UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0356

September Term, 2015

JEREMY PAUL JOHNSON

v.

STATE OF MARYLAND

Woodward,
Friedman,
Sharer, J. Frederick
(Retired, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: August 3, 2016

Appellant, Jeremy Paul Johnson, was indicted in the Circuit Court for Prince George's County and charged with armed carjacking and related offenses. A jury convicted him of armed carjacking; carjacking; armed robbery; robbery; second degree assault; theft between $10,000 and $100,000; unauthorized removal of property; and conspiracy to commit armed carjacking. He was, however, acquitted of first degree assault; use of a firearm in commission of a crime of violence; and wearing, carrying, or transporting a handgun. Appellant was sentenced to twenty years, all but fifteen suspended, for armed carjacking; a consecutive twenty years, all but ten suspended, for armed robbery; a consecutive twenty years, all but fifteen suspended, for conspiracy to commit armed carjacking; and two concurrent ten year sentences, all but seven years suspended, for theft; with all remaining convictions merged. Appellant timely appealed and presents the following questions for our review:

1. Did the lower court err in refusing to direct the jury to resume deliberations to resolve the inconsistent verdicts?

2. Did the lower court err by imposing illegal sentences?

    a. Did the lower court improperly impose two sentences for theft when the jury convicted Mr. Johnson of only one count of theft?

    b. Did the lower court fail to award Mr. Johnson credit for time served before the sentencing date, as mandated by § 6-218 of the Criminal Procedure Article?

For the following reasons, we shall reverse appellant's conviction for armed robbery and also remand this case so that the circuit court may vacate one of the sentences for theft and correct the commitment record to reflect appellant's credit for time previously served. Otherwise, the judgments are affirmed.

BACKGROUND

On the evening of July 24, 2014, Maria Emma Chaparro de Valencia ("Chaparro"), arrived at her Oxon Hill home in her black, 2008 Nissan Altima and noticed a green minivan parked across the street.[1] After she parked her car, two men, one of whom wore a mask that concealed all but his lips and eyes, got out of the minivan and approached her. Chaparro at first greeted these men, but then noticed that the man without a mask "had a revolver in his hands. A weapon." According to Chaparro, the gun was black and was similar in size to the length between her own wrist to the tip of her finger. She believed it was similar to the type of guns carried by the police.[2]

After Chaparro opened the driver's side door, the unmasked man put the gun to her side and said to give him the car keys and to leave her purse on the passenger seat. This man then grabbed her keys and told her to get out. The masked man then entered the vehicle and he two men took Chaparro's car and left the scene. The green minivan followed.

Chaparro then called the police and, when they responded, gave a description of the incident. Shortly thereafter, Chaparro took a ride with a police officer about a block away from her home, where Chaparro saw the green minivan abandoned on the side of the road.

About six days later, Chaparro went to the police station and was shown a number of photographs. Chaparro identified a photograph on an array, and wrote on the back of

[1] Although she spoke both English and Spanish, Chaparro testified with the aid of a duly sworn, certified Spanish court interpreter.

[2] As noted by defense counsel during closing argument, there was no evidence that a gun was recovered in this case.

that document that "this was the person who had come out with the gun in his hands, and he had placed it on my hip, the one who told me that I had to leave my purse in there and to give him my car keys."[3] Chaparro explained that, when she looked at the photographs, she "immediately identified the person who had done that to me. And I said, 'This is the person.'" During trial, Chaparro testified that she saw the unmasked man's face and that she would "never forget his face." Chaparro identified appellant, in court, as the unmasked man.

Five days after the carjacking, on July 29, 2014, Chaparro's black Nissan was found parked near an apartment complex in Suitland, Maryland. Detective Jason Jones of the Prince George's County Police Department, began surveillance of the Nissan. At around 10:00 a.m. that day, Detective Jones saw appellant leave the apartment complex, get into the unoccupied vehicle, and drive away.

As Detective Jones began to follow appellant, other units responded to assist with a stop of the stolen car. Apparently alerted to the police presence, however, appellant eluded a police road block. Detective Jones then activated the emergency equipment on his patrol car, and appellant fled the area at a high rate of speed. He soon crashed the stolen car into a tree. Following a short chase on foot, appellant was apprehended.

[3] None of the exhibits admitted during trial are included with the record on appeal.

DISCUSSION

I. Inconsistent Verdicts

Appellant first contends that his convictions for armed carjacking and armed robbery were inconsistent with the jury's acquittals for first degree assault; use of a firearm; and wearing, carrying or transporting a handgun. The State responds that the verdicts were only factually, and not legally, inconsistent and the trial court properly exercised its discretion in this case.

