Circuit Court for Baltimore City
Case No. 117060003

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1624

September Term, 2017

DARRION MALLETTE

v.

STATE OF MARYLAND

Wright,
Graeff,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: September 20, 2018

A jury, in the Circuit Court for Baltimore City, convicted Darrion Mallette, appellant, of possession of a firearm by a disqualified person and possession of ammunition by a disqualified person. Mallette was sentenced to a term of 10 years' imprisonment for the conviction of possession of a firearm and a concurrent term of one year imprisonment for the conviction of possession of ammunition. On this appeal, Mallette presents the following questions for our review:

1. Was it error or an abuse of discretion to accept the arresting officer as an expert in the characteristics of an armed person?

2. Was it error to excuse the jury, despite a request not to do so, after inconsistent verdicts were rendered?

3. Was the evidence insufficient to sustain the convictions?

For reasons to follow, we answer all questions in the negative and affirm the judgments of the circuit court.

BACKGROUND

Mallette was arrested after the police recovered a loaded handgun from the pocket of a jacket Mallette was seen wearing. Mallette was charged with possession of a regulated firearm by a disqualified person, possession of ammunition by a disqualified person, and wearing, carrying, or transporting a handgun.

At trial, Baltimore City Police Officer Andre Smith testified that, in the afternoon hours of February 7, 2017, he was in his patrol car when he received a call from dispatch regarding "trouble" at a residential address in Baltimore. Upon responding to that

location, Officer Smith stopped his vehicle in front of the residence and observed approximately five individuals "sitting on the porch." When Officer Smith exited his vehicle, the individuals "pretty much all got up and walked off the porch." When Officer Smith approached the individuals and asked for them to "come here for a second," the individuals "all took off running." Officer Smith further testified that, when the group ran, he noticed all but one of the individuals "were running palms open, like palms out with their hands out." The one individual not running in that manner, later identified as Mallette, was, according to Officer Smith, "clutching his left side of his jacket."

At that point in Officer Smith's direct testimony, the State asked whether he had received training "on how to recognize someone carrying a gun." Officer Smith responded in the affirmative, explaining that, while attending the Police Academy, he was trained in "characteristics of an armed person." The State then asked the officer how many arrests he had been involved in where an individual was arrested with a firearm, and Officer Smith stated, "over 20." The State thereafter moved to have Officer Smith qualified as "an expert in the characteristics of an armed person."

The court then permitted defense counsel to *voir dire* the officer. During that *voir dire*, Officer Smith stated, among other things, that he was unsure how many hours he spent in training at the Police Academy regarding armed individuals; that he attended the Police Academy in 2008; that he had not received any formal training in "recognizing

armed people" since graduating from the Police Academy; and that he had never testified as an expert "with regard to the armed characteristics of a person."

At the conclusion of his *voir dire* examination of Officer Smith, defense counsel objected to the officer's qualification as an expert. The court overruled the objection, stating that "20 gun arrests, and a class, and being a police officer for 10 years" was sufficient to qualify Officer Smith as an expert in the characteristics of an armed person.

Officer Smith then resumed his direct testimony, stating that, after the group began to run, he chased after Mallette. The officer explained that he made that decision based on the fact that Mallette was "running and clenching his left side of his jacket," which led the officer to believe "that he was armed with a gun." Officer Smith further testified that, during the chase, he observed Mallette remove his jacket and throw it to the ground. A short time later, Mallette lost his balance and fell to the ground, and Officer Smith "was able to catch up with him and put him in handcuffs." Officer Smith then went back and recovered Mallette's jacket, where the officer found a loaded handgun in the jacket's left-hand pocket.

Jennifer Ingbretson, a forensic scientist with the Baltimore City Police Department, testified that she received and tested the handgun recovered by Officer Smith and that the gun was operable. Defense counsel did not ask Ms. Ingbretson any questions on cross-examination.

At the close of the State's case, defense counsel stated that he wanted to "move for judgment of acquittal." When the court asked if he would "like to be heard," defense counsel responded in the negative. The court denied the motion. Defense counsel then indicated that he would not be calling any witnesses. At that point, defense counsel stated that he wanted to "renew [his] motion and just submit." The court denied the motion.

