends that the evidence against him was insufficient to support his conviction for driving with a suspended license. Though Mr. Murray does not dispute that he was driving on the day he encountered Officer Athey or that his license had been suspended, he contends that the State failed to present sufficient evidence to support a jury inference that he was aware of the suspension.

The standard for our review of evidentiary sufficiency 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." *Grimm v. State*, 447 Md. 482, 494-95 (2016) (quoting *Cox v. State*, 421 Md. 630, 656-57 (2011)). "We give due regard to the [fact finder's] finding of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses." *Perez v. State*, 201 Md. App. 276, 286 (2011) (alteration in *Perez*) (quoting *Harrison v. State*, 382 Md. 477, 487-88 (2004)). We therefore "defer to any reasonable inferences a jury could have drawn in reaching its verdict, and determine whether there is sufficient evidence to support those inferences." *Lindsey v. State*, 235 Md. App. 299, 311, *cert. denied*, 458 Md. 593 (2018).

The jury convicted Mr. Murray of violating § 16-303(c) of the Transportation Article (Repl. 2012), which prohibits an individual from driving a motor vehicle while the person's license is suspended. To convict Mr. Murray for that offense, the State was

required to show that: (1) he was driving the vehicle; (2) his license was suspended; and (3) he knew that his license was suspended. *See Steward v. State*, 218 Md. App. 550, 559-60 (2014). Only the final factor is at issue here.

To prove the required element of knowledge, "the State must present evidence that the defendant either had actual knowledge [of the suspension], or that the defendant was deliberately ignorant or willfully blind to the suspension." *Id.* at 560. Actual knowledge requires an awareness or belief of the existence of a certain fact. *Id.* Deliberate ignorance occurs when, with the belief that a certain fact is probable, one "deliberately shuts his or her eyes or avoids making reasonable inquiry with a conscious purpose to avoid learning the truth." *Id*. (quoting *Rice v. State*, 136 Md. App. 593, 601 (2001)).

The Court of Appeals first addressed the knowledge required to convict a defendant of driving on a suspended license in *State v. McCallum*, 321 Md. 451 (1991). There, the trial court had refused to give a jury instruction that criminal intent was an element of the offense. *Id.* at 454. The Court of Appeals reversed the judgment, holding that knowledge is a required element of the crime and that the trial court had thus erred in refusing to instruct the jury as to criminal intent. *Id*. at 457. In a concurring opinion, Judge Howard Chasanow explained that required knowledge could be either actual knowledge or the result of "deliberate ignorance" or "willful blindness." *Id*. at 458. He explained that deliberate ignorance could be found if Mr. McCallum, believing that his license was likely suspended, "deliberately avoided contact with the MVA to evade notice." *Id*. at 461. Specifically, Judge Chasanow posited that Mr. McCallum would have been deliberately ignorant of his suspension if he had been aware that his failure to pay district court fines

would result in the suspension of his license, failed to apprise the MVA of his current address notwithstanding a legal obligation to do so,[2] and deliberately avoided contact with the MVA to avoid receiving notice of the suspension. *Id.* (footnote omitted).

In *Rice*, this Court applied Judge Chasanow's approach in the course of determining that evidence was sufficient to establish that the defendant had the required criminal intent to support his conviction for driving with a suspended license. 136 Md. App. at 604-05. There, the MVA had suspended Mr. Rice's license as a result of his conviction for driving under the influence of alcohol. *Id.* at 596. Mr. Rice claimed that he had not received any notice of the suspension because he had not been living at home—which was the address on file with the MVA—due to marital problems. *Id.* at 597. Some evidence seemed to bolster that contention as the MVA's notices of suspension sent to his home address by certified mail had been returned to the MVA. *Id.* at 596.

We concluded that although Mr. Rice may not have received an actual suspension notice, there was "ample evidence of knowledge on [his] part." *Id*. at 605. Noting that all persons are presumed to know the law, we concluded that the jury could have rationally found the defendant's deliberate ignorance or willful blindness based on evidence that (1) "he had reason to believe that the MVA would take action to suspend his driving privilege" once he had been "convicted of [a] DUI and had 8 points assessed against him," *id.*, (2) he was living at least part time at his home address, *id.* at 606, and (3) the "green

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[2] Section 16-116(a) of the Transportation Article requires that a driver inform the MVA of any change in his or her mailing address within 30 days of the address change.

card" informing him that a certified mail delivery was waiting to be picked up at the post office was delivered to the house, *id.*

We again addressed this issue in *Steward*. At trial, the defendant had claimed that she did not know that her license had been suspended until she was stopped by police. 218 Md. App. at 561. The evidence showed that the suspension at issue was her third and that, following her first two suspensions, the MVA had required Ms. Steward to attend a point system conference. *Id.* The following year, Ms. Steward received a speeding ticket and the MVA notified her that she was required to attend a driver improvement program. *Id.* After she failed to attend, the MVA suspended her license for a third time. *Id.* At trial, Ms. Steward explained that she did not receive the notices from the MVA regarding the driver improvement program or the third license suspension because she had been evicted from her apartment and had not had a permanent address for over a year. *Id.* at 561-62. We concluded that Ms. Steward had reason to believe that the MVA would suspend her license after her latest transgression based on her previous suspensions and her attendance at the point system conference. *Id.* at 562-63. Thus, we determined, the jury could reasonably infer that Ms. Steward was deliberately avoiding contact with the MVA when she failed to notify the agency of her change in address for over a year. *Id.* at 562.

