UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2405

September Term, 2014

ERIK TYRONE HOWARD

v.

STATE OF MARYLAND

Kehoe,
Leahy,
Raker, Irma S.
(Retired, Specially Assigned),

JJ.

Opinion by Raker, J.

Filed: January 27, 2016

*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.

Erik Tyrone Howard, appellant, was convicted in the Circuit Court for Montgomery County of various theft crimes. Appellant presents two questions for our review:

> "1. Did the sentencing judge improperly consider statements from a sergeant at sentencing that he believed that appellant was responsible for twenty-three other burglaries for which he was neither charged nor arrested?
>
> 2. Is the evidence sufficient to sustain appellant's convictions for first degree burglary and malicious destruction of property?"

We shall hold that the trial judge did not consider improper factors in formulating appellant's sentence and hence did not err or abuse his discretion in sentencing appellant. We shall hold that the evidence was sufficient to support appellant's convictions.

I.

Appellant was indicted by the Grand Jury for Montgomery County with first degree burglary, two counts of theft between $1000. and $10,000 based on separate incidents, theft of goods valued under $1000., malicious destruction of property under $500, and motor vehicle theft. The court severed for trial the burglary, theft and malicious destruction of property from the second theft and motor vehicle count and appellant proceeded to trial before two different juries. The first jury convicted appellant of first degree burglary, theft of goods under the value of $1000. and malicious destruction of property. He was acquitted of theft of goods between $1000. and $10,000. In the second jury trial, appellant was convicted of theft of goods valued between $1000. and $10,000 and acquitted of motor

vehicle theft. The court sentenced appellant to twenty years on first degree burglary, ten years on theft, consecutive.[1]

A. Trial One: Burglary of Mr. Cabrera's Home

The following facts were elicited during the first trial. Mr. Ramonito Cabrera testified that on February 4, 2014, he lived in a single family home located at 409 Baltimore Road, Rockville, Maryland. Some time between 5:00 p.m. and 5:15 p.m. on February 4, 2014, Mr. Cabrera returned home from work and noticed that his door was slightly open, with pieces of the door frame laying on the ground. He saw his desk open, his dresser drawers open and jewelry missing. The jewelry he reported missing included a gold cross on a choke chain, a class ring inscribed with his name, another ring with a stone, and a bracelet. In addition he reported that a Samsung Galaxy tablet computer and foreign money were missing from his bedroom. Later that evening, the police showed photographs of several pieces of jewelry and a tablet computer to Mr. Cabrera. He identified the property as his and the police returned them to him.

Montgomery County Police Officer Paul Bandholz testified that on February 4, 2014, he was part of the Special Assignment Team conducting a surveillance of appellant and that at approximately 3:30 p.m., he saw appellant "milling around" in front of a residence at 414 North Horners Lane. The officer followed appellant and later saw him walk from the

[1] For sentencing purposes, the court merged the theft and destruction of property.

direction of the driveway of 409 Baltimore Road, carrying a tablet computer. Officer Jonathan Green was involved in the surveillance of appellant. He arrested appellant at about 5:15 p.m., and in a search incident to arrest, he recovered foreign paper currency and a gold necklace with a cross on it. Detective Michael Zito of the Rockville City Police Department executed a search warrant at 414 North Horners Lane and recovered two rings and a Samsung tablet computer bearing serial numbers matching the identification numbers Mr. Cabrera provided.

The jury convicted appellant of first degree burglary, theft and destruction of property, and acquitted him of theft of the value of goods between $1000. and $10,000.

B. Trial Two: Theft of Mr. Baker's Vehicle

Trial two involved motor vehicle theft, and theft of goods valued between $1000. and $10,000. The following facts were elicited. On January 26, 2014, Mr. Josh Baker, residing at 14518 Woodcrest Drive, Rockville, Maryland, reported to the police that his red 2009 Nissan Xterra had been stolen. Mr. Baker believed that his vehicle was stolen during the evening of January 25, 2014 when he last saw it in his driveway. He told the police that his car contained a GPS navigation system, golf clubs, various tools, sunglasses, an Ohio State headrest cover, and many keys to multiple apartment buildings necessary for the performance of his job in real estate. The police later returned the car to him and it still contained all of his property.

