Circuit Court for Howard County
Case No. C-13-CR-20-000229

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 712

September Term, 2022

QUADARI ISAIAH MCLENDON

v.

STATE OF MARYLAND

Nazarian,
Shaw,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: December 22, 2023

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

In December 2019, while taking a break from baking Christmas cookies, Kimberlee Turner saw a masked intruder attempting to invade her Howard County home though the sliding glass door. The following month, Quadari Isaiah McLendon was charged with the attempted home invasion. Not until March 2022—after a series of pandemic-induced delays, the resolution of a simultaneous but unrelated proceeding in Prince George's County, and service of a sealed, superseding indictment—was Mr. McLendon ultimately convicted of attempted home invasion, conspiracy to commit home invasion, second-degree assault, and conspiracy to commit second-degree assault.

On appeal, Mr. McLendon challenges the circuit court's denial of his motion to dismiss the State's indictment on speedy trial grounds. He also contends that the circuit court abused its discretion by refusing to admit statements he made during an unrecorded police interview, that the evidence was insufficient to sustain his convictions and, finally, that his conviction for conspiracy to commit second-degree assault must be vacated because it merges into the conviction for conspiracy to commit home invasion. With one exception, we hold that the circuit court did not err in its decisions and find sufficient evidence to support Mr. McLendon's convictions and sentence. The exception: we vacate his conviction for conspiracy to commit second-degree assault on unit-of-prosecution grounds, but otherwise affirm the judgments of the Circuit Court for Howard County.

I. BACKGROUND

A. Procedural History.

The State filed two separate indictments in the Circuit Court for Howard County against Mr. McLendon for the underlying home invasion: case C-13-CR-20-000045 and case C-13-CR-20-000229. We'll refer to the first case as the "-045" case and the second as the "-229" case.

The -045 indictment was filed on January 22, 2020, when a grand jury charged Mr. McLendon with seven counts including attempted home invasion, conspiracy to commit home invasion, first-degree assault of Ms. Turner, conspiracy to commit first-degree assault of Ms. Turner, use of a firearm in commission of a felony, second-degree assault of Ms. Turner's son (who was also home at the time), and conspiracy to commit second-degree assault of Ms. Turner's son. The same day, the Howard County Sheriff's Office issued a warrant and lodged a detainer with the Prince George's County Detention Center, where Mr. McLendon was held for armed carjacking and other charges stemming from an unrelated incident.

On February 14, 2020, Mr. McLendon appeared *pro se* in the Circuit Court for Howard County for an arraignment hearing at which a motions hearing and a trial date were scheduled for March 20, 2020, and April 14, 2020, respectively. The Howard County detainer remained outstanding, which meant that if Mr. McLendon were released on his Prince George's County case, he would be released to Howard County authorities. On March 1, 2020, counsel for Mr. McLendon filed a motion for bond review in Howard County, arguing that but for the Howard County detainer, the Circuit Court for Prince

George's County would have released Mr. McLendon on pretrial home detention. A Zoom hearing was held on March 24, 2020, but the court denied the motion.

Due to court closures resulting from the COVID-19 pandemic, Mr. McLendon's -045 trial date was rescheduled four times between April 14, 2020 and January 11, 2021. In the meantime, on July 15, 2020, the State filed the -229 superseding indictment, which added the names of alleged conspirators and eliminated counts from the original -045 indictment.[1] The -229 indictment remained sealed and unserved while the -045 case remained pending and the Prince George's County case progressed. Ultimately, the -045 trial was re-scheduled for June 23, 2021. All parties appeared at trial, where the State *nol prossed* the -045 indictment and Mr. McLendon made a speedy trial demand on the record.

On September 21, 2021, the Howard County Sheriff's Office lodged another detainer for the -229 case with the Prince George's County Detention Center so that Mr. McLendon would continue to be held until his Prince George's County matter was resolved. The Prince George's County criminal case was resolved finally on September 24, 2021, and the next day, the -229 indictment was unsealed and Mr. McLendon was served with it. Mr. McLendon requested bond review for the -229 case and the Circuit Court for Howard County again denied bond.