After the jury returned its verdicts, defense counsel argued the verdicts were inconsistent. The State disagreed and the court suggested that "[p]otentially there is an inconsistency there." Defense counsel maintained that:

> One of the elements is the person has to be armed. They have found that he is not guilty of the handgun charges. … The same goes for the robbery with a deadly weapon, or the armed robbery. Once again, there is no conviction on the handgun charge, which is the weapon.

After a brief recess, defense counsel presented a more detailed argument:

> Yes, Your Honor. I believe that the count one, which is guilty of armed carjacking on July 24, 2014, and the count of – count three, robbery with a deadly weapon on July 24, 2014, and first degree assault, which is count five. So counts one, three, five I believe are inconsistent because they found that he was not guilty in count seven of use of a handgun in the commission of a crime of violence on that date, and also not guilty of wear, carry, transport a handgun on that date also. I believe that that is inconsistent, because I believe the elements of the armed carjacking and of the armed robbery that the defendant has to

> be armed. For him to be found not guilty of those offenses I believe is inconsistent.

The State responded by observing that *Price v. State* permits factually inconsistent verdicts, as opposed to legally inconsistent verdicts. 405 Md. 10 (2008). Acknowledging the factual inconsistency in this case, the State offered:

> They may have believed – we don't know what the jury believes. They may have believed that the gun wasn't real. They could have believed that. They could have believed a number of things. That it was his finger in her back. They may not believe there was a gun there at all, but they do believe force was used.

The trial court then engaged in the following discussion with defense counsel:

> THE COURT: What are you asking the court to do?
>
> [DEFENSE]: I'm asking the court set aside the verdict in the armed carjacking.
>
> THE COURT: Remember, we have not released the jury. We have sequestered the jury. We did that specifically so that we could have this discussion. If there was an inconsistency, a legal inconsistency versus a factual inconsistency, wouldn't the court then send this back to the jury?
>
> [DEFENSE]: Yes, Your Honor.
>
> THE COURT: If I was to send it back to the jury, [the State] obviously gave me some hypotheticals of where there could be a distinction as to the facts, but that is what you would want me to be pointing out to the jury?
>
> [DEFENSE]: No, I believe that at that point they have the evidence that they will have. I think that they – when they answered the questions in the first place that they

> should have taken that into consideration. I don't really know what the remedy is at this point.

The trial court then made the following findings and ruled against sending the case back for further deliberations:

> I have no doubt if we find that there is a legal inconsistency, because we have not released the jury, that the proper approach would be to tell the jury that there is a legal inconsistency. Given the State's argument that it is – if you read the jury instructions as to the armed carjacking, and the robbery with a deadly weapon, that at no point in those instructions is that limited to a handgun. That we have a definition later on of what is a dangerous weapon, but, again, dangerous weapon is an object that is capable of causing death or serious bodily harm.
>
> This is a case where our victim is primarily a Spanish speaking individual who testified – used the word "revolver." Did not use "handgun."
>
> There was some argument by the State as to when you were arguing to the jury that revolver may have been her translation of what she thought was used. The jury could have – we can't question the jury, so I don't know how to proceed on the concept. The jury may have believed that it wasn't necessarily a handgun for whatever reason and that's why they found not guilty for question seven on use of a handgun and question eight on wear, carry, or transport a handgun. Yet they could still find guilty under the armed carjacking with a dangerous weapon for question one, and robbery with a deadly weapon under question three.
>
> When you compare that with not guilty on first degree assault, where again we have an issue of whether or not a handgun was used, and guilty of second degree assault, I'm inclined to believe that this is a factual inconsistency and not a legal inconsistency.
>
> * * *

> The court will note your objections. For the reason articulated by both the State and myself, then we will deny the motion for an inconsistent verdict.

The trial court accepted the verdict, discharged the jury, and sentenced appellant as noted above.

In *Price*, the Court of Appeals held that "inconsistent verdicts shall no longer be allowed." *Id*. at 29. This holding applies "only to legally inconsistent jury verdicts, but not to factually inconsistent jury verdicts." *McNeal v. State*, 426 Md. 455, 458 (2012). In distinguishing the two, the *McNeal* Court explained:

> A legally inconsistent verdict is one where the jury acts contrary to the instructions of the trial judge with regard to the proper application of the law. Verdicts where a defendant is convicted of one charge, but acquitted of another charge that is an essential element of the first charge, are inconsistent as a matter of law. Factually inconsistent verdicts are those where the charges have common facts but distinct legal elements and a jury acquits a defendant of one charge, but convicts him or her on another charge. The latter verdicts are illogical, but not illegal.