At trial, members of the Montgomery County Police Department Special Assignment Team that had followed appellant during the February 4th incident, testified that he had been observed for about a week and a half prior to that date. Several officers testified to having seen appellant driving around in the red Nissan. Officer Green testified that he arrested appellant on February 4, 2014, while appellant was driving the stolen Nissan.

The jury acquitted appellant of theft of the motor vehicle and convicted him of theft of goods valued between $1,000. and $10,000.

C. Sentencing Hearing

The sentencing court ordered a pre-sentence investigation report. The Department of Parole and Probation complied an update to the report compiled previously by the Department for appellant's earlier criminal cases. The sentencing court had received also an Assessment Synopsis and Bond Recommendations from Pre-Trial Services Unit, including a record of appellant's criminal case history, as follows:

DISPOSITION DATE	**DISPOSITION**	**OFFENSE**	**CASE #**
06/22/2009	GUILTY	ESCAPE – FIRST DEGREE	112485
06/13/2000	PROBATION BEFORE JUDGMENT, SUPERVISED	CDS: POSS PARAPHERNALIA	001000089286
01/24/2011	GUILTY	ROGUE AND VAGABOND	001000255998
10/08/1999	GUILTY	MUN ORD – PUB LOCAL LAW	001Z33318713
09/09/1999	GUILTY	CDS: POSS PARAPHERNALIA	005000066414

DISPOSITION DATE	DISPOSITION	OFFENSE	CASE #
01/16/2001	GUILTY	MUN ORD – PUB LOCAL LAW	005000099503
11/05/2008	PLEA GUILTY – 7 Years Jail, Suspended A/B 1 Year; 2 Years Probation	BURGLARY – FIRST DEGREE	111311
11/05/2008	PLEA GUILTY – 3 Years Jail, Suspended A/B 1 Year, Concurrent W/# 1113111	BURGLARY – FOURTH DEGREE	111442
11/05/2008	PLEA GUILTY – Guilty, 2 Years Jail, Concurrent, Suspended	CON – BURGLARY – FOURTH DEGREE	111442
11/26/2008	PLEA GUILTY – 1 Year Jail, Suspended; 2 Years Probation	THEFT: $500 PLUS VALUE	111683
07/08/2011	GUILTY – Guilty, 10 Years Jail, Suspended A/B 4 Years; 2 Years Probation	THEFT: $1,000 TO UNDER $10,000	118120
07/08/2011	GUILTY – 18 Months Jail, Suspended Concurrent; 2 Years Probation	5 COUNTS, THEFT: LESS $1,000 VALUE	118120
03/03/2011	GUILTY	TAMPER/DAMAGE W M/V	TREC89067

As required by law, the court completed the Maryland sentencing guidelines worksheet. The guidelines for each offense in the instant case read as follows: maximum 20 years for first degree burglary; maximum 10 years each for two counts of theft between $1000. and $10,000; maximum 4 years for theft of goods valued under $1000., minimum 6 months; maximum 5 years for motor vehicle theft; and, maximum 60 days for malicious destruction of property under $500.

The probation officer included a sentence recommendation in the pre-sentence report. The senior agent recommended incarceration, stating in pertinent part as follows:

> "A period of incarceration that falls within the submitted Guidelines is recommended, to be served consecutively to his current sentence. No probation is recommended. . . ."

