

Circuit Court for Harford County
Case No. C-12-CR-19-001081

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2217

September Term, 2023

MARVIN SCRIVEN

v.

STATE OF MARYLAND

Wells, C.J.,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: October 20, 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 its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant Marvin Scriven was charged in Harford County with a third-degree sex offense under Maryland Code Annotated, Criminal Law (“CL”) Article § 3-307 and the sexual abuse of a minor under CL § 3-602. A jury in the Circuit Court for Harford County returned guilty verdicts on both charges. Later, the court sentenced Scriven to 25 years of incarceration with all but 15 years suspended for the charge of sexual abuse of a minor and a consecutive term of 10 years’ incarceration for the charge of third-degree sexual contact.

Scriven timely appealed. We rephrased his question posed to us as follows:¹

1. Did sufficient evidence exist to allow a jury to find that Scriven was a household member of his sexual abuse victim as defined by CL § 3-601 for the purpose of conviction under CL § 3-602?

For the reasons that follow, we hold that the trial evidence was sufficient to support the jury’s guilty verdict under CL § 3-602 prohibiting the sexual abuse of a minor by a member of the minor’s household and affirm.

PROCEDURAL AND FACTUAL BACKGROUND

Scriven rented a room in a house (“the shared residence”) where the victim, who was 12 years old at the time, lived with her mother and her older sister in the basement apartment. The victim’s mother testified that she began renting the basement apartment in September 2019. The basement apartment was in a ranch-style house located in Harford

¹ Scriven’s original question is:

Was the evidence insufficient to support a finding beyond a reasonable doubt that Mr. Scriven was guilty under Md. Crim. Law Art. § 3-602 of child sexual abuse of [victim] as a member of her “household?”

County, Maryland. The homeowner from whom the victim’s mother leased the basement apartment lived in the upstairs of the home. The victim’s mother also testified she had known Scriven since high school.

The victim’s mother described the layout of the shared home, stating the basement apartment had a separate outside entrance with a locked door. There was another door at the top of the basement stairs that allowed access to the rest of the house. There was only one kitchen in the house, located upstairs, and it was shared by all of the residents. The basement apartment was comprised of a living room, several bedrooms, a bathroom, and a laundry room. The laundry room was the only one in the residence and everyone used it. The victim’s mother testified that because of this, she left the interior door to the basement apartment unlocked.

The victim’s mother testified that she saw Scriven every day. The mother described Scriven as her friend, and as “a regular presence” in the victim’s life. She testified that she and her daughters would often sit on the back deck and socialize with him. She further testified that there was a shared living room in the upstairs portion of the house with a TV, and it was “not uncommon” for her younger daughter (the victim) to go upstairs and watch TV there. Indeed, the victim testified Scriven would frequently ask her to come upstairs and watch movies with him, and she would do so.

According to the victim’s testimony, Scriven invited her to watch a movie together on the day the abuse occurred, and they were watching “one of the Purge movies” together when it happened. The victim’s older sister was also in the living room watching the movie.

The victim testified she and Scriven were sitting on a couch² watching the movie when he pushed her hand down to touch his penis. The victim testified that she pulled her hand away each time, but Scriven “would just keep pushing it back down slowly.” She estimated this occurred “maybe three times.”

When the movie ended, the victim and her sister went downstairs to their apartment. The victim’s sister testified that when they went downstairs, she noticed her little sister was “really quiet and upset.” According to the victim’s testimony, she did not want to tell her older sister what happened. When their mother came home from running an errand shortly thereafter, she discovered her younger daughter (the victim) in her bedroom “curled up in the corner in a ball shaking and crying.” The victim was reluctant to tell her mother what was wrong, so she asked her older daughter to inquire, which she did.

The victim reported to her older sister that while they were watching the movie in the upstairs living room, Scriven forced her hand onto his penis that was “just kind of hanging out of his loose shorts.” She further explained to her sister that Scriven’s penis was “firm” and that the entire incident made her “uncomfortable and upset.”

The older sister immediately reported all of this to her mother. Upon hearing about the alleged sexual abuse of her daughter, the mother screamed, confronted Scriven, and called 911. Multiple police officers responded to the scene. At the scene, Scriven spoke to two of the responding officers and repeatedly denied the allegations. One of those officers,

² The couch was an L-shape with two attached recliners. There was some discrepancy at trial over where exactly Scriven and the victim were seated on the couch throughout their time in the living room. This discrepancy, however, is not pertinent to the appeal.

Deputy Becker, testified that Scriven told him he was sitting on the couch falling asleep when he felt something touch his leg. According to Deputy Becker’s testimony, Scriven said he noticed his penis had become exposed, and when he saw the victim’s hand close to his private area, he immediately moved her hand away, got up, and left the room. Deputy Becker also testified that he spoke to the victim who seemed closed off and reluctant to talk but that she looked like she had been crying.