[1] Mr. McLendon was charged with the four counts for which he was convicted: attempted home invasion, conspiracy to commit home invasion, second-degree assault of Ms. Turner, and conspiracy to commit second-degree assault of Ms. Turner's son. The firearm charge was dropped because the State never recovered the handgun.

On October 18, 2021, Mr. McLendon filed a written motion to dismiss the -229 superseding indictment on speedy trial grounds. He asserted that the "two indictments effectively held him in Prince George[']s County . . . because they made him ineligible for home detention," that the delay was "presumptively prejudicial," and that "a dismissal of the charging document [wa]s the only remedy for this violation . . . ."

The State filed an opposition conceding "that if the Court determines . . . January 24, 2020 is the triggering date, there is a presumptively prejudicial delay," but argued that under *Barker v. Wingo*, 407 U.S. 514 (1972), there was no constitutional violation. Primarily, the State disputed Mr. McLendon's characterization that the "two indictments . . . made him ineligible for home detention":

> While the Defendant ultimately plead guilty to motor vehicle theft in the Prince George's County case, he was originally charged with armed carjacking and held without bond as of February 3, 2020. The . . . Prince George's County Circuit Court denied a motion to reduce bond on August 16, 2021. The State finds it difficult to believe that a Defendant, with a first degree assault conviction from 2009 and a possess/receive contraband while incarcerated [conviction] from 2015, would be granted home detention. The Defendant was held in Prince George's County, not Howard County, from January 3, 2022 until he was transferred to the Howard County Detention Center on September 25, 2021. Oppressive pretrial incarceration includes the qualifier "oppressive." The Defendant requested multiple bail reviews, both by counsel and *Pro Se*. Multiple judges of this Court believed that a no bond bail was appropriate, considering the facts of the case and the Defendant's criminal record. His pretrial incarceration was not and is not oppressive.

The State also argued that Mr. McLendon hadn't presented any evidence that he "suffered any anxiety and concern beyond that which is expected," nor had the delay caused "any

impairment to the defense."

Mr. McLendon's motion was heard and denied on February 4, 2022. The court walked through its analysis, applying *Singh v. State*, 247 Md. App. 322, 338 (2020), and found that it would consider the filing of the -045 indictment the triggering date for measuring the length of the delay. The court found that the delay of 560 days was of a constitutional dimension, but tolled 435 days for pandemic delays, leaving 125 days. The court then applied the *Barker v. Wingo* factors and found no bad faith on the part of the State, noting the pandemic and the fact that "the State was trying to work with the Defendant in reaching a global plea" involving the Prince George's County matter. Finally, the court found no prejudice to Mr. McLendon in terms of his ability to gather evidence:

> I have nothing to show that there is a prejudice in terms of any evidentiary issues due to that delay. What has been discussed here is certainly him being held but he was held in Prince George's County on other charges although still home detention as you've pointed out . . . , it was no bond, but he could have served it on home detention because of those security issues . . . .

Balancing the factors, the court concluded that "given the reasons for the delay of the pandemic, and the delay in the jury trials from that piece of things, and in light of Mr. McLendon being in Prince George's County on other issues, I do not find that in balance . . . that the factors weigh in the Defendant's favor," and denied the motion.

B. -229 Case Trial.

During Mr. McLendon's two-day trial on March 15 and 16, 2022, Ms. Turner testified that on December 17, 2019, she was baking Christmas cookies in her kitchen before taking a seat on her couch in the family room. Ms. Turner heard a noise and saw

someone on her back deck through her rear sliding glass door. She recounted that the person, masked and dressed in dark clothing, was "trying to pull the handle, and they had a gun." Ms. Turner also testified that based on his "framework" and what she could make of his face, she thought the person was a black male.

Video surveillance of the incident showed that the person touched near the door handle and that a second male stood hidden behind the curtains and out of her view. When the intruder pointed a black handgun at her face, Ms. Turner ran to her hallway and activated an audible security alarm that alerted the police. She activated the alarm at approximately 4:55 p.m.

