

Circuit Court for Baltimore City
Case No. 818051007

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2452

September Term, 2018

KENNETH PEARSON

v.

STATE OF MARYLAND

Arthur,
Gould,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 5, 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.

Kenneth Pearson, appellant, was convicted by a jury in the Circuit Court for Baltimore City of numerous traffic offenses, including two counts of driving while his license or privilege to drive was suspended. On appeal, Mr. Pearson challenges the sufficiency of the evidence to support one of his convictions for driving on a suspended license. We shall affirm.

“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 v. State*, 215 Md. App. 686, 718 (2014) (citation and some internal quotation marks omitted). “[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.’” *Anderson v. State*, 227 Md. App. 329, 346 (2016) (quoting *Painter v. State*, 157 Md. App. 1, 11 (2004)) (emphasis in *Painter*). In reviewing the sufficiency of the evidence, “[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 (citation omitted).

Mr. Pearson was issued one citation for a violation of Md. Code, Transportation Article (1977, 2012 Repl. Vol, 2017 Supp.), § 16-303(c), which generally prohibits a person from driving a motor vehicle “while the person’s license or privilege to drive is suspended in this State.” Mr. Pearson was also cited for a violation of Transportation Article § 16-303(h), which prohibits a person from driving a motor vehicle when their

license or privilege to drive has been suspended under specific provisions of the Transportation Article:

(h) *Licenses suspended under certain provisions of article.* - - A person may not drive a motor vehicle on any highway or on any property specified in § 21-101.1 of this article while the person's license or privilege to drive is suspended under § 16-203 [for non-payment of child support], § 16-206(a)(2) for failure to attend a driver improvement program, § 17-106 [for lapse or termination of insurance or other security on a vehicle], § 26-204 [for failure to pay a fine or post a bond in an action concerning a traffic citation], § 26-206 [for failure to comply with a notice to appear contained in a traffic citation issue under federal law], or § 27-103 [for failure to pay a traffic fine imposed by the court] of this article.

A person who drives while their license is suspended under one of the provisions enumerated in § 16-303(h) is not subject to incarceration. Transp. § 16-303(k)(2). By contrast, a person convicted under the more general provision in § 16-303(c) may be sentenced to a term of imprisonment not exceeding one year (for a first offense). Transp. § 16-303(k)(1). Mr. Pearson, who was convicted of a violation of both provisions, was sentenced by the court to a term of six months' incarceration.

Mr. Pearson contends that the court erred in denying his motion for judgment of acquittal on the charge of a violation of § 16-303(c) because the evidence showed that the only bases for suspension of his license fell under § 16-303(h). We disagree. Mr. Pearson's driving record, which was introduced into evidence as State's Exhibit 5, showed that Mr. Pearson's license and/or driving privileges were suspended on three occasions, including May 24, 2013. On that date, Mr. Pearson's license and vehicle tags were suspended

because he “defaulted in judgment payments.”¹ As the State points out, suspension of a license and registration for nonpayment of a judgment is governed by § 17-204 of the Transportation Article.² Because § 17-204 is not one of the provisions specifically enumerated in § 16-303(h), we conclude that the evidence was sufficient to convict Mr. Pearson of a violation of § 16-303(c).

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

¹ According to State’s Exhibit 5, Mr. Pearson’s license was suspended on July 8, 2013, for failure to attend a driver improvement program, and on August 9, 2013, for failure to pay a fine in District Court.

² Section 17-204 of the Transportation Code provides as follows:

Except as otherwise provided in this subtitle, on receipt of a certified copy of a judgment and a certificate of facts, the Administration shall suspend:

- (1) The license to drive of the judgment debtor; and
- (2) The registration of all vehicles owned by the judgment debtor and registered in this State.