Later, the court instructed the jury as to the elements of the crimes charged:

> [T]he defendant is charged with the crime of possessing a regulated firearm after having been convicted of a crime that disqualifies him from possessing a regulated firearm. In order to convict the defendant of this charge, the State must prove 1) that the defendant knowingly possessed a regulated firearm and 2) that the defendant was previously convicted of a crime that disqualified him from possessing a regulated firearm.
>
> A regulated firearm means a handgun, which is a firearm with a barrel less than 16 inches in length and includes a single pistol, a starter pistol or a blank pistol. The State is not required to prove that the firearm in this case is operable under these – under this charge. The State and Defense agree and stipulate that the defendant was previously convicted of a crime that disqualifies him from possessing a regulated firearm.
>
> Possession means having control over the firearm, whether actual or indirect. More than one person can be in possession of the same firearm at the same time. A person not in actual possession who knowingly has both the power and the intention to exercise control over a firearm, has indirect possession. In determining whether the defendant had indirect possession of the firearm, you should consider all of the surrounding circumstances. These circumstances include the distance between the defendant and the firearm and whether the defendant had some ownership or possessory interest in the location where the firearm was found.
>
> The defendant's also charged with carrying a handgun. In order to convict the defendant of this charge, the State must prove that the defendant

> wore, carried, or transported a handgun that was within his reach and available for his immediate use.
>
> Lastly, the defendant is charged with the crime of possessing ammunition while being a prohibited person. In order to convict the defendant of this charge, the State must prove 1) that the defendant possessed a cartridge, shell, or any other device containing explosive or incendiary material designed and intended for use in a firearm and 2) that the defendant was prohibited from possessing a regulated firearm.

The jury eventually returned verdicts of guilty as to the charges of possession of a firearm by a disqualified person and possession of ammunition by a disqualified person, but returned a verdict of not guilty as to the charge of wearing, carrying, or transporting a handgun. After the foreperson announced the verdicts, the court asked defense counsel if he wanted the jury polled. Defense counsel then asked the court if he could approach the bench, and the court responded, "No. Not until we hearken the verdict." After the jury was polled and the verdict hearkened, the court thanked the jurors and told them that they were "free to go." At that point, the following colloquy ensued:

> [DEFENSE]: Your Honor, if I may, before you excuse them, may we just briefly approach.
>
> THE COURT: You may approach. You may be excused.
>
> (At 12:27 p.m. jury excused from the courtroom.)
>
> (Whereupon, Counsel and Defendant approached the bench and the following occurred.)
>
> [DEFENSE]: So I think this is an inconsistent verdict.
>
> THE COURT: Inconsistent legally, or inconsistent factually?

[DEFENSE]: Inconsistent legally.

Defense counsel then argued that the verdicts were legally inconsistent because all of the elements of the charge of wearing, carrying, or transporting a handgun were "covered" by the elements of the charge of possession of a firearm by a prohibited person. When the court responded that, unlike the latter charge, the charge of wearing, carrying, or transporting a handgun did not require a showing that the gun was operable, defense counsel stated "nobody contested the operability of the gun." The court, over objection, ultimately decided not to rule on defense counsel's objection; instead, the court chose to delay sentencing to allow defense counsel to "brief the issue" in a motion for a new trial.

At the sentencing hearing following the filing of his motion for new trial, defense counsel conceded that the jury's verdicts were not legally inconsistent. In lieu of that argument, defense counsel asked that the court grant a new trial "in the interest of justice" because the verdicts were "logically inconsistent." The court denied the motion.

DISCUSSION

I.

Mallette first argues that the circuit court erred in accepting Officer Smith as an expert in the characteristics of an armed person. Mallette maintains that, before accepting the officer as an expert, the court was required to determine that the evidence presented was a proper subject for expert testimony; that Officer Smith was qualified to

testify by virtue of his education and experience; and, that Officer Smith's conclusions were based upon a legally sufficient factual foundation. According to Mallette, none of those factors were present here.

The State responds that the circuit court properly exercised its discretion in accepting Officer Smith as an expert. The State notes that Officer Smith "had been a police officer for almost 10 years, he had participated in approximately 20 arrests involving armed individuals, and he received formal training during the Police Academy in the characteristics of an armed person."