At 5:21 p.m., crime scene technician John Holt arrived at the scene and viewed the footage to determine what surfaces to process for fingerprints. Mr. Holt testified that based on the video, the intruder was not wearing gloves. Mr. Holt then found fingerprints on the glass door using black carbon powder and scotch tape. Mr. Holt lifted and taped latent prints to three white cards. The two prints on the first card were recovered from the exterior of the rear sliding glass door of the family room near, but not on, the handle. The two prints on the third card were recovered from the exterior rear screen door to the family room near, but not on, the handle. Finally, the second card contained only one print.

Since the initial examiner of the case retired, latent print examiner Lindsey Schultz was qualified at trial as an expert in forensic fingerprint examination and identification instead. Ms. Schultz testified that she conducted a latent print analysis with "limited capacity" and verified it with her own procedure. After comparing the recovered prints

with Mr. McLendon's known prints, Ms. Schultz identified Mr. McLendon's left ring finger on the first lift card and Mr. McLendon's left middle and left index fingers on the third lift card. Ms. Schultz did not examine the print on the second lift card because the initial examiner opined that the print was not suitable for comparison. Ms. Schultz also acknowledged on cross-examination that there was no way to determine when a print had been impressed at a crime scene.

Howard County Police Detective Jonathan Barry testified that he had interviewed Mr. McLendon on January 7, 2020. During the interview, which was not recorded at Mr. McLendon's request, Mr. McLendon stated that he lived in Prince George's County and that he had limited knowledge of and contact with Howard County. Mr. McLendon stated as well that he was not familiar with Howard County aside from the Columbia Mall, had no friends or family residing in Howard County, had not been in Howard County within the last thirty days, and had not gone to any houses in Howard County.

On cross-examination, the State objected on hearsay grounds to defense counsel's questions that sought to elicit Mr. McLendon's statements denying involvement in the incident. The State argued that Mr. McLendon's statement to Detective Barry that he had nothing to do with the incident was inadmissible hearsay and that the doctrine of completeness did not apply. Defense counsel argued that the doctrine applied because there was "one interview, one conversation with the detective." After hearing arguments from both parties, the circuit court held that the defense counsel was attempting to elicit statements on a different issue and granted the State's motion to prevent counsel from

eliciting from Detective Barry any other statements Mr. McLendon had made during the interview.

The jury convicted Mr. McLendon of attempted home invasion, conspiracy to commit home invasion, second-degree assault of Ms. Turner, and conspiracy to commit second-degree assault. On June 17, 2022, the circuit court sentenced Mr. McLendon to a mandatory ten years without parole on count 1 and a consecutive ten years on count 2. The circuit court merged counts 3 and 4 for sentencing purposes. Mr. McLendon timely filed a notice of appeal. Additional facts are discussed as necessary below.

II. DISCUSSION

Mr. McLendon raises four issues on appeal, which we have reworded:[2] *first*,

[2] Mr. McLendon phrased his Questions Presented as follows:

1. Did the motions court err in denying the motion to dismiss the superseding indictment on speedy trial grounds?
2. Did the trial court abuse its discretion in excluding Mr. McLendon's statements which were admissible under the doctrine of verbal completeness?
3. Is the evidence insufficient to sustain the convictions?
4. Must the conviction for conspiracy to commit second degree assault be vacated?

The State phrased its Questions Presented as follows:

1. Did the circuit court correctly conclude that McLendon's constitutional right to a speedy trial was not violated?
2. Did the trial court soundly exercise its discretion in concluding that, although the State introduced some statements McLendon made in a police interview, additional statements he made in the interview were not

Continued . . .

whether the circuit court erred in denying his motion to dismiss the State's superseding -229 indictment on speedy trial grounds; *second*, whether the circuit court erred in denying admission of Mr. McLendon's statements during his police interview under the doctrine of verbal completeness; *third*, whether the evidence was legally insufficient to sustain his convictions; and *fourth*, whether his conviction for conspiracy to commit second-degree assault must be vacated because there was only one conspiracy. We find no error in the circuit court's denials and affirm Mr. McLendon's convictions and sentence, except that we agree that Mr. McLendon's conviction for conspiracy to commit second-degree assault must be vacated.

