Circuit Court for Baltimore City
Case No. 117214008

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1813

September Term, 2022

ISIAH DONTE BROOKS

v.

STATE OF MARYLAND

Graeff,
Nazarian,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: July 23, 2024

A jury in the Circuit Court for Baltimore City convicted Isiah Donte Brooks, appellant, of attempted second-degree murder, conspiracy to commit murder, first-degree assault, conspiracy to commit first-degree assault, use of a handgun in a crime of violence, carrying a handgun, possession of a firearm following a disqualifying conviction, and three counts of reckless endangerment. The court sentenced appellant to life imprisonment, all but 50 years suspended, on the conviction of conspiracy to commit murder. The sentences for the remaining convictions were imposed concurrently or merged.[1]

On appeal, appellant presents the following questions for this Court's review, which we have rephrased slightly, as follows:

1. Did the circuit court err in allowing multiple reckless endangerment convictions?
2. Was the evidence sufficient to sustain appellant's conspiracy convictions?
3. Should this Court vacate one of appellant's conspiracy convictions?

For the reasons set forth below, we shall reverse appellant's convictions for reckless endangerment generally and for conspiracy to commit first-degree assault and otherwise affirm the judgments of the circuit court.

[1] The court sentenced appellant to 30 years concurrent for attempted second-degree murder, 20 years concurrent for use of a handgun in the commission of a crime of violence, 5 years concurrent for reckless endangerment of Joy Vincent, 5 years concurrent for reckless endangerment of unidentified members of the public, and 15 years concurrent for possession of a firearm following a disqualifying conviction. The remaining convictions were merged.

FACTUAL AND PROCEDURAL BACKGROUND

On the evening of April 17, 2017, Baltimore City police were on the 2000 block of West Pratt Street responding to a warrant when they heard eight gunshots coming from around the corner. They found Kelly Barksdale, who had been driving as a "hack," sitting in his vehicle with two gunshot wounds to his left leg.[2] He was yelling "he shot me, he shot me." Medics transported Mr. Barksdale to shock trauma for treatment.

Prior to being shot, Mr. Barksdale was waiting in his vehicle for his client, Joy Vincent. The police found Ms. Vincent lying next to Mr. Barksdale's vehicle, uninjured. They also found Ms. Vincent's young daughter uninjured in the backseat of Mr. Barksdale's vehicle. The police recovered three projectiles from the inside of Mr. Barksdale's vehicle, as well as one projectile and eight shell casings from the scene. They documented five bullet holes in Mr. Barksdale's vehicle.

The police reviewed video surveillance footage from nearby stores, which captured the shooting. Appellant's girlfriend, Sky Jenae Stanfield, testified that the video surveillance footage showed her in possession of a gun prior to the shooting. The video showed her giving the gun to appellant, appellant moving off screen, and then the shooter, who police later identified as Dwayne Chambers,[3] tucking into his "dip." Additional video surveillance footage showed appellant removing his black jacket and handing it to Mr. Chambers, who was running toward Mr. Barksdale's vehicle and repeatedly shooting at it.

[2] Mr. Barksdale testified that a "hack" is an informal taxi service.

[3] Appellant referred to Mr. Chambers as "Teefus" during his testimony.

On July 5, 2017, the police arrested appellant and transported him to Baltimore City police headquarters, where he was interviewed by Detective Wayne Ambrose. Prior to the interview, Detective Ambrose asked appellant to identify individuals shown in still photos taken from the video surveillance footage on the day of the incident. Appellant identified himself in the still photos and Mr. Chambers from a photo array.

Appellant initially denied having a gun or doing anything wrong. When Detective Ambrose informed appellant that he had a video showing appellant handing the gun to Mr. Chambers, however, appellant admitted that he gave Mr. Chambers the gun. After Detective Ambrose left the interview room, appellant made a call and stated: "They got everything on camera for real . . . I don't think I'm ever coming home." Appellant also referenced "attempt murder" during the phone call.

Mr. Barksdale testified that he had a conflict on Pratt Street the day before the shooting, so he "stopped up there that night just to ask some question[s] because [they] had banged [his] son up there" and stole his son's bike. That day, he drove the same vehicle, and he had gone to the area "to kind of problem solve, de-escalate the situation before it g[o]t worse." Mr. Barksdale testified that, while he was speaking to the boys, one of them, who "looked like [appellant]," "was talking back with [him]" and "kept laughing," but he did not know whether that boy was appellant. No fighting or altercations had occurred while Mr. Barksdale was on Pratt Street talking to the boys the day before he was shot, **[T1. 253]** and the boys eventually returned the bike back to his son.

