

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 67

September Term, 2016

JAMES MACAUTHUR SPEARS

v.

STATE OF MARYLAND

Krauser, C. J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 2, 2017

*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.

Convicted by a jury, in the Circuit Court for Charles County, of second degree assault and carrying a dangerous weapon with the intent to injure, James Macauthur Spears contends that the evidence was insufficient to support his weapons conviction. We affirm.

On December 11, 2013, Donnell Jordan went to the home of Spears and his wife, Carolyn Jordan, who had previously been married to Donnell.¹ There, a confrontation between the two men ensued, during which Spears stabbed Donnell multiple times with a kitchen knife. At trial, the defense theory of the case was that Spears acted in self-defense, as well as to defend Carolyn, but Donnell testified that Spears attacked him, unprovoked, as he was attempting to leave the premises.

Spears asserts that the evidence was insufficient to sustain his conviction under Md. Code (2002, 2012 Repl. Vol.), Criminal Law Article (“CL”), § 4-101(c)(2), which prohibits an individual from openly carrying a dangerous weapon with the intent to injure. Specifically, Spears claims that the State did not prove that he *carried* the weapon, but that his testimony conclusively established that he picked up the knife and “immediately confronted [Donnell] with the knife and stabbed him” in “one continuous act.” Therefore, according to Spears, his carrying of the knife was incidental to the assault, and not a separate offense. In support of his claim, Spears cites *Chilcoat v. State*, 155 Md. App. 394 (2004). In that case, this Court, relying upon the principle that mere use of a dangerous weapon is not enough to meet the carrying requirement for carrying or wearing a dangerous

¹ We shall refer to Donnell Jordan and Carolyn Jordan by their first names, to avoid confusion.

weapon openly with intent to injure, *id.* at 409, held that the defendant’s actions of picking up a beer stein and walking a few paces towards the victim before striking the victim with the beer stein was insufficient to show carrying. *Id.* at 412-13.²

“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 (citation and some internal quotation marks omitted), *cert. denied*, 438 Md. 143 (2014). “[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

² Spears also claims that he was “privileged to ‘avail himself’ of the knife” because he was presented with a “sudden emergency” when Donnell appeared at his door. This claim was not preserved for appellate review because it was not raised at trial as grounds for Spears’s motion for judgment of acquittal. *See Claybourne v. State*, 209 Md. App. 706, 750 (2013) (“A criminal defendant who moves for judgment of acquittal is . . . not entitled to appellate review of reasons stated for the first time on appeal.”) (citation omitted).

In any event, as the State points out, Spears’s reliance on *Medley v. State*, 52 Md. App. 225 (1982) in support of this claim is misplaced, as, in that case, the Court of Appeals merely noted that other states had expressed a view that “in a sudden emergency, a person may avail himself of a weapon in the immediate vicinity” without violating a statutory prohibition against carrying a weapon. *Id.* at 236. To the extent that Spears is now claiming that the evidence necessarily required application of current Maryland law, as expressed in CL §4-101(b)(4), which exempts from prosecution “an individual who carries [a] weapon in reasonable precaution against apprehended danger[,]” that claim, had it been preserved, would not require his conviction to be reversed, as the jury was free to disbelieve Spears’s testimony that Donnell had threatened either him or Carolyn, or had otherwise posed any danger. *See Sifrit v. State*, 383 Md. 116, 135 (2004) (stating that a jury is free to believe some, all, or none of the evidence presented at trial).

(2016) (quoting *Painter v. State*, 157 Md. App. 1 (2004)) (emphasis in *Painter*). Moreover, “[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). We do not consider evidence tending to support the defense theory of the case, as exculpatory inferences are not part of the version of the evidence most favorable to the State. *Cerrato-Molina v. State*, 223 Md. App. 329, 351, *cert. denied*, 445 Md. 5 (2015).

Viewing the evidence “in the light most favorable to the State,” as we are required to do, we conclude that the State presented sufficient evidence to establish that Spears’s possession of the kitchen knife was more than “merely incidental to the second degree assault[,]” as claimed by Spears. The testimony of Donnell demonstrated that (1) Carolyn called Donnell and asked him to come get her because Spears was “putting her out” of the house; (2) when Donnell arrived at Spears’s home and rang the doorbell, Carolyn came to the window and, without opening the door, told Donnell that she was “okay” and that he should leave; (3) Donnell then turned and walked back to his car, which was parked on the street; (4) Spears then exited his house, armed with a knife, and followed Donnell to his car while threatening to kill him, then chased after Donnell and stabbed him multiple times; and (5) after the stabbing, Spears ran back into the house, then reemerged, still holding the knife, and continued to threaten to kill Donnell. We conclude that this evidence, if believed, was sufficient for a rational jury to find, beyond a reasonable doubt, that Spears carried the knife with the intent to injure Donnell.

**JUDGMENTS OF THE CIRCUIT COURT
FOR CHARLES COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**