A. There Was No Violation Of Mr. McLendon's Speedy Trial Rights.

The Sixth Amendment to the U.S. Constitution and Article 21 of the Maryland Declaration of Rights guarantees a criminal defendant's right to a speedy trial. *Epps v. State*, 276 Md. 96, 102 (1975). The right "serves to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself." *Singh*, 247 Md. App. at 337 (cleaned up). The remedy for such a violation is dismissal of the charges. *Id.*

admissible under the doctrine of verbal completeness?

3. Was the evidence legally sufficient to convict McLendon?
4. Must McLendon's conviction for conspiracy to commit second-degree assault be vacated on unit-of-prosecution grounds?

In *Barker v. Wingo*, 407 U.S. 514, 530 (1972), the Supreme Court of the United States recognized four factors bearing on whether a defendant's right to a speedy trial has been violated: "Length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant." Each *Barker* factor is not "a necessary or sufficient" condition, but we view the factors in balance and with relevant circumstances. *Id.* And in Maryland, we use the *Barker* factors to determine violations of speedy trial rights under both the Sixth Amendment and Article 21 of the Maryland Declaration of Rights. *Glover v. State*, 368 Md. 211, 221–22 (2002). This review involves a mixed question of law and fact: we defer to the trial court's factual findings, unless clearly erroneous, and "perform a *de novo* constitutional appraisal in light of the particular facts of the case at hand . . . ." *Id.* at 221.

1. The length of delay in Mr. McLendon's case triggers constitutional scrutiny.

Barker noted that "[u]ntil there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into balance." 407 U.S. at 530. The length of delay is, therefore, a threshold question in the constitutional speedy trial analysis. The delay is measured from the date of the defendant's arrest or the filing of criminal charges until the trial date. *Epps*, 276 Md. at 109. To determine whether a delay starts from the original or superseding indictment, we consider whether the State "could have, with diligence, brought those charges at the time of the original indictment." *Singh*, 247 Md. App. at 349. Maryland courts generally have found that a pretrial delay of over a year and fourteen days requires constitutional scrutiny. *Glover*, 368 Md. at 223–24. Here,

the State and Mr. McLendon agree, and the circuit court found, that the delay began from the date the original indictment was served. The delay of over two years between the filing of the -045 indictment on January 22, 2020 until the trial date on March 14, 2022 surpassed the roughly one-year threshold and triggered constitutional scrutiny.

2. There was no bad faith reason for the delay.

Both parties recognized that the delay between the indictment and the re-scheduled trial dates for the -045 case was caused by a neutral reason: the COVID-19 pandemic. However, Mr. McLendon challenges the delay after the June 23, 2021 trial when the State *nol prossed* the -045 indictment. "A deliberate attempt to delay the trial in order to hamper the defense should be weighed heavily against the government." *Barker*, 407 U.S. at 531. But "[a] more neutral reason . . . should be weighed less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government than with the defendant." *Id.* "[A] valid reason . . . [justifies] appropriate delay." *Id.*

Despite the length of the delay in this case, the circuit court found that the global pandemic served as a valid, neutral reason for Mr. McLendon's pretrial delays before and after the State filed the -229 indictment. After the onset of the pandemic, the Chief Judge issued multiple Administrative Orders that suspended jury trials state-wide, and both parties and the court acknowledged these as a neutral reason for delay. Although Mr. McLendon argues that the State should have served the sealed -229 indictment promptly after the July 15, 2020 filing so that the superseding indictment could be tried on the June

23, 2021 trial date, the circuit court found that the State did not exercise "bad faith" by filing the -229 indictment. We agree.