Ms. Stanfield testified that she was arrested for her involvement in the crime, and she eventually pled guilty.[4] On the morning of April 17, 2017, she and appellant were at appellant's mother's house, and appellant asked Ms. Stanfield to carry his gun. She placed the gun in her purse before leaving the house. After viewing footage from the local stores' surveillance videos, she identified herself, appellant, and Mr. Chambers, who was wearing appellant's black jacket.

Before the shooting, Ms. Stanfield went into a store holding her purse with the gun. When she came out of the store, appellant asked her for the gun, and she gave it to him. Appellant then gave the gun to Mr. Chambers. Mr. Chambers ran toward Mr. Barksdale's vehicle and shot at him and his vehicle multiple times.

Ms. Stanfield testified that she did not know Mr. Barksdale and had never seen his vehicle before the shooting. The day of the incident was the first time she saw Mr. Chambers and appellant hanging out together, and she was not aware of either of their intentions prior to giving appellant the gun. Ms. Stanfield never heard anyone talk about a plan to shoot anyone, nor did she hear appellant tell Mr. Chambers to do anything when he handed him the gun.

After the State concluded its case, defense counsel made a motion for judgment of acquittal, arguing among other things, that the evidence was insufficient for the conspiracy counts because there had not been a showing that appellant had "entered into any plan to

[4] Ms. Stanfield agreed to testify against appellant as a part of her plea agreement to receive probation rather than a twenty-year prison sentence.

do anything" or that there was a "meeting of the minds." The State responded that there was "overwhelming evidence of all of the counts here," noting that "conspiracy need not be proven by a recording of the words of the agreement," but it can be proven "by circumstantial evidence showing a concert of action between the co-conspirators." The court denied appellant's motion. As discussed, *infra*, defense counsel subsequently made another motion with respect to the three reckless endangerment counts, which the court denied.

After appellant was convicted and sentenced, this appeal followed.[5]

DISCUSSION

I.

Multiple Reckless Endangerment Charges

Appellant's first contention involves his convictions on three counts of reckless endangerment. He was convicted of the following: Count 4, reckless endangerment of Mr. Barksdale; Count 8, reckless endangerment of Joy Vincent; and Count 10, reckless endangerment generally.

After the court denied defense counsel's motion for judgment of acquittal, a discussion ensued about reckless endangerment instructions and the proper number of counts that should go to the jury in the verdict sheet. Defense counsel indicated that they had "drifted into arguing [a] kind of an MJOA type argument." The court stated that

[5] Appellant did not file this appeal within 30 days following sentencing. On December 6, 2022, appellant sought and obtained post-conviction relief in the form of leave to file a belated appeal.

counsel had already made a motion for judgment of acquittal, but if there was no testimony by the defense, counsel could raise that argument.

Counsel argued that Count 10 charged reckless endangerment without naming a specific victim, and although the State could charge multiple counts for different victims, it could not add "a third count generally" because it "would be redundant and repetitive and would burden the Defendant or prejudice this Defendant." The State argued that there is "no question as to [the] reckless endangerment" of Mr. Barksdale and Ms. Vincent, and because "there's other evidence that there were numerous other persons on the block as well as cars going by," appellant should also be charged with reckless endangerment generally.

Appellant now contends that "[t]he trial court erred in allowing multiple reckless endangerment convictions." He asserts that Md. Code Ann., Crim. Law ("CR") § 3-206(d) (2021 Repl. Vol.) required the State to choose to charge appellant with one count of reckless endangerment for "each person endangered . . . or . . . a single count based on the conduct of the defendant, regardless of the number of individuals endangered." Accordingly, he argues that this Court must vacate as duplicative either appellant's convictions for reckless endangerment of Mr. Barksdale and Ms. Vincent or appellant's conviction for reckless endangerment generally.