Deputy Tatum testified Scriven told him that while they were sitting on the couch watching the movie he was “dozing off” when he felt the victim’s hand on his penis. According to Deputy Tatum, Scriven said he slapped the victim’s hand away, got up, and went to his bedroom. Deputy Tatum also testified that in addition to giving an oral statement, Scriven gave a brief written statement that largely matched his oral statement.³

At trial, Scriven testified in his own defense. He told the jury he worked in the construction field. He admitted he lived in the same house with the victim and her family. Scriven testified that house was owned by his longtime friend. On the day of the alleged abuse, he explained he worked a full day, came home, ate something, and sat on the couch to relax. He noted he was “a little tired, a little worn out.” He testified that he was sitting on the couch in the upstairs living room when he found out the homeowner had invited the victim and her sister to come upstairs and watch a movie. He told the jury that at the

³ In Appellant’s written statement, he wrote that the victim grabbed his leg, which prompted him to get up and move to his bedroom. This differed from his oral statement, in which he stated the victim grabbed his penis.

beginning of the movie he was sitting on the reclining loveseat, which was “pretty much touching” the couch.

Scriven testified that he was falling in and out of sleep when he felt something rubbing against his leg close to his penis. When he opened his eyes, he saw the victim curled up beside him and her sister sitting nearby on the couch. He testified that he was not concerned about what had just happened because the victim’s older sister was sitting right there but that it happened two more times, and he slapped the victim’s hand away each time. He related how “steely cold fingers” then gripped his penis, and he jumped up from the couch in shock and ran away to his bedroom. He acknowledged it was “quite possible” that his penis had fallen out of his shorts.

Scriven said he planned to speak to the victim’s mother about what had just happened, but he knew she was not home at the time, so he went to sleep. He testified that the homeowner woke him up when the police arrived, and that he voluntarily spoke to the police because he wanted them to know what had happened. He adamantly denied forcing the victim’s hand down onto his penis and stated that he told the officers it was the victim who grabbed his penis without his consent. Scriven testified that during the approximate month that the family had lived in the basement apartment, they had only come to the upstairs living room twice to watch TV.

As stated, the jury convicted Scriven of the sexual abuse of a minor and third-degree sexual offense. He then filed this timely appeal. Additional facts will be discussed as necessary.

STANDARD OF REVIEW

When reviewing the sufficiency of the evidence, we consider whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *State v. McGagh*, 472 Md. 168, 194 (2021) (quoting *Jackson v. State*, 443 U.S. 307, 319 (1979)). Under this deferential standard, the reviewing court does not “ask itself whether *it* believes that the evidence at the trial established guilt beyond a reasonable doubt.” *McGagh*, 472 Md. at 194 (quoting *Dawson v. State*, 329 Md. 275, 281 (1993)). Rather, this Court asks itself whether the trier of fact could “fairly” find the defendant guilty “of the offenses charged beyond a reasonable doubt” based on the evidence presented at trial regardless of whether that evidence is “direct or circumstantial.” *McGagh*, 472 Md. at 194 (quoting *Taylor v. State*, 346 Md. 452, 457 (1997)). Additionally, we consider “not only the evidence in a light most favorable to the State, but also all reasonable inferences deducible from the evidence in a light most favorable to the State.” *Smith v. State*, 415 Md. 174, 185–86 (2010).

This Court made clear in *Ross v. State*, 232 Md. App. 72, 98 (2017), that the choice of which inference to draw is exclusively the province of the jury:

[I]f two inferences reasonably could be drawn, one consistent with guilt and the other consistent with innocence, **the choice of which of these inferences to draw is exclusively that of the [fact finder] and not that of a court assessing the legal sufficiency of the evidence.**

(emphasis supplied). This is because the fact finder is in a better position to assess the credibility of witnesses than a reviewing court. *Ross v. State*, 232 Md. App. 72, 99 (2017)

(quoting *Smith v. State*, 415 Md. 174 (2010)). In deciding this appeal, we must also consider principles of statutory interpretation. We review questions of statutory interpretation de novo. *Williams v. State*, 492 Md. 295 (2025).

DISCUSSION

In challenging his conviction, Scriven asks us to consider the meaning of the phrase “household member” as defined in CL § 3-601 and whether the Maryland General Assembly intended it to apply to him and other similarly situated individuals for the purpose of a conviction under CL § 3-602. We begin by looking at the plain language of the statute in question. The term “household member” is defined in CL § 3-601(a)(4) as “a person who lives with or is a regular presence in a home of a minor at the time of the alleged abuse.”

The word “regular” is commonly defined as “recurring, attending, or functioning at fixed, uniform, or normal intervals.” Regular, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/regular>[<https://perma.cc/7TF3-UL9D>]. Similarly, Black’s Law Dictionary defines “regularly” as “at fixed and certain intervals, regular in point of time,” or “in accordance with some consistent or periodical rule or practice.” Regularly, BLACK’S LAW DICTIONARY (4th ed. 1968). These definitions of “regular” contemplate a recurrence of an event or action consistently over some period of time. Black’s Law Dictionary defines “presence” as the “quality, state, or condition of being in a particular time and place, particularly with reference to some act that was done then and there.” Presence, BLACK’S LAW DICTIONARY (12th ed. 2024). Combining these definitions, “presence” in this statute means “being in a home of a minor” and “regular” means to be

in such a home on a “recurring” or “consistent” basis. In our view, CR § 3-601(a)(4)’s requirement that the person charged have “a regular presence” in a minor’s home is plain and unambiguous.