After giving notice on July 15, 2020, the State filed the -229 indictment to add the names of alleged conspirators to the conspiracy counts. The State also dropped the first-degree assault of Ms. Turner, the conspiracy to commit first-degree assault of Ms. Turner, and the use of a firearm in commission of a felony counts in the original indictment because no requisite handgun was recovered. The State also informed Mr. McLendon that it was working on a global plea with Prince George's County, and the superseding indictment remained sealed as the Prince George's County matter progressed. We agree with the circuit court that the State had valid reasons for filing a new indictment and didn't intend to hinder Mr. McLendon's defense.

3. Mr. McLendon asserted his speedy-trial right.

A defendant's assertion of a speedy-trial right is given "strong evidentiary weight" in the court's analysis. *Id.* at 531–32. Here, Mr. McLendon's counsel moved for a speedy trial at the June 23, 2021 trial. The circuit court and the State acknowledged Mr. McLendon's assertion.

4. The delay did not prejudice Mr. McLendon.

Finally, we assess actual prejudice to the defendant "in the light of the interests of defendants which the speedy trial right was designed to protect." *Id.* at 532. These interests include evidence of the prevention of "oppressive pretrial incarceration," the minimization of "anxiety and concern of the accused," and, most importantly, the limitation of "the possibility that the defense will be impaired" such as the unavailability of defense

witnesses. *Id.* The Supreme Court of Maryland has identified additional "personal factors," such as interference with the defendant's liberty, disruption of employment, the drain of financial resources, the curtailment of his associations, his subjection to "public obloquy" and the creation of "anxiety in him, his family and friends." *Epps*, 276 Md. at 118 (cleaned up).

Mr. McLendon raises no claim that the delay impaired his defense, and the circuit court found no evidence of "prejudice in terms of any evidentiary issues due to that delay." He argues instead that the delay of the June 23, 2021 trial and the pendency of the Howard County charges prejudiced him by preventing him from being released from pretrial incarceration in Prince George's County. But the delays related to the -229 indictment did not cause his continued pretrial incarceration—it stemmed from the pandemic, the still-pending Prince George's County matter, and the pending charges contained in the -045 indictment.

In addition, Mr. McLendon's counsel asserts that he suffered from anxiety due to the deaths of his grandfather and wife, as detailed in Prince George's County bond review motions that indisputably are not in the record before us and were not argued in the circuit court. Generally, we only decide issues that "plainly appear[] by the record to have been raised in or decided by the trial court," Md. Rule 8-131(a), and Mr. McLendon never gave the trial court the opportunity to examine any evidence bearing on this factor. Although we understand Mr. McLendon's desire to attend funerals and grieve family members, he concedes that he never raised this argument in his motion to dismiss or at the hearing on

his speedy-trial motion, and that it was never before the circuit court.

After balancing the *Barker* factors, we hold that the circuit court denied Mr. McLendon's motion to dismiss properly. Despite the long delay and Mr. McLendon's asserted right for a speedy trial, the pandemic and the Prince George's County matter were the reasons his trial was delayed and he did not establish that the delay prejudiced his defense against these charges.

B. The Circuit Court Did Not Err In Excluding Mr. McLendon's Statements Under The Doctrine Of Verbal Completeness.

Mr. McLendon argues *next* that the circuit court abused its discretion when it excluded his statements from his police interview with Detective Barry. During direct examination by the State, Detective Barry testified that Mr. McLendon expressed a limited connection with Howard County during an unrecorded interview. Mr. McLendon's out-of-court statements, which were offered by the State against Mr. McLendon, were admissible. Md. Rule 5-803(a)(1) ("A statement that is offered against a party and is . . . the party's own statement" is admissible hearsay.). During cross-examination, defense counsel attempted to elicit additional statements made by Mr. McLendon during the interview regarding the denial of his involvement in the incident. Defense counsel argued that under the doctrine of completeness, the additional statements were admissible to provide the jury context of "one interview, one conversation."