The State disagrees for two reasons. First, the State argues that appellant waived any multiplicity challenge to the charging document by failing to move to dismiss within

the timeframe required for mandatory motions under Md. Rule 4-252(a)(2).[6] Although the State acknowledges that appellant could still challenge his convictions based on multiplicity, it asserts that there was no multiplicity in the convictions because the State's closing argument and the instructions to the jury made clear that one count related to Mr. Barksdale, one count related to Ms. Vincent, and the last count related to the public in general. The State notes, however, that if this Court disagrees with its analysis, we should vacate only appellant's conviction for reckless endangerment generally, or alternatively, the reckless endangerment convictions relating to Mr. Barksdale and Ms. Vincent.

CR § 3-204(a)(1) provides that "[a] person may not recklessly . . . engage in conduct that creates a substantial risk of death or serious physical injury to another." A charge of reckless endangerment requires a showing: "1) that the defendant engaged in conduct that created a substantial risk of death or serious physical injury to another; 2) that a reasonable person would not have engaged in that conduct; and 3) that the defendant acted recklessly." *Hall v. State*, 448 Md. 318, 329 (2016) (quoting *Jones v. State*, 357 Md. 408, 427 (2000)). "[T]he unit of prosecution for the crime of Reckless Endangerment is each person who is

[6] Md. Rule 4-252(a)(2) provides, in relevant part, as follows:

> (a) **Mandatory Motions. —** In the circuit court, the following matters shall be raised by motion in conformity with this Rule and if not so raised are waived unless the court, for good cause shown, orders otherwise:
>
> * * *
>
> (2) A defect in the charging document other than its failure to show jurisdiction in the court or its failure to charge an offense.

recklessly exposed to the substantial risk of death or serious physical injury." *Albrecht v. State*, 105 Md. App. 45, 58 (1995).

"Maryland's reckless endangerment statute is aimed at deterring the commission of potentially harmful conduct before an injury or death occurs." *Holbrook v. State*, 364 Md. 354, 366 (2001) (quoting *State v. Albrecht*, 336 Md. 475, 500-01 (1994)). The statute was enacted "to punish, as criminal, reckless conduct which created a substantial risk of death or serious physical injury to another person. It is the reckless conduct and not the harm caused by the conduct, if any, which the statute was intended to criminalize." *Minor v. State,* 326 Md. 436, 442 (1992); *see also Albrecht*, 336 Md. at 500 ("[T]he crime of reckless endangerment does not require that the defendant actually cause harm to another individual."); *Williams v. State*, 100 Md. App. 468, 480 (1994) ("Reckless endangerment is quintessentially an inchoate crime."). "Thus, the focus is on the conduct of the accused." *State v. Pagotto,* 361 Md. 528, 549 (2000).

CR § 3-206(d) governs charging documents for reckless endangerment, and it provides, in relevant part, as follows:

> (2) A charging document for reckless endangerment under § 3-204 of this subtitle is sufficient if it substantially states:
> "(name of defendant) on (date) in (county) committed reckless endangerment in violation of § 3-204 of the Criminal Law Article against the peace, government, and dignity of the State."
> (3) If more than one individual is endangered by the conduct of the defendant, a separate charge may be brought for each individual endangered.
> (4) A charging document containing a charge of reckless endangerment under § 3-204 of this subtitle may:
>
> (i) include a count for each individual endangered by the conduct of the defendant; *or*

> (ii) contain a single count based on the conduct of the defendant, regardless of the number of individuals endangered by the conduct of the defendant.
>
> (5) If the general form of charging document described in paragraph (2) of this subsection is used to charge reckless endangerment under § 3-204 of this subtitle in a case in the circuit court, the defendant, on timely demand, is entitled to a bill of particulars.

(Emphasis added). Thus, a reckless endangerment charge may include a count for each individual endangered or a single count for general endangerment, despite the number of individuals endangered.[7] *See* CR § 3-206(d)(4).

"Multiplicity is the charging of the same offense in more than one count." *Montgomery v. State*, 206 Md. App. 357, 398 (quoting *Brown v. State*, 311 Md. 426, 432 n.5 (1988)), *cert. denied*, 206 Md. App. 357 (2012). A multiplicitous indictment can violate double jeopardy by resulting in multiple convictions and sentences for the same offense. *Brown*, 311 Md. at 432 n.5.