At sentencing, the State asked the court to impose the maximum penalty for first degree burglary—twenty years—and the maximum penalty for theft—ten years consecutive. The prosecutor told the court as follows:

> "[Appellant] is a serial burglar. This is a man who when he goes and breaks into a house that's his job. That's what he does.
>
> I have behind me a representative from Rockville City Police Department, as well as Montgomery County Police Department. And I think I could ask each and every one of them who know the defendant very well to stand up and talk about the impact of when Erik Howard is out in the community and when he is incarcerated. And there is a huge difference in the number of burglaries that happen when Mr. Howard is locked up to when he is released.
>
> Sergeant Cowell (phonetic sp.) here is from Rockville City. He could stand before you and tell you that when there's a rash of burglaries the first person, the first suspect they look for is Erik Howard, because he is well known to both the Montgomery County Police Department, as well as Rockville City.
>
> * * *
>
> And then you look at the community impact, I can have Sergeant Cowell stand up, I can have Detective Zito, I can have the Special Assignment Team from Montgomery Village and Germantown stand up and tell you that when he's locked up the burglary rate is down, but when he's out, the burglary rate

> spikes. Is that coincidence? It's possible. But the coincidence keeps happening over and over again.
>
> So what I'm asking you to do is impose the 20 years for the burglary and impose the 10 years for the auto theft. Make those two consecutive giving a 30-year sentence. . . . I think that is the only way other people won't be victimized by Mr. Howard's choices to do his job."

The State called as a witness Sergeant Reece of the Rockville City Police Department, who testified as follows:

> "And as you well know, there was, again there were 24 burglaries in that particular one mile square radius in which we targeted Mr. Howard. I don't think, we can't convict him on, we didn't go to trial on those 24 burglaries, but 24 burglaries didn't take place since that day anywhere near that residential area that Mr. Howard was staying in. So I'm pretty confident I can speak for a lot of the residents in that neighborhood that would say that those 24 are definitely on Mr. Howard."

Counsel for appellant objected to the Officer's statement and the following colloquy ensued:

> "[DEFENSE COUNSEL]: I object to this, Your Honor. I mean, you know, the fact that they believe that there are 23 other burglaries that are attributed to Mr. Howard, that he wasn't charged with, that he's not been convicted of, that the Court doesn't have any evidence of—
>
> THE COURT: All right. I'll overrule the objection, *but I'm not considering it for the fact that he committed those burglaries. I'm not factoring that in.*
>
> [DEFENSE COUNSEL]: Very good.

THE COURT: *But I'm factoring in this is their belief that it's more than a coincidence that burglaries happen and in this particular—*

SERGEANT REESE: I just wanted to make sure it was pointed out that, you know, that was done, and then they have Rockville burglaries, as well. And then we went to watch the burglary happen, actually watched the burglary happen in our presence. So, I mean, this wasn't, again, a random thing he just did one time. So I just want to make sure it's clear.

[THE STATE]: How many hours did you all watch Mr. Howard?

SERGEANT REECE: We watched Mr. Howard for approximately two weeks for, you know, 16-hour days just making sure we could finally get him to do a burglary that we felt comfortable with him doing that we could convict him on, because we know how hard it is to actually make the case in court. So I just want to make Your Honor aware that it's not just one burglary we're talking about here. Whether it's, we put him on trial for it or not, I just want to make sure—thank you, Your Honor.

THE COURT: You're welcome.

[THE STATE]: Your Honor, I think *based on that,* and again, if we do look at his past and his present where he is serving the sentence from Judge Bernard's violation, I think we can guarantee what his future will be if he is released early, because he'll be just back on the streets, and we'll be back in front of you. So, for that reason, I think the only protection for the community is to warehouse him to give him the maximum, which is a 30-year sentence."