In challenging his inclusion as a member of the minor victim’s household, Scriven argues household members have “some kind of social or familial bond akin to family rather than merely occupying the same physical structure[,]” or they have “some responsibility for the supervision of the minor. The State argues this claim is without merit, and the cases Scriven cited in support of his claim are either inapplicable or in direct contradiction with Maryland law. We agree.

For support Scriven cites multiple cases that are inapplicable to the facts of his case. He cites *Pope v. State*, 284 Md. 309 (1979), for the proposition that “it is not enough for an adult to share a common area in a rooming house” to be considered a household member of a minor victim. As the State notes in its brief, however, *Pope* was decided before the statute even included the term “household member.” Further, in *Pope*, the Supreme Court of Maryland was focused on whether the defendant in that case had “temporary care, custody” or the “responsibility for the supervision” of the minor victim, not on whether the defendant was a member of the minor victim’s household. *Id.* at 322. As we will discuss, whether a defendant has responsibility for the supervision of a minor may have little to do with the factual question of whether a defendant is a member of that minor’s household. See *Wright v. State*, 349 Md. 334, 356 (1998).

Scriven also relies on *Anderson v. State*, 372 Md. 285 (2002) to support his argument that he was not a member of the victim’s household. In *Anderson*, however, the Supreme Court of Maryland did not consider the term “household member” and instead asked whether a teacher has “responsibility for the supervision of a child.” *Id.* at 292. Thus, the two cases Scriven relies on are simply not applicable to the issue of whether he was a household member of the minor victim in this case.

Turning to cases from other jurisdictions, Scriven asks us to adopt the approach taken by the Supreme Court of New Hampshire in *State v. Moncada*, 161 N.H. 791 (2011). In *Moncada*, the defendant was convicted by a jury of multiple counts of aggravated felonious sexual assault. *Id.* at 798. The jury in that case “had to find that the defendant was a member of the same household as the victim” to convict. *Id.* The defendant in *Moncada*, like Scriven, moved for a judgment of acquittal on the grounds that there was insufficient evidence to find he was a member of his minor victim’s household. *Id.* As is the case with Scriven, the motion was denied, the defendant was convicted, and he appealed his conviction on the grounds that the trial judge erred in denying his motion for judgment of acquittal. *Id.* The court in *Moncada* noted the term “household member” was not defined in the statute and that the trial court had declined to define it for the jury, noting instead that it was “self-explanatory.” *Id.* *Moncada* approved a set of jury instructions defining “household member[,]” which Scriven now urges us to adopt :

A household is a group of persons living in the same residence maintaining a single economic unit. Household members include any person who is a member of and participates and contributes to the maintenance of the

household. Such a definition may include children who are under parental-type control of a person other than a parent. Such a definition would not include a [boarder] or a tenant in a rooming house.

Id. at 799 (brackets in original) (emphasis supplied). But we need not turn to cases from other jurisdictions in search of a definition for the term “household member” because the Maryland General Assembly has provided us with one.

In construing the meaning of the term household member for the purpose of conviction under CL § 3-602, we are persuaded to follow the guidance provided by the Supreme Court of Maryland in *Wright v. State*, 349 Md. 334 (1998). There, the defendant lived with his girlfriend and was convicted of sexually abusing his girlfriend’s younger sister while she had been staying at their house during summer break from school. *Id.* at 337–40. In *Wright*, the Court noted the difficulty of defining a term such as “household member,” explaining, “[w]ords like ‘home,’ ‘resident,’ and ‘household’ are not capable of singular, absolute, generic definition in the law, because they are used in so many different ways and for so many different purposes.” *Id.* at 355. The Court went on to explain the importance of “flexibility” when defining these terms “with respect to children, who are more frequently part of several homes and households.” *Id.* at 356. The Court noted the terms “household member” and “home” were added to Article 27 § 35C, which was the predecessor to CL § 3-602, to “extend the reach of the statute for the greater protection of children, to . . . a class of persons not then subject to the law.” *Id.* Significantly, for this case, the Court stated:

The Legislature obviously recognized that there were people other than parents, custodians, and persons directly charged with the care and supervision of a child who were in a position to commit abuse within the child's home setting, where, because of the status of both the abuser and the child in that setting, the child might be helpless against the predation.

Id. (emphasis supplied).

We are satisfied that the jury in this case had sufficient evidence to find Scriven was indeed a member of his minor victim's household and could, therefore, be properly convicted as such under CL § 3-602. The minor victim was in a position where encountering Scriven would have been unavoidable while she was in her home. The home was actually a single-family residence that had been split into apartments. The residents used the living room, where the television was located, as a common area. All of residents used the sole kitchen and laundry room in the house. We conclude the trial judge did not err in denying Scriven's motion for judgment of acquittal because the evidence was sufficient to allow a jury to find that he was a member of his minor victim's household as defined by CL § 3-601. We, therefore, affirm.

**JUDGMENT OF THE CIRCUIT COURT
FOR HARFORD COUNTY AFFIRMED;
APPELLANT TO PAY THE COSTS.**