Maryland Rule 5-702, which governs the admission of expert testimony, provides that "[e]xpert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue." The Rule further provides that, "[i]n making that determination, the court shall determine (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education, (2) the appropriateness of the expert testimony on the particular subject, and (3) whether a sufficient factual basis exists to support the expert testimony." *Id.* "The determination of whether an expert's testimony is admissible, pursuant to [Md.] Rule 5-702, lies 'within the sound discretion of the trial judge and will not be disturbed on appeal unless clearly erroneous.'" *Bomas v. State*, 181 Md. App. 204, 208 (2008), *aff'd* 412 Md. 392 (2010) (quoting *Wilson v. State*, 370 Md. 191, 200 (2002)).

Here, we hold that the circuit court did not err in permitting Officer Smith to testify as an expert in the characteristics of an armed person. As noted by the State, Officer Smith had nearly 10 years of experience as a police officer, had been involved in approximately 20 arrests of individuals found to be in possession of a gun, and had received formal training while at the Police Academy in the characteristics of an armed person. Those facts were sufficient to establish Officer Smith as an expert. *See Donati v. State*, 215 Md. App. 686, 742 (2014) ("To qualify as an expert, one need only possess such skill, knowledge, or experience in that field or calling as to make it appear that [the] opinion or inference will probably aid the trier [of fact] in his search for the truth.") (citations and quotations omitted) (alterations in original).

Moreover, Officer Smith, in presenting his expert opinion, testified that Mallette was one of five individuals that ran away after the officer approached the individuals outside of a residential address. Officer Smith also testified that he observed four of the individuals running "with their hands out" but that Mallette was "running and clenching his left side of his jacket." Based on these facts, Officer Smith stated that he believed Mallette "was armed with a gun." Officer Smith's testimony on the matter was appropriate, therefore, as it not only explained the officer's actions in chasing Mallette, but it also aided the jury in its determination of whether Mallette had been in possession of the gun that was found in the pocket of the jacket that he discarded during the chase. *See Alford v. State*, 236 Md. App. 57, 71 (2018) (noting that the standard for relevance is

"whether the jury will receive appreciable help from the expert testimony in resolving the issues presented in the case.") (citations and quotations omitted). Officer Smith's observations also served to provide a legally sufficient factual foundation for his expert opinion, such that it did not constitute "mere speculation or conjecture[.]" *Rochkind v. Stevenson*, 454 Md. 277, 286 (2017) (discussing the "sufficient factual basis" prong of Md. Rule 5-702); *see also Taylor v. Fishkind*, 207 Md. App. 121, 143 (2012) ("A factual basis 'may arise from a number of sources, such as facts obtained from the expert's first-hand knowledge[.]'") (quoting *Sippio v. State*, 350 Md. 633, 653 (1998)).

Mallette argues that Officer Smith's testimony was not a proper subject of expert testimony because a person who is running while clutching his jacket pocket might do so "to hold onto objects," such as a wallet, phone, or car keys, "so that they will not fall out." Mallette also argues that Officer Smith's conclusions lacked a legally sufficient factual foundation because the officer "merely saw a running man, who appeared to be trying not to drop something valuable to him." Finally, Mallette argues that Officer Smith's education and experience was too paltry to qualify him as an expert and that "the ruling in this case stands for the proposition that, if you ever had a single 'class' on any subject – no matter how short the class or how long ago – instantly, you become and remain an 'expert' on it."

None of Mallette's arguments have merit. Whether Mallette was clutching his jacket pocket for fear that something would fall out or because he was in possession of a

gun was clearly a fact in dispute and thus a proper subject of expert testimony. *See MEMC Electronic Materials, Inc. v. BP Solar Intern., Inc.*, 196 Md. App. 318, 360 (2010) ("Expert witnesses are free to express opinions on facts in dispute[.]"). And, although Mallette disagrees with Officer Smith's conclusions as to what the officer witnessed, Mallette fails to provide any specific argument or evidence that Officer Smith did not have a legally sufficient factual foundation for his conclusions.

Finally, Officer Smith was, as noted, sufficiently qualified to express an opinion on the matter, and any argument Mallette raises regarding those qualifications goes to the weight of the officer's conclusions not their admissibility. *Levitas v. Christian*, 454 Md. 233, 246 (2017). Furthermore, the question here is not whether Officer Smith's training at the Police Academy was sufficient to qualify him as an expert, but rather whether Officer Smith was qualified based on his knowledge, skill, experience, training, or education and, importantly, whether the court abused its discretion in permitting Officer Smith to testify as an expert on the matter. Framed as such, and for the reasons previously stated, we perceive no error.