[7] A Committee Note to a 1996 amendment to the reckless endangerment statute explained:

> This change is intended to clarify that the appropriate unit of prosecution may be based on the number of individuals in danger. For example, a single act endangering 20 individuals could result in 20 convictions. Alternatively, the State may choose to charge only one count for an occurrence, even though many persons were endangered. It is up to the State to decide how to charge and for the court to decide the appropriate punishment if a large number of individuals are endangered by the same act. *See also* § 12A-4(d) [the predecessor to CR § 3-206(d)] concerning charging documents for reckless endangerment.

See 1996 Md. Laws 3620-21.

To the extent that appellant is challenging the charging document on the ground of multiplicity or duplicity, appellant forfeited review of the charging documents by failing to raise the issue below. *See Robinson v. State*, 353 Md. 683, 703 (1999) ("Objections based on defects in the indictment, other than that the indictment failed to show jurisdiction of the court or to charge an offense, must be raised by motion before trial, or the objections are waived.").[8] Appellant may, however, "challenge [his] *convictions* on multiplicity grounds." *Moore v. State*, 198 Md. App. 655, 674 n.5 (2011) (although the defendant's multiplicity argument regarding the charging document was waived because she failed to file a pretrial motion, she could "challenge her *convictions* on multiplicity grounds"). *Accord Brown,* 311 Md. at 431 n.4 (review of Brown's claim of multiplicity despite the failure to object below); *Webb v. State,* 185 Md. App. 580, 598 (2009) (this Court reviewed the defendant's multiplicity claim and reversed the defendant's convictions despite the defendant's failure to object below).

In assessing the convictions of reckless endangerment here, the decision in *Albrecht* is instructive. In that case, a police officer pointed a gun at a person, and the gun discharged and killed another person. *Albrecht*, 105 Md. App. at 48-49. The officer was charged with Count 1 – involuntary manslaughter of the person killed, Count 2 – reckless endangerment of the person killed, and Count 3 – reckless endangerment of "other person(s) present" at

[8] Rule 4-252(a)(1) provides as follows: In the circuit court, the following matters shall be raised by motion in conformity with this Rule and if not so raised are waived unless the court, for good cause shown, orders otherwise: A defect in the institution of the prosecution.

the scene of the shooting. *Id.* The State subsequently amended the third count, substituting "other person(s) present" for the names of seven specific individuals. *Id.* at 48. The court found the officer guilty under the third count of reckless endangerment relating to four of the seven individuals. *Id.* at 49.

On appeal, the officer contended that "he was the victim of multiplicity in pleading" because the State had charged him with the crime of reckless endangerment generally, as well as for reckless endangerment of the person killed. *Id.* He argued, alternatively, that the third count was "duplicitous, charging him with seven offenses in a single count and convicting him of four." *Id.*

This Court held that "the unit of prosecution for the crime of Reckless Endangerment is each person who is recklessly exposed to the substantial risk of death or physical injury" because "the crime of Reckless Endangerment is quintessentially a crime against persons." *Id.* at 58. Accordingly, we concluded that there was no multiplicity in the indictment because the one count charged reckless endangerment of the person shot and the other charged something else, so it was not a redundant charge of the same offense. *Id.* at 65. We held, however, that the reckless endangerment count listing multiple people was duplicitous, i.e., charging separate offenses in a single count. *Id.* at 57, 72.

Here, as in *Albrecht*, we resolve this case on the ground of duplicity. The State chose in this case to charge based on the individuals endangered. The State argued in closing, and the court stated in jury instructions, that the count relating to the other persons in the vicinity, Count 10, was reckless endangerment to the general public. As in *Albrecht*,

this count refers to multiple victims in one count. We agree with appellant that this count was duplicitous, and we reverse appellant's conviction on Count 10, reckless endangerment generally.

II.

Sufficiency of the Evidence

Appellant next contends that the evidence was insufficient to support his convictions for conspiracy to commit murder and assault. He argues that there was no evidence that he had the specific intent to form an agreement to assault or murder Mr. Barksdale. There was no testimony that appellant "had any particular animas toward or motive to harm [Mr.] Barksdale," and there was no evidence of a "meeting of the minds" about what Mr. Chambers was going to do with the gun.