Mr. Murray argues that this case is distinguishable from *McCallum*, *Rice*, and *Steward* because the State presented no evidence showing that he was aware of circumstances that would cause him to know that his license had been, or was likely to be, suspended. In particular, he argues the State failed to prove (1) that he was aware that he was behind in his child support obligation and (2) in light of the fact that the Child Support

Administration has discretion whether to seek a license suspension for overdue child support,[3] that he knew that it was probable that the agency would exercise that discretion. We disagree. Mr. Murray acknowledged in his testimony that the reason for his license suspension "was child support." The jury could infer from that admission and the fact of the suspension that he would have been aware both that he owed child support and whether he was current on that obligation. Moreover, we see no relevance in the distinction between a mandatory license suspension—e.g., due to an accumulation of points, as in *Rice*—and a discretionary suspension resulting from overdue child support. In both cases, the suspension of one's license is a prescribed consequence of the failure to comply with a statutory obligation that one can reasonably anticipate.

Mr. Murray also argues, similar to the defendants in *McCallum*, *Rice*, and *Steward*, that he was not aware of his license suspension because he no longer resided at the address where the suspension notice was sent. However, the holder of a driver's license "is

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[3] Section 10-119(b) of the Family Law Article (Repl. 2012) provides:

> (1) . . . [T]he [Child Support] Administration may notify the [MVA] of an obligor with a noncommercial license who is 60 days or more out of compliance, or an obligor with a commercial license who is 120 days or more out of compliance, with the most recent order of the court in making child support payments if: (i) the Administration has accepted an assignment of support under § 5-312(b)(2) of the Human Services Article; or (ii) the recipient of support payments has filed an application for support enforcement services with the Administration.
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> (2) Upon notification by the Administration under this subsection, the [MVA]: (i) shall suspend the obligor's license or privilege to drive in the State . . . .

'presumed to know the law regardless of conscious knowledge or lack thereof, and [is] presumed to intend the necessary and legitimate consequences of [his or her] actions in its light.'" *Steward*, 218 Md. App. at 559 (alterations in *Steward*) (quoting *Rice*, 136 Md. App. at 605). Here, Mr. Murray admittedly left Maryland while he knew his license was under suspension and he failed to provide the MVA with an updated address at that time or at any time thereafter notwithstanding a requirement that he do so promptly. His failure to comply with that legal obligation was the result of his own "intentional inaction." *Steward*, 218 Md. App. at 563.[4]

Viewed in the light most favorable to the State, the evidence presented at trial supported the inference that, at the time of Mr. Murray's encounter with Officer Athey on December 9, 2016, he was deliberately ignorant of or willfully blind to his license suspension. The evidence showed that: (1) Mr. Murray had violated Transportation § 16-116(a) when he failed to notify the MVA of his address change within 30 days of moving from 1404 Frederick Street; (2) his license was under suspension at the time he moved and he failed to change his address when he cleared up that prior suspension; (3) his then-current license suspension was for failure to pay child support; and (4) he was familiar

[4] Mr. Murray also argues that the MVA could have sent the suspension notice to his girlfriend's address, as that address was on file with the District Court. We find no merit in that argument. The MVA is required to send notice to the address listed on a driver's license. *See* Transp. § 12-114(a)(2). It is the obligation of the driver to maintain a current address with the MVA; it is not the obligation of the MVA to locate a driver's current address when issuing a notice of suspension. *See* Transp. § 16-116(a). Moreover, there was no evidence that Mr. Murray was associated with 728 Maryland Avenue prior to his encounter with Officer Athey on December 9, 2016, which was four months after his notice of suspension was issued.

with the MVA's license suspension process of sending notices of suspension by mail.[5] Based on this evidence, the jury could reasonably infer that Mr. Murray had been avoiding contact with the MVA because he had reason to believe that his Maryland license was in danger of suspension due to his failure to pay child support.

Mr. Murray acknowledges that the jury was not required to accept his testimony. He argues, however, that the jury could not infer that he had the required knowledge based on its disbelief of his testimony unless there was also evidence that his testimony was "inherently improbable." That is because, generally, a "trier of fact cannot infer scienter, i.e., guilty knowledge, based solely on a defendant's denial of such knowledge." *Grimm*, 447 Md. at 506. Here, however, the reasonable inference on which the jury could have found that Mr. Murray was deliberately ignorant was not disbelief of his own testimony but the evidence already described.

JUDGMENT OF THE CIRCUIT COURT FOR ALLEGANY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[5] Although Mr. Murray testified that he had turned in his Maryland driver's license at some point after he moved to Pennsylvania, and so believed that he no longer had a Maryland driver's license at all, the jury was free to disbelieve that testimony, as it apparently did.