

Circuit Court for Montgomery County
Case No. 130951

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2457

September Term, 2018

CHRISTOPHER MARSHALL

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: September 6, 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.

Following a bench trial in the Circuit Court for Montgomery County, Christopher Marshall, appellant, was convicted of first-degree burglary and theft of property valued between \$1,000 and \$10,000. On appeal he contends that there was insufficient evidence to support his convictions because, he claims, the State failed to prove his identity as the perpetrator of the offense. Because there was sufficient evidence to sustain Mr. Marshall's convictions, we shall affirm.

In analyzing the sufficiency of the evidence admitted at a bench trial to sustain a defendant's convictions, we "review the case on both the law and the evidence," but will not "set aside the judgment . . . on the evidence unless clearly erroneous." Maryland Rule 8-131(c). "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." *White v. State*, 217 Md. App. 709, 713 (2014) (internal quotation marks and citation omitted).

Viewed in a light most favorable to the State, the testimony at trial established that two days before the burglary Leslie Fowler, one of the property owners, had observed Mr. Marshall sitting on some steps that were located on an easement directly next to her home. Mr. Marshall was staring at Ms. Fowler's house, which gave her an "edgy feeling." She further indicated that she did not know Mr. Marshall and that there was nothing else in the area other than her house and a house across the street. The day after the burglary, the police stopped a vehicle that had been stolen during another burglary in Montgomery County. Two people were in the vehicle, Brian Baldwin, the driver, and Mr. Marshall, the front seat passenger. During a search of the vehicle, the police recovered Ms. Fowler's

stolen credit card “in between the front passenger seat [where Mr. Marshall was sitting] and the center console.” The police also found black latex gloves in the back seat of the vehicle.

In claiming that the evidence was insufficient, Mr. Marshall treats his presence near the victim’s house shortly before the robbery and his proximity to the victim’s credit card shortly after the robbery as independent events. However, viewing the evidence collectively, we are persuaded that it was sufficient to prove his criminal agency. A day after the burglary the police found Mr. Marshall in a vehicle that had been stolen during another burglary in Montgomery County. The vehicle had latex gloves in the back seat, which could be used to hide someone’s fingerprints during a burglary. Ms. Fowler’s stolen credit card was found directly next to Mr. Marshall in an area that was easily accessible to him and not to the driver. Moreover, because the car was also stolen, and did not belong to the driver, it was unlikely that the driver had left the credit card in that location before Mr. Marshall entered the vehicle. When combined with the evidence that Mr. Marshall had been staring at the victim’s house two days before the robbery, that there was only one other house in the area, and that the victim was not familiar with Mr. Marshall, the court could reasonably infer that Mr. Marshall was the perpetrator of the burglary. *See generally Smith v. State*, 415 Md. 174, 185 (2010) (noting that “circumstantial evidence alone is sufficient to sustain a conviction [as long as] the inferences made from circumstantial

evidence [] rest upon more than mere speculation and conjecture”). Consequently, we shall affirm Mr. Marshall’s convictions.

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