The State contends that "the evidence was sufficient to support [appellant's] convictions for conspiracy." It asserts that "there was ample evidence from which a rational jury could infer that [appellant] conspired with [Mr.] Chambers and/or [Ms.] Stanfield to murder [Mr.] Barksdale." The State points to evidence from which the jury "could infer coordinated action" between appellant, Mr. Chambers, and Ms. Stanfield, including appellant asking Ms. Stanfield for the gun, giving it to Mr. Chambers, appellant taking off his jacket and giving it to Mr. Chambers to hide Mr. Chambers' readily identifiable shirt, and then waiving his hat in the direction of Mr. Barksdale's vehicle. The State asserts that this evidence shows concerted action permitting the jury to find a "meeting of the minds" with regard to the shooting of Mr. Barksdale.

"When reviewing the sufficiency of the evidence to support a conviction, we view the evidence in the light most favorable to the State and assess whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Green v. State*, 259 Md. App. 341, 372 (2023) (quoting *State v. Krikstan*, 483 Md. 43, 63 (2023)). As we have explained:

> Our role is not to review the record in a manner that would constitute a figurative retrial of the case. *See* [*Walker v. State*, 432 Md. 587, 613 (2013)], 69 A.3d at 1082. This results from the unique position of the fact-finder to view firsthand the evidence, hear the witnesses, and assess credibility. *See id.* at 614, 69 A.3d at 1082. As such, "we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence." *Id.* at 614, 69 A.3d at 1082 (cleaned up). Our deference to reasonable inferences drawn by the fact-finder means we resolve conflicting possible inferences in the State's favor, because "[w]e do not second-guess the jury's determination where there are competing rational inferences available." *Smith v. State*, 415 Md. 174, 183, 999 A.2d 986, 991 (2010).

Krikstan, 483 Md. at 63-64. Moreover, "[c]ircumstantial evidence is entirely sufficient to support a conviction, provided the circumstances support rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused." *Neal v. State*, 191 Md. App. 297, 314-15 (quoting *Hall v. State*, 119 Md. App. 377, 393 (1998)), *cert. denied*, 415 Md. 42 (2010).

A "conspiracy" is "the agreement between two or more people to achieve some unlawful purpose or to employ unlawful means in achieving a lawful purpose." *State v. Payne*, 440 Md. 680, 712 (2014) (quoting *State v. Johnson*, 367 Md. 418, 424 (2002)). The Supreme Court of Maryland has summarized the elements of a conspiracy as follows:

> The essence of a criminal conspiracy is an unlawful agreement. The agreement need not be formal or spoken, provided there is a meeting of the

> minds reflecting a unity of purpose and design. In Maryland, the crime is complete when the unlawful agreement is reached, and no overt act in furtherance of the agreement need be shown.

Id. at 713 (quoting *Townes v. State*, 314 Md. 71, 75 (1988)). "[I]t is sufficient if the parties tacitly come to an understanding regarding the unlawful purpose. . . . [T]he State [is] only required to present facts that would allow the jury to infer that the parties entered into an unlawful agreement." *Armstead v. State,* 195 Md. App. 599, 646 (2010) (quoting *Acquah v. State,* 113 Md. App. 29, 50 (1996)), *cert. denied*, 418 Md. 191 (2011). A conspiracy may be shown by "circumstantial evidence from which an inference of common design may be drawn." *Id.* (quoting *McMillian v. State,* 325 Md. 272, 292 (1992)).

Here, there was sufficient evidence to support the jury's finding that appellant was guilty of a conspiracy to commit murder and assault against Mr. Barksdale. Ms. Stanfield testified that appellant asked her to hold the gun used in the shooting, and appellant subsequently asked her for it and then gave it to Mr. Chambers. Appellant gave his jacket to Mr. Chambers right before the shooting, and the surveillance video showed appellant waiving his hat toward Mr. Barksdale. After the shooting, appellant and Ms. Stanfield walked away together.

Moreover, Mr. Barksdale testified that someone who looked like appellant had been in his presence the evening prior to the shooting when he talked to people about a confrontation with his son, and Mr. Barksdale was driving the same vehicle as the one he was driving the following day. Appellant's statements on the phone following his interrogation also permitted an inference that he had been involved in the crime. He stated

that: "[T]hey got me taking my jacket off, giving them my jacket. Giving him the gun with my jacket[,] . . . They got everything on camera for real . . . I don't think I'm ever coming home. . . I'm on camera. . . That's how bad it is."

Based on this evidence, there was sufficient evidence for the jury to rationally conclude that appellant conspired with Mr. Chambers or Ms. Stanfield to murder and assault Mr. Barksdale.

III.