Following appellant's allocution, the court stated as follows:

> "Okay. Maybe, maybe, I don't know, if you had got a longer sentence along the way, you wouldn't be here now. I don't know. But I don't think you ever properly had to account for what you did.
>
> And so I look at your past, sure. As an 11-year-old boy, you were like everyone else, a lot of hope, a lot of future. It didn't work out. But I have to look at the situation of where you are now. And we have almost a million people that live in this county. And if you could break into everybody's home, I suspect you would, if you have enough time, because I agree with the State, that's what you do. That's your job. That's your living. That's all you seem to know. You're not equipped for anything else.
>
> You've had a lot of experience talking to judges about sentencing. You did a nice job. I don't know how much is sincere and how much isn't, but I look at the conduct, not the words. And if I were to give you a short sentence, there's no doubt about it that you would break into other homes and continue to do so.
>
> And since we're quoting old movies and old stories, I remember in Dirty Harry when the serial killer was killing everybody and he said to the major, Dirty Harry said he's going to continue to kill. And he goes how do you know? And Dirty Harry goes because he likes it. I think you like it. That's the only thing I can conclude with somebody that does things over and over again.
>
> * * *
>
> We're a very criminal friendly state in Maryland. We have parole, unlike the federal system, unlike Virginia and other neighboring states. We are very good to people that commit crime. We bend over backwards. We give them good time for almost anything other than trying to escape or hit a guard. We

> give them institutional time. We give them credits for doing programs. Our parole board can't wait to get people out.
>
> So even if you serve 15 percent of the time, that would be a gift, because I think if we polled everyone whose house is broken into or anyone who lives in this county and you said this is a guy named Howard, this is his record, what kind of sentence do you think he gets? Do you think anyone wouldn't want the maximum sentence? They'd say you've earned it, you deserve it.
>
> I think, Mr. Howard, that you are basically numb to other's feelings. *That's the only conclusion I can get. And I think that past is prologue. And based on your past, you will continue to break into homes if you're not incarcerated.*
>
> And I don't run into too many cases where a defendant has its own police, his own police detail like you did. You had a police detail almost around the clock following you, and you didn't let them down. Right in front of them you break into a house and steal a car. That's unbelievable nerve. That's unbelievable prediction, because these police aren't going to waste their time. They don't follow Ms. Bills around thinking she's going to break in a house. They follow people they know are going to break into homes.
>
> And the fact is that they're following you knowing you're going to break into a house is proof in the pudding that you shouldn't have been on the street. I should, if you earn any money there, I'll have you pay these police officers detail, because imagine the dollars that were spent following you around just in the case that I had."

The Court imposed sentence as indicated above and this timely appeal followed.

II.

We address first the State's preservation argument and hold that the sentencing issue is preserved for our review. The State argues that appellant did not object when the court stated it would only consider the fact that the police identified appellant as a suspect in the area, that appellant only objected once during sentencing—to the one remark that the police were attributing 23 area burglaries to appellant—so only that one remark is preserved for appellate review. Despite the State's argument, it is clear that appellant objected to the court's consideration of uncharged criminal acts in fashioning a sentence. We shall address the merits of appellant's sentencing claim.

Before this Court, appellant argues he was deprived of due process of law because the sentencing court impermissibly considered testimony from the police officers that appellant committed other uncharged burglaries. Specifically, appellant opposes the consideration by the sentencing court of a statement made by a Rockville City Police Department Sargent that he believed appellant was responsible for 23 burglaries other than that for which he stood trial.

Appellant maintains also that the State's evidence is insufficient to support appellant's conviction for first degree burglary and malicious destruction of property. He argues that "[b]ecause no direct evidence linked appellant to the breaking into the Baltimore Road residence and appellant was only one of several individuals who possessed items taken during the burglary, the jury had to resort to speculation to find that he was the burglar." He

points out that the State presented only evidence that he was seen by police near the burglarized home and that he was later arrested while in possession of some of the stolen property and that some of the stolen property was found in a home appellant shared with other individuals.

The State maintains that the sentencing court acted within its discretion in imposing sentence. The State contends that the sentencing judge stated specifically that he would not consider appellant's involvement *vel non* in the 23 uncharged burglaries and that the judge's sentencing remarks show that the court kept its word. The State suggests that when considering the judge's remark in context, it is clear that the court was referring to appellant's criminal history, and nothing more. The State argues that appellant has not met the burden of proving otherwise.

