

Circuit Court for Baltimore City
Case Nos. 218130007, 218121033

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3012

September Term, 2018

DANIEL CULVER

v.

STATE OF MARYLAND

Wright,
Kehoe,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 30, 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 jury trial in the Circuit Court for Baltimore City, Daniel Culver, appellant, was convicted of malicious destruction of property valued less than \$1,000 and second-degree assault. On appeal, he contends that there was insufficient evidence to sustain his convictions. For the reasons that follow, we shall affirm.

In reviewing the sufficiency of the evidence, we ask “whether, after reviewing 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.” *Ross v. State*, 232 Md. App. 72, 81 (2017) (citation omitted). Furthermore, we “view[] not just the facts, but ‘all rational inferences that arise from the evidence,’ in the light most favorable to the” State. *Smith v. State*, 232 Md. App. 583, 594 (2017) (quoting *Abbott v. State*, 190 Md. App. 595, 616 (2010)). In this analysis, “[w]e give ‘due regard to the [fact-finder’s] findings of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses.’” *Potts v. State*, 231 Md. App. 398, 415 (2016) (quoting *Harrison v. State*, 382 Md. 477, 487-88 (2004)).

Mr. Culver first contends that the evidence was insufficient to sustain his conviction for malicious destruction of property, which was based on evidence that he punched multiple holes in the wall of the victim’s apartment. Specifically, he claims that State failed to prove that he damaged the property “of another” because there was testimony that he often stayed in the apartment and that he kept his things there. We disagree. Viewed in a light most favorable to the State, the evidence at trial demonstrated that Mr. Culver was not legally allowed to reside in the apartment, that the victim was the only person on the lease, and that the victim was solely responsible to her landlord for any damage to the

property. Thus, even if Mr. Culver had some possessory interest in the apartment, there was sufficient evidence from which the jury could find that he was not the owner, or the leaseholder, of the property. Consequently, the State presented sufficient evidence to sustain his conviction for malicious destruction of property.

Mr. Culver also asserts that the evidence was insufficient to sustain his conviction for second-degree assault. However, when making his motion for judgment of acquittal in the trial court, Mr. Culver did not challenge the sufficiency of the evidence with respect to the charge of second-degree assault. Consequently, that claim is not preserved for appellate review. *See Peters v. State*, 224 Md. App. 306, 354 (2015) (“[R]eview of a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal.” (citation omitted)).¹

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

¹Although Mr. Culver does not specifically ask us to do so, we decline to exercise our discretion to engage in “plain error” review of this claim pursuant to Maryland Rule 8-131(a).