Multiple Conspiracy Convictions

Appellant's final contention is that the evidence was insufficient to support two convictions for conspiracy, and either his conviction for conspiracy to commit murder or his conviction for conspiracy to commit assault must be vacated because there was only one agreement. He asserts that "the State did not adduce evidence of more than one agreement, and the jury was not instructed that it had to find the existence of more than one agreement in order to find [appellant] guilty of more than one count of conspiracy."

The State agrees. It states that the conviction for conspiracy to commit assault be vacated. We agree.

When the State charges a conspiracy offense, "[t]he 'unit of prosecution' for conspiracy is 'the agreement or combination, rather than each of its criminal objectives.'" *Savage v. State*, 212 Md. App. 1, 13 (2013) (quoting *Tracy v. State*, 319 Md. 452, 459 (1990)). A "conspiracy remains one offense regardless of how many repeated violations of the law may have been the object of the conspiracy." *Tracy*, 319 Md. at 459 (quoting

Mason v. State, 302 Md. 434, 445 (1985)). "[O]nly one sentence can be imposed for a single common law conspiracy no matter how many criminal acts the conspirators have agreed to commit." *Id*. at 459.

The State "has the burden of proving a *separate* agreement for each conspiracy." *Savage*, 212 Md. App. at 15 (quoting 16 AM. JUR. 2D *Conspiracy* § 40 (2024)). As this Court has explained,

> In the multiple conspiracy context, the agreements are "distinct," *Manuel v. State,* 85 Md. App. 1, 12, 581 A.2d 1287 (1990), and "independent" from each other, *Timney v. State,* 80 Md. App. 356, 368, 563 A.2d 1121 (1989), in that each agreement has "its own end, and each constitutes an end in itself." *United States v. Sababu,* 891 F.2d 1308, 1322 (7th Cir. 1989).

Id. at 17. When determining whether there are two separate conspiracies, we examine not only the evidence and charging documents, but also the State's arguments to the jury and the trial court's instructions. *Id.* at 24-26. When the State does not advance a two-conspiracy theory or fails to prove separate agreements, the defendant may not be convicted of and sentenced for multiple conspiracies. *Id.* at 26.

"If a defendant is convicted of and sentenced for multiple conspiracies when, in fact, only one conspiracy was proven, the Double Jeopardy Clause has been violated." *Id.* at 26. The underlying principle "is that, '[t]o convict [him] severally for being part of two conspiracies when in reality he is only involved in one overall conspiracy would be convicting him of the same crime twice.'" *Id.* at 15 (quoting *United States v. Palermo*, 410 F.2d 468, 470 (7th Cir. 1969)). Therefore, "[i]f the prosecution fails to present 'proof sufficient to establish a second conspiracy,' it follows that 'there [is] merely one continuous

conspiratorial relationship.'" *Id.* at 17 (quoting *Vandegrift v. State*, 82 Md. App. 617, 645-46, *cert. denied,* 320 Md. 801 (1990)).

Here, the State did not argue, and the court did not instruct the jury, that it had to find the existence of two separate agreements to find appellant guilty on two conspiracy counts. Accordingly, we shall reverse appellant's conviction for conspiracy to commit first-degree assault. *See McClurkin v. State*, 222 Md. App. 461, 491 (2015) (when multiple conspiracy convictions and sentences are vacated because of a single overarching agreement, the conviction and sentence to be preserved is the one with the greatest maximum penalty).[9]

JUDGMENT FOR CONSPIRACY TO COMMIT FIRST-DEGREE MURDER AND RECKLESS ENDANGERMENT OF JOY VINCENT AND KELLY BARKSDALE AFFIRMED. CONVICTIONS FOR RECKLESS ENDANGERMENT GENERALLY AND CONSPIRACY TO COMMIT FIRST-DEGREE ASSAULT REVERSED. COSTS TO BE PAID 50% BY APPELLANT, AND 50% BY THE MAYOR AND CITY COUNCIL OF BALTIMORE.

[9] The conspiracy to commit second-degree murder, with a possible sentence of 40 years, *see* Md. Code Ann., Crim. Law ("CR") § 1-202 and CR § 2-204(b) (2021 Repl. Vol.), has a greater maximum penalty than that for conspiracy to commit first-degree assault, which has a maximum penalty of 25 years. *See* CR §§ 1-202, 3-202(c).