Hearsay is "'a statement, other than one made by the declarant while testifying at the trial . . . , offered in evidence to prove the truth of the matter asserted.'" *Conyers v. State*, 345 Md. 525, 544 (1997) (*quoting Graves v. State*, 334 Md. 30, 36 n. 2); *see also*

Md. Rule 5-801(c). While a hearsay exception applies when the State offers a defendant's admission against the defendant, generally, hearsay is inadmissible. Md. Rule 5-802; Md. Rule 5-803(a)(1).

The court may permit, under the doctrine of verbal completeness, "a party to respond to the admission, by an opponent, of part of a writing or conversation, by admitting the remainder of that writing or conversation." *Conyers*, 345 Md. at 541. Additional statements are admissible when they provide "a complete understanding of the total tenor and effect" of the admission. *Feigley v. Balt. Transit Co.*, 211 Md. 1, 10 (1956). The scope, however, is limited:

> (a) No utterance irrelevant to the issue is receivable;
> (b) No more of the remainder of the utterance than concerns the same subject, and is explanatory of the first part, is receivable;
> (c) The remainder thus received merely aids in the construction of the utterance as a whole, and is not in itself testimony.

Id. at 10. Thus, the statements "must not only relate to the subject matter but must also tend 'to explain and shed light on the meaning on the part already received,' or 'to correct a prejudicially misleading impression left by the introduction of misleading evidence.'" *Newman v. State*, 65 Md. App. 85, 96 (1985) (*first quoting* McCormick, *Evidence* § 56 n.6 (3d ed. 1984); *and then quoting White v. State*, 56 Md. App. 265, 273 (1983)). Furthermore, the admission of inadmissible statements is permitted only to the extent necessary to explain what was already admitted. *Conyers*, 345 Md. at 541. An inadmissible statement does not become admissible merely because it completes a single conversation. *Otto v. State*, 459 Md. 423, 451–52 (2018). Rather, the explanatory value of the inadmissible

evidence must outweigh the risk of prejudice resulting from admission. *Id.* at 452.

A defendant's admission offered by the State against the defendant is admissible; however, the admission is inadmissible hearsay when offered for the declarant due to its inherently self-serving nature. *Conyers*, 345 Md. at 545; *see also* Md. Rule 5-803(a)(1) ("a statement that is offered against a party and is . . . [t]he party's own statement. . ." is "not excluded by the hearsay rule."). Under the doctrine of completeness, the court is less likely to admit such admissions, even if made within the same conversation. *Conyers*, 345 Md. at 544. Because a trial court's admission of additional statements under the doctrine of verbal completeness is discretionary, we review for an abuse of discretion. *Otto*, 459 Md. at 446.

Here, the circuit court did not abuse its discretion in denying admittance of Mr. McLendon's additional statements under the doctrine of completeness. The subject matter of the additional statements reasonably fell beyond the scope of Mr. McLendon's interview statements introduced by the State. *See Feigley*, 211 Md. at 10. While the State introduced Mr. McLendon's admission regarding his denial of presence in Howard County, defense counsel sought admittance of Mr. McLendon's denial of involvement in the crimes. The two statements address different subjects and different issues. Although the statements were made in a single conversation, Mr. McLendon's additional statements also do not provide more context to the statements already admitted; instead, they serve more as "testimony" without explanatory value. *Id.* at 10; *Conyers*, 345 Md. at 544. These additional statements were offered by the defendant for himself and for a self-serving

purpose. *Conyers*, 345 Md. at 544. Thus, the circuit court did not abuse its discretion in refusing to accept Mr. McLendon's additional statements denying involvement in the incident during his police interview.

C. The Evidence Was Legally Sufficient To Sustain Mr. McLendon's Convictions.

Mr. McLendon *next* argues that the evidence was legally insufficient to sustain his convictions. He contends that the only evidence of his involvement in the attempted home invasion was fingerprint evidence, which is not strong enough to be legally sufficient. Evidence is legally sufficient if, after viewing it in a light most favorable to the State, "'*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *Derr v. State*, 434 Md. 88, 129 (2013) (*quoting Yates v. State*, 429 Md. 112, 125 (2012)). "'[W]e do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence.'" *Id.* (*quoting Titus v. State*, 423 Md. 548, 557 (2011)).