McNeal, 426 Md. at 458 (citations and footnotes omitted). "Expressed another way, legally inconsistent verdicts are those where a defendant is acquitted of a 'lesser included' crime embraced within a conviction for a greater offense." *Id.* at 458 n.1. Appellate review of inconsistent verdicts is *de novo*. *Teixeira v. State*, 213 Md. App. 664, 668 (2013).

In this case, appellant challenges his convictions for armed carjacking and armed robbery, arguing that: (A) his armed robbery conviction was legally inconsistent with his acquittal for first degree assault; (B) his armed carjacking conviction was legally inconsistent with his acquittal for first degree assault; and (C) his armed robbery and armed

carjacking convictions were legally inconsistent with his acquittal for the gun-related offenses.

A. Armed Robbery Versus First Degree Assault

First, we look at whether appellant's armed robbery conviction is legally inconsistent with his acquittal for first degree assault. "[L]egally inconsistent verdicts are those where a defendant is acquitted of a 'lesser included' crime embraced within a conviction for a greater offense." *McNeal v. State*, 426 Md. 455, 458 n.1 (2012). "[F]irst-degree assault is a lesser included offense of robbery with a dangerous and deadly weapon." *Morris v. State*, 192 Md. App. 1, 39-40 (2010) (internal quotation marks omitted). Therefore, we are persuaded that the jury's verdict convicting appellant of armed robbery but acquitting him of first degree assault is legally inconsistent. Accordingly, we reverse appellant's conviction for armed robbery. *See Price*, 405 Md. at 34 (reversing the inconsistent verdict).

B. Armed Carjacking Versus First Degree Assault

We next consider whether appellant's carjacking conviction is legally inconsistent with his acquittal for first degree assault. The General Assembly was explicit that it did not intend for these offenses to merge. As explained by the Court of Appeals:

> The carjacking statute … creates the crimes of carjacking and armed carjacking, which are felonies both carrying a maximum of 30 years imprisonment consecutive to all underlying offenses. Carjacking is defined as obtaining "unauthorized possession or control of a motor vehicle from another individual in actual possession by force or violence, or by putting that individual in fear through intimidation or threat of force or violence." Md. Code (1957, 1992 Repl.Vol., 1995 Supp.), Art. 27, § 348A(b)(1). The policy with regard to

> consecutive sentences, *as well as merger for this arguably redundant offense and its underlying offenses of robbery, theft, and assault*, is stated as follows:
>
> > Additional to other offenses.—The sentence imposed under this section may be imposed separate from and consecutive to a sentence for any other offense arising from the conduct underlying the offenses of carjacking or armed carjacking.
>
> Md.Code (1957, 1992 Repl.Vol., 1995 Supp.), Art. 27, § 348A(d).

Spitzinger v. State, 340 Md. 114, 127 n.4 (1995) (emphasis added). The current carjacking statute maintains this non-merger clause in CR § 3-405:

> (e) A sentence imposed under this section may be separate from and consecutive to a sentence for any other crime that arises from the conduct underlying the carjacking or armed carjacking.

CR § 3-405.

This expression of legislative intent persuades us that, unlike armed robbery, first degree assault does not merge with armed carjacking and therefore, the verdict on that count was not legally inconsistent. *See Whack v. State*, 288 Md. 137, 143 (1980) ("The imposition of multiple punishment, however, is often particularly dependent upon the intent of the Legislature … , even though two offenses may be deemed the same under the required evidence test, separate sentences may be permissible, at least where one offense involves a particularly aggravating factor, if the Legislature expresses such an intent."). Because first degree assault is not "a 'lesser included' crime embraced within a conviction" for armed carjacking, the verdict convicting appellant of armed carjacking and acquitting him of first degree assault was not legally inconsistent. *McNeal*, 426 Md. at 458 n.1.

C. Armed Carjacking Versus Gun-related Offenses

Finally, we consider whether appellant's conviction for armed carjacking was legally inconsistent with his acquittal of the gun-related offenses.[4] We compare the elements of armed carjacking with the elements of the gun-related offenses—use of a firearm in the commission of a crime of violence; and wearing, carrying or transporting a handgun—to determine if appellant's conviction was legally inconsistent.