II.

Mallette next contends that the circuit court erred when it excused the jury "after inconsistent verdicts were rendered." Mallette argues that the jury's guilty verdict on the charge of possession of a firearm was legally inconsistent with its not guilty verdict on the charge of wearing, carrying, or transporting a firearm because "the issue of

operability was the only difference between the offenses, and operability was never contested."

The State counters that the issue was not properly preserved because Mallette failed to object to the inconsistency before the jury was excused. The State also argues that, even if the issue had been preserved, it was subsequently waived when, during his motion for a new trial, defense counsel conceded that the verdicts were not legally inconsistent. Lastly, as to the main and definitive point, the State disagrees that the verdicts were inconsistent because the two charges had distinct elements.

We disagree with the State that the issue was not properly preserved. In order to preserve for review the issue of inconsistent verdicts, a defendant is required to object to any alleged inconsistencies before the jury is discharged. *Givens v. State*, 449 Md. 433, 487 (2016). In the present case, although defense counsel did not technically "object" prior to the jury being discharged, we think defense counsel made an adequate effort at bringing the issue to the court's attention. Following the reading of the jury's verdict, defense counsel asked the court if he could "approach," but the court stated that the request would have to wait until after the verdict was hearkened. Then, after the verdict was hearkened, defense counsel renewed his request and specifically informed the court that he wished to "briefly approach" before the jury was excused. Although the court permitted defense counsel to approach the bench, it nevertheless dismissed the jury before defense counsel had a chance to inform the court as to basis for his request (which

defense counsel did immediately upon approaching the bench). Thus, we cannot say that defense counsel failed to preserve the issue for review, where the record shows that defense counsel tried to inform the court as to the nature of his objection before the jury was discharged but that the court did not entertain the objection until after the jury had been discharged. *See* Md. Rule 4-323(c) ("If a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection at that time does not constitute a waiver of the objection."). At the very least, defense counsel made it known to the court that there was an issue he wished to discuss with the court before the jury was excused. *See* Md. Rule 4-323(c) ("For purposes of review by the trial court or on appeal of any other ruling order, it is sufficient that a party, at the time the ruling or order is made or sought, makes known to the court the action that the party desires the court to take[.]"); *see also Givens*, 449 Md. at 473 ("[O]ne of the purposes of the requirement that a defendant preserve issues for review is to give a trial court the opportunity to correct any error in the proceedings."); *Tate v. State*, 182 Md. App. 114, 135 (2008) ("The defendant may not stand mute and later complain about the [inconsistent] verdicts he did nothing to cure at the only time a cure was still possible.").

We also disagree with the State's position that Mallette's appellate argument was waived when, during the hearing on his motion for a new trial, defense counsel conceded that the verdicts were not legally inconsistent. Although a party is generally not permitted to maintain a position inconsistent with one previously assumed by him in

another judicial proceeding, that preclusion also requires a showing that the party maintaining the inconsistent position had intentionally misled the court to gain an unfair advantage. *Bank of New York Mellon v. Georg*, 456 Md. 616, 624-25 (2017) (discussing the elements of judicial estoppel). The State has made no such showing here. Moreover, we cannot say that the State would be prejudiced by our entertaining Mallette's current argument, as the issue has been fully briefed by the State. *See Eagan v. Calhoun*, 347 Md. 72, 88 (1997) ("'Generally speaking, a party will not be permitted to maintain inconsistent positions . . . where he had, or was chargeable with, full knowledge of the facts, and another will be prejudiced by his action.'") (citing 28 Am. Jur. 2d, *Estoppel and Waiver* § 68, at 694-95 (1966)).

That said, we hold that the circuit court did not err in accepting the jury's verdicts. "Maryland has long held that legally inconsistent verdicts of guilt cannot stand." *Savage v. State*, 226 Md. App. 166, 172 (2015). "A legally inconsistent verdict is one where the jury acts contrary to the instructions of the trial judge with regard to the proper application of the law." *McNeal v. State*, 426 Md. 455, 458 (2012). More specifically, a legally inconsistent verdict occurs "when an acquittal on one charge is conclusive as to an element which is necessary to and inherent in a charge on which a conviction has occurred." *Savage*, 226 Md. App. at 173 (citations and quotations omitted). "The underlying purpose of this rule is to ensure that an individual is not convicted of a crime on which the jury has actually found that the defendant did not commit an essential

element, whether it be one element or all." *Teixeira v. State*, 213 Md. App. 664, 680 (2013) (citations and quotations omitted).