As to the sufficiency of the evidence, the State argues that the evidence was sufficient to support the convictions in that appellant was found in exclusive possession of property stolen from the house less than one hour after the police saw appellant walking from the driveway of the home and moments after the reported burglary. From these facts, the State argues, any rational trier of fact could have found the elements of the charged crimes beyond a reasonable doubt.

III.

A. Sentencing Considerations

We consider appellant's sentencing argument. Maryland recognizes three grounds for appellate review of sentences: "(1) whether the sentence constitutes cruel and unusual punishment or violates other constitutional requirements; (2) whether the sentencing judge was motivated by ill-will, prejudice or other impermissible considerations; and (3) whether the sentence is within statutory limits." *Jackson v. State*, 364 Md. 192, 200 (2001). Grounds one and three are not at issue here. Appellant does not argue that the sentence was cruel or unusual punishment or that the sentence was not within the statutory limits. The issue here is whether the trial court was motivated by impermissible considerations, *i.e.*, imposing the maximum sentence permitted by law because the police officer referred to 23 uncharged burglaries and characterized appellant essentially as a one-man crime wave.

It is well settled that in sentencing a criminal defendant, the trial judge is vested with very broad discretion. *Id.* at 199. The Court of Appeals set out this standard of review clearly in *Jackson*, explaining as follows:

> "It is well settled that a judge is vested with very broad discretion in sentencing criminal defendants. However, a judge should fashion a sentence based upon the facts and circumstances of the crime committed and the background of the defendant, including his or her reputation, prior offenses, health, habits, mental and moral propensities, and social background. The judge is accorded this broad latitude to best accomplish the

> objectives of sentencing—punishment, deterrence and rehabilitation."

Id. See also Abdul-Maleek v. State, 426 Md. 59, 71 (2012).

Appellant does not appear to hold a different view of the scope of the sentencing judge's considerations. Indeed, appellant states in his brief that sentencing judges may consider "reliable evidence of prior conduct—such as an admission by the accused, testimony from an investigating officer, or other witnesses' testimony detailing the circumstances of the charges," but not bald allegations of criminal conduct for which a person either has not been tried or has been tried and acquitted.

Appellant maintains that the sentencing judge, as evidenced by his remarks, considered the testimony of the officer as to the 23 uncharged burglaries and that when appellant is on the street, burglary rates sky-rocket. The State argues that the sentencing judge said he would not consider the officer's remarks and that he did not do so. The State maintains that the court considered Sergeant Reese's comments for two purposes only: (1) for the purposes of appellant's "reputation" and "mental and moral propensities" and (2) to illustrate the beliefs that appellant was likely to re-offend.

It is undisputed that appellant was not charged nor convicted of the 23 referenced burglaries. It does not appear that he had any notice before sentencing that the State would bring up those offenses up in sentencing. Appellant had not admitted to any of those offenses. No witnesses testified to those offenses, either specifically stating the crimes occurred or linking appellant to those offenses. We agree with appellant—the officer's

testimony as to 23 uncharged burglary offenses was not proper for the court to consider in fashioning appellant's sentence and particularly to enhance his sentence.

In *Smith v. State*, 308 Md. 162 (1986), the Court of Appeals considered whether a sentencing judge may consider properly uncharged or untried criminal offenses and held, consistent with the majority view across the country,[2] a sentencing judge "may consider the criminal conduct of a defendant even if there has been no conviction." *Id.* at 169. *See also Johnson v. State,* 75 Md. App. 621, 643 (1988). Likewise, the United States Supreme Court,