Generally, fingerprint evidence "must be coupled" with other circumstantial evidence to "reasonably exclude the hypothesis that the print was impressed at a time other than that of the crime." *McNeil v. State*, 227 Md. 298, 300 (1961). But the State is not required to negate every possibility that the fingerprint might have been left at a time other than the crime. *Edmonds v. State*, 5 Md. App. 132, 142 (1968) (*quoting Lawless v. State*, 3 Md. App. 652, 659 (1968)). On appeal, we defer to the jury's inferences if deduced reasonably from direct or circumstantial evidence, and we resolve all rational inferences in a light most favorable to the State. *Smith v. State*, 415 Md. 174, 185 (2010).

Mr. McLendon argues that the evidence was legally insufficient because the

fingerprint examiner couldn't determine when the fingerprints were left at the crime scene and the State failed to call other household members who could have provided access to Mr. McLendon at another time. Mr. McLendon's sufficiency claim relies on three cases: *McNeil*, 227 Md. at 300, *Musgrove v. State*, 3 Md. App. 54, 56–57 (1968), and *Lawless v. State*, 3 Md. App. at 660.

In *McNeil*, the Supreme Court of Maryland found the evidence sufficient to support a burglary conviction based on testimony that a beer bottle with the appellant's fingerprint had been left next to a broken safe near the time of the crime. 227 Md. at 300. In *Musgrove*, this Court reversed housebreaking and grand larceny convictions because the State failed to call as witnesses other household members or workers with access to the home who reasonably could have granted access to the appellant. 3 Md. App. at 56–57 (1968). And in *Lawless*, we found the evidence sufficient to convict the appellant of grand larceny because the private location of the print excluded the possibility that the fingerprint was left at time other than the crime. 3 Md. App. at 660.

All three cases are distinguishable. A reasonable jury can, and did, conclude rationally and beyond a reasonable doubt that Mr. McLendon's fingerprints were left at the time of the crime. The video surveillance of the incident showed that the intruder's hands were consistent with the location of Mr. McLendon's fingerprints as recovered from the door. At trial, Mr. Holt, who recovered the fingerprints, also testified to watching the video to determine what surfaces to process and noted that the intruder did not wear gloves. Ms. Turner also testified that the intruder had "[tried] to pull the handle" of the door. Although

Detective Barry testified that Mr. McLendon claimed not to have been to any houses in Howard County, a reasonable jury could infer that Mr. McLendon lied about his involvement because his fingerprints were recovered at Ms. Turner's Howard County home, even if left there another time. Lastly, the intruder's build, based on Detective Barry's testimony, also was consistent with Mr. McLendon's.

Based on the overall consistency of the evidence in this record, a jury could infer reasonably that Mr. McLendon lied in his interview with Detective Barry and left his fingerprints on Ms. Turner's door during the commission of the crimes. The evidence was legally sufficient to sustains Mr. McLendon's convictions.

D. Mr. McLendon's Conviction For Conspiracy To Commit Second-Degree Assault Must Be Vacated.

Both Mr. McLendon and the State agree that Mr. McLendon's conviction for conspiracy to commit second-degree assault must be vacated because the home invasion and second-degree assault combine into one single conspiracy—there was only one agreement alleged and proven, and the unit of prosecution for conspiracy is the agreement, not the number of acts committed in the course of furthering it. Accordingly, the convictions and sentences for a conspiracy must merge into a single common law conspiracy. *Jordan v. State*, 323 Md. 151, 161 (1991). Because the circuit court imposed no sentence for conspiracy to commit second-degree assault, however, no remand for resentencing is necessary.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED AS TO COUNTS ONE, TWO, AND THREE,

AND VACATED AS TO COUNT FOUR. COSTS TO BE ASSESSED 75% TO THE APPELLANT AND 25% TO HOWARD COUNTY.