Factually inconsistent verdicts, on the other hand, are not illegal in Maryland. *McNeal*, 426 Md. at 458. "A factually inconsistent verdict is one where a jury renders different verdicts on crimes with distinct elements when there was only one set of proof at a given trial, which makes the verdict illogical." *Savage*, 226 Md. App. at 173 (citations and quotations omitted). In other words, "[f]actually inconsistent verdicts are those where the charges have common facts but distinct legal elements and a jury acquits a defendant of one charge, but convicts him or her on another charge." *McNeal*, 426 Md. at 458. As noted, factually inconsistent verdicts are permissible; legally inconstant verdicts are not. "We review *de novo* the question of whether verdicts are legally inconsistent." *Teixeira v. State*, 213 Md. App. 664, 668 (2013).

The verdicts in the present case were not legally inconsistent. The crime for which Mallette was found guilty – possession of a firearm by a disqualified person – required the State to show that Mallette knowingly possessed a regulated firearm after having been convicted of a disqualifying crime. *Smith v. State*, 225 Md. App. 516, 520 (2015); *see also* Maryland Pattern Jury Instructions-Criminal ("MPJI-Cr") 4:35.6. The crime for which Mallette was acquitted – wearing, carrying, or transporting a handgun – required the State to show that Mallette wore, carried, or transported a handgun that was

within his reach and available for his immediate use. *Jefferson v. State*, 194 Md. App. 190, 214 (2010); *see also* MPJI-Cr 4:35.2.

Clearly, both crimes have distinct elements,[1] and there is no evidence that the jury misapplied the elements of either crime or disregarded the court's instructions. Thus, even though the jury's verdict appears "curious," it is not legally inconsistent. *See McNeal*, 426 Md. at 472-73 (holding that verdicts were not legally inconsistent where

[1] In *McNeal*, the Court of Appeals stated that "[t]he charge of possession of a handgun [after prior conviction of a disqualifying crime] contains legal elements that are distinct from the elements in a wearing, carrying, or transporting a handgun charge." 426 Md. at 472.

Specifically, the crime of possession of a firearm by a disqualified person occurs when an individual that has been convicted of a disqualifying crime is found to be in possession of a handgun. *See* Md. Code (2003, 2011 Repl. Vol.), Public Safety Article § 5-133(b)(1). To constitute possession under § 5-133(b)(1), "a person may have actual or constructive possession of the [contraband], and the possession may be either exclusive or joint in nature." *Moye v. State*, 369 Md. 2, 14 (2002). Additionally, the Court of Appeals has held that in order to convict a defendant of a "possession conviction," the individual must have "'knowledge of the illicit item.'" *McNeal*, 200 Md. App. at 524 (citing *Parker v. State*, 402 Md. 372, 407 (2007)).

On the other hand, the crime of wearing, carrying, or transporting a handgun occurs when an individual "wear[s], carr[ies], or transport[s] a handgun, whether concealed or open, on or about the person." Md. Code (2002, 2012 Repl. Vol.), Criminal Law Article § 4-203(a)(i); *see Jefferson*, 194 Md. App. at 214 ("A weapon is 'about' a person if it is 'in such proximity … as would make it available for immediate use.'") (citing *Corbin v. State*, 237 Md. 486, 491 (1965)). Additionally, to convict a defendant for violating § 4-203, "[i]t must be shown that the defendant had at least the 'general intent' to carry the instrument for use as a weapon." *State v. Brinkley*, 102 Md. App. 774, 779 (1995) (citations omitted). Though the *Brinkley* Court applied Article 27, section 36 of the Md. Code, which has since been repealed, the "general intent" requirement is still relevant, as Article 27 § 36B was "recodified as Md. Code (2002), § 4-203 of the Criminal Law Article). *See Alston v. State*, 433 Md. 275, 276-77 N. 2 (2013).

defendant "was convicted of possession of a regulated firearm after prior conviction of a disqualifying crime, but acquitted of wearing, carrying, or transporting a handgun."). That the "operability" of the handgun may have been conceded is inconsequential.