[2] "A number of other states have held that a sentencing judge may consider a defendant's criminal conduct even if he has not been charged or convicted of the particular crime. *See, e.g.*, *Holden v. State*, 602 P.2d 452 (Alaska 1979); *People v. Boyd*, 700 P.2d 782 (Cal. 1985); *People v. Lowery*, 642 P.2d 515 (Colo. 1982); *State v. Murphy*, 575 P.2d 448 (Haw. 1978); *State v. Ott*, 627 P.2d 798 (Ida. 1981); *People v. Brisbon*, 478 N.E.2d 402 (Ill. 1985); *Jackson v. State*, 426 N.E.2d 685 (Ind. 1981); *State v. Mateer*, 383 N.W.2d 533 (Iowa 1986); *State v. Jenkins*, 419 So.2d 463 (La. 1982); *State v. O'Donnell*, 495 A.2d 798 (Me. 1985); *Commonwealth v. Coleman*, 461 N.E.2d 157 (Mass. 1984); *Williamson v. State*, 388 So.2d 168 (Miss. 1980); *State v. Jackson*, 476 S.W.2d 540 (Mo. 1972); *State v. Baldwin*, 629 P.2d 222 (Mont. 1981); *State v. Christensen*, 331 N.W.2d 793 (Neb. 1983); *Silks v. State*, 545 P.2d 1159 (Nev. 1976); *State v. Ferbert*, 306 A.2d 202 (N.H. 1973); *State v. Humphreys*, 444 A.2d 569 (N.J. 1982); *State v. Segotta*, 672 P.2d 1129 (N.M. 1983); *People v. Hall*, 387 N.E.2d 610 (N.Y. 1979); *State v. Pinch*, 292 S.E.2d 203(N.C. 1982); *State v. Wells*, 265 N.W.2d 239 (N.D.1978); *State v. Burton*, 368 N.E.2d 297 (Ohio 1977); *State v. Conger*, 268 N.W.2d 800 (S.D. 1978); *State v. Howell*, 707 P.2d 115 (Utah 1985); *State v. Ramsay*, 499 A.2d 15 (Vt. 1985); *State v. Blight*, 569 P.2d 1129 (Wash. 1977); *State v. Harris*, 350 N.W.2d 633 (Wisc. 1984); *Chisolm v. State*, 409 So.2d 930 (Ala.Crim.App. 1981); *State v. Kelly*, 595 P.2d 1040 (Ariz. App. 1979); *Crosby v. State*, 429 So.2d 421 (Fla.Dist.Ct.App. 1983); *People v. Robinson*, 382 N.W.2d 809 (Mich. App. 1985); *Johnson v. State*, 665 P.2d 815 (Okla.Crim.App. 1982); *State v. Brown*, 606 P.2d 678 (Or. 1980); *Commonwealth v. Vernille*, 418 A.2d 713 (Pa. Super. 1980); *Nethery v. State*, 692 S.W.2d 686 (Tex.Crim.App. 1985). *But cf. Ture v. State*, 353 N.W.2d 518 (Minn. 1984) (generally improper to consider evidence which points to defendant's guilt of some other offense); *Newby v. State*, 288 S.E.2d 889 (Ga. 1982) (trial judge erred in basing sentence on offenses for which defendant had not yet been convicted)." *Smith v. State*, 308 Md. 162, 173-74 (1986).

"has permitted sentencing judges to consider past conduct which is criminal in nature but which did not result in a conviction." *Smith*, 308 Md. at 167-68. While uncharged offenses may be considered under certain circumstances, foundational requirements were not presented to this sentencing judge to permit him to consider those crimes in this case. *See Denson v. State*, 915 P.2d 284, 287 (Nev. 1996) (noting that a court can consider uncharged prior crimes solely for the purpose of gaining a fuller assessment of the defendant's life, health, habits, conduct, and mental and moral propensities but cannot punish a defendant for prior uncharged crimes.).

The issue here is whether the trial judge considered other uncharged criminal offenses in fashioning his sentence, and if so, was it proper to do so. We hold that based upon a consideration of the entire record, the trial judge did not consider in imposing the term of incarceration the officer's testimony implying that appellant was responsible for 23 uncharged burglaries.