III.

Mallette last argues that the evidence was insufficient to sustain his convictions. Mallette contends that the only evidence against him was Officer Smith's testimony that Mallette ran from him and that a loaded gun was found inside the pocket of a jacket that Mallette had left next to a tree. Mallette further contends that there was no scientific, DNA, or fingerprint evidence to corroborate Officer Smith's account.

The State maintains, and we agree, that Mallette's sufficiency argument was not preserved. "On appeal from a jury trial, appellate review of sufficiency of evidence is available only when the defendant moves for judgment of acquittal at the close of all the evidence and argues precisely the ways in which the evidence is lacking." *Hobby v. State*, 436 Md. 526, 540 (2014) (citations omitted); *see also* Md. Rule 4-324(a). Here, although Mallette moved for judgment of acquittal at the close of all evidence, he did not offer any reasons for the motion. Accordingly, the issue is not preserved for our review. *Darling v. State*, 232 Md. App. 430, 468 (2017), *cert. denied*, 454 Md. 655.

Assuming, *arguendo*, that the issue was preserved, we are persuaded that the evidence was sufficient. "The test of appellate 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.'" *Donati*, 215 Md. App. at 718 (citing *State v. Coleman*, 423 Md. 666, 672 (2011)). That same standard applies to all criminal cases, "including those resting upon circumstantial evidence, since, generally, proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eye-witnesses accounts." *Neal v. State*, 191 Md. App. 297, 314 (2010). Moreover, "[t]he test is 'not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded *any* rational fact finder.'" *Painter v. State*, 157 Md. App. 1, 11 (2004) (citations omitted) (emphasis in original). In making that determination, "[w]e 'must give deference to all reasonable inferences [that] the fact-finder draws, regardless of whether [we] would have chosen a different reasonable inference.'" *Donati*, 215 Md. App. at 718 (citing *Cox v. State*, 421 Md. 630, 657 (2011)). "In so doing, '[w]e defer to the fact finder's 'opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence[.]'" *Neal*, 191 Md. App. at 314 (citations omitted).

As noted, Mallette was convicted of possession of a firearm by a disqualified person and possession of ammunition by a disqualified person. Both crimes required a showing that Mallette had possessed the illicit item and that he had been convicted of a disqualified crime. Mallette stipulated at trial to his having been convicted of a disqualifying crime, and he does not challenge that stipulation on appeal. Mallette's only

argument is that the State did not sufficiently prove that he "was guilty of possessing either the gun or the ammunition."

"[I]n order to support a conviction for a possessory offense, the 'evidence must show directly or support a rational inference that the accused did in fact exercise some dominion or control over the prohibited [item.]"[2] *Jefferson v. State*, 194 Md. App. 190, 214 (2010) (citations omitted). Moreover, "[c]ontraband need not be on a defendant's person to establish possession." *Handy v. State*, 175 Md. App. 538, 563 (2007). "Rather, a person may have actual or constructive possession of the [contraband], and the possession may be either exclusive or joint in nature." *Moye v. State*, 369 Md. 2, 14 (2002). "To prove possession of contraband, whether actual or constructive, joint or individual, the State must prove, beyond a reasonable doubt, that the accused knew 'of both the presence and the general character or illicit nature of the substance.'" *Handy*, 175 Md. App. at 563 (citations omitted).

Here, Officer Smith testified that, during the chase, Mallette was clutching the left side of his jacket, which he eventually abandoned. Officer Smith then testified that, after apprehending Mallette, he retrieved Mallette's jacket and found a loaded handgun inside the jacket's left-hand pocket. From that, a reasonable fact-finder could have concluded that Mallette "possessed" both the handgun and ammunition. That Officer Smith was the

[2] Although "possession cases" typically address the possession of controlled dangerous substances, the same analysis is applicable in cases involving other illegal items, including firearms. *State v. Smith*, 374 Md. 527, 549 (2003).

only person to testify to those facts does not render the evidence insufficient, regardless of whether there was any other evidence offered in support. *See Handy v. State*, 201 Md. App. 521, 559 (2011) ("It is well settled that the evidence of a single eyewitness is sufficient to sustain a conviction.").

For the reasons stated above, we affirm the judgment of the circuit court.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED; COSTS TO BE PAID BY APPELLANT.