At the outset we note that, at first blush, appellant's argument has appeal. Several factors cause us, however, to come down the other way. First, the sentencing judge stated specifically he would not consider the officer's testimony to hold appellant responsible for those uncharged burglaries. Second, the court imposed a sentence within the sentencing guidelines and not beyond. Third, on our own initiative, we secured the pre-sentence investigation report on appellant, a record before the sentencing judge. A review of appellant's criminal convictions and criminal history supports the sentencing judge's

comments and sentence imposed. And finally, the Department of Parole and Probation sentencing recommendation was a sentence within the sentencing guidelines. The sentencing judge in the instant case was not motivated by ill-will, prejudice or other impermissible considerations and did not punish appellant for uncharged crimes but instead, as he indicated, imposed a sentence he deemed necessary to protect the public, one within the sentencing guidelines, within the statutory permissible sentence and consistent with the Department of Parole and Probation recommendation.

B. Sufficiency of the Evidence

We next consider appellant's argument that evidence introduced by the State at trial was insufficient to support his conviction for first degree burglary and malicious destruction of property. We review sufficiency of the evidence to determine "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." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *State v. Suddith*, 379 Md. 425, 429 (2004). In applying this standard:

> "The purpose is not to 'undertake a review of the record that would amount to, in essence, a retrial of the case.' *State v. Albrecht*, 336 Md. 475, 478 (1994). Rather, because the finder of fact has ' "the unique opportunity to view the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence." ' *State v. Mayers*, 417 Md. 449, 466 (2010) (quoting *Smith v. State*, 415 Md. 174, 185 (2010)); *see Albrecht*, 336 Md.

> at 478 (holding that evidence is reviewed 'in the light most favorable to the State, giving due regard to the trial court's finding of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses'). We recognize that 'the finder of fact has the ability to choose among differing inferences that might possibly be made from a factual situation,' *Smith*, 415 Md. at 183 (internal quotation omitted), and we therefore 'defer to any possible reasonable inferences the [trier of fact] could have drawn from the admitted evidence and need not decide whether the [trier of fact] could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence.'"

Titus v. State, 423 Md. 548, 557-58 (2011).

Burglary in the first degree is the crime of breaking and entering the dwelling of another with the specific intent to commit theft or a crime of violence. Md. Code Ann., Crim. Law § 6-202. Malicious destruction of property is the specific intent crime of willfully and maliciously destroying, injuring, or defacing the real or personal property of another. Md. Code Ann., Crim. Law § 6-301. Looking at the evidence in the light most favorable to the State and giving deference to all reasonable inferences drawn by the jury, we hold that the evidence was sufficient to support the convictions for first degree burglary and malicious destruction of property.

Appellant contends that a lack of direct evidence of his committing first degree burglary and malicious destruction of property means that there was not sufficient evidence to convince any reasonable trier of fact of the essential elements of first degree burglary and malicious destruction of property. We disagree.

This Court has stated repeatedly that the possession of recently stolen property, absent a satisfactory explanation, permits the inference that the possessor was the thief and if there was a burglary, that the possessor was also the burglar. *Hall v. State*, 225 Md. App. 72, 81-82 (2015). We give no greater weight to direct evidence than to circumstantial evidence. *Montgomery v. State*, 206 Md. App. 357, 385 (2012).

The State presented evidence that Mr. Cabrera came home to 409 Baltimore Road, to find evidence of a breaking, including damage to the door frame of the house. Montgomery County Police officers testified as to their having followed appellant and to seeing him carrying a tablet computer while walking away from the direction of the driveway of 409 Baltimore Road. The police recovered foreign paper currency and a gold necklace with a cross on it from appellant during a search incident to his arrest. They seized evidence while executing a search warrant at 414 North Horners Lane, where appellant had been seen by police coming and going during that day, including two rings and a Samsung tablet computer that Mr. Cabrera reported stolen.

We seek only to determine whether a reasonable jury could have determined, based on all of the evidence viewed in the light most favorable to the prosecution, that all of the elements of the crimes were satisfied. We hold that the evidence was sufficient to fairly convince the jury of appellant's guilt beyond a reasonable doubt.

JUDGMENTS OF CONVICTIONS AFFIRMED. COSTS TO BE PAID BY APPELLANT.