The elements of armed carjacking are: (1) "unauthorized possession or control of a motor vehicle from another individual who actually possesses the motor vehicle by force or violence, or by putting that individual in fear through intimidation or threat of force or violence" and (2) the person employs or displays a dangerous weapon during the carjacking. CR § 3-405(b)(1); CR § 3-405(c)(1).

The separate crime of use of a firearm[5] in the commission of a crime of violence is "the use of a firearm in the commission of a crime of violence, as defined in § 5-101 of the

[4] We need not analyze whether appellant's armed robbery conviction was legally inconsistent with the gun-related offenses, as we have already reversed that conviction.

[5] A "firearm" is defined as:

(1) In this section, "firearm" means:

(i) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive;
(ii) the frame or receiver of such a weapon.

(2) "Firearm" includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

CR § 4-204(a).

Public Safety Article, or any felony, whether the firearm is operable or inoperable at the time of the crime." CR § 4-204(b).

The crime of wearing, carrying, or transporting a handgun consists of: "wear[ing], carry[ing], or transport[ing] a handgun,[6] whether concealed or open, on or about the person." CR § 4-203(a)(1).

In contrast to the gun-related offenses, which require proof of a handgun or a firearm, armed carjacking only requires proof that a "dangerous weapon" was used. "Dangerous weapon" is not defined in the pertinent statutory definition section associated with these offenses. *See generally*, CR § 4-101. Our case law, however, confirms that "the trier of fact is permitted to determine whether the instrument constitutes a 'dangerous or deadly weapon,' based on the circumstances." *McCracken v. State*, 150 Md. App. 330, 367 (2003). The Court of Appeals has provided:

> The character of a weapon as a deadly or dangerous weapon is not necessarily determined by its design, construction, or purpose. A weapon may be deadly or dangerous although not especially designed or constructed for offensive or defensive purposes or for the destruction of life or the infliction of bodily injury. Accordingly, when a weapon is in fact used in such a

[6] Handgun is defined as:

> (1) "Handgun" means a pistol, revolver, or other firearm capable of being concealed on the person.
>
> (2) "Handgun" includes a short-barreled shotgun and a short-barreled rifle.
>
> (3) "Handgun" does not include a shotgun, rifle, or antique firearm.

CR § 4-201(c).

> way as is likely to produce death or grievous bodily harm it may be properly regarded as a dangerous or deadly weapon.

Anderson v. State, 328 Md. 426, 435 (1992) (citations omitted). Further, a dangerous weapon must be:

> (1) designed as "anything used or designed to be used in destroying, defeating, or injuring an enemy, or as an instrument of offensive or defensive combat," (2) under the circumstances of the case, immediately useable to inflict serious or deadly harm (e.g., unloaded gun or starter's pistol useable as a bludgeon); or (3) actually used in a way likely to inflict that sort of harm (e.g., microphone cord used as a garrote).

Id. at 436 (quoting *Brooks v. State*, 314 Md. 585, 600 (1989)).

We are persuaded that the gun-related offenses are not lesser included offenses of armed carjacking. On this point, the State asserts, and we agree, that *Teixeira v. State*, 213 Md. App. 664 (2013), is determinative. In that case, Teixeira was one of two men involved in a carjacking and robbery. The victim testified that Teixeira and his confederate approached him, displayed a handgun, and demanded money. *Id.* at 667. After giving the men money, the victim fled the scene and watched from a nearby alley as Teixeira drove off in the victim's vehicle. *Id.* The police responded to the scene and found the victim's car a short time later. *Id.* at 667. The police observed Teixeira near the passenger door, communicating with someone inside the vehicle. *Id.* Teixeira then left the car and, after a short pursuit, was apprehended by the police. *Id.* No handgun was recovered, but police did find a bb gun on a rooftop near where Teixeira had traveled during his escape attempt. *Id.* at 667, 681 n.3.

Teixeira was convicted by a jury of armed carjacking, carjacking, conspiracy to commit armed carjacking, armed robbery, robbery, unauthorized removal of property and both first and second-degree assault. He was acquitted of use of a handgun in the commission of a crime of violence and wearing, carrying, and transporting a handgun. *Id.* at 667-68. In this Court, Teixeira claimed that the jury's acquittals on the handgun counts were inconsistent with the remaining convictions. *Id*. at 668. We began by reciting the trial court's ruling denying Teixeira's suggestion of inconsistent verdicts. *Id.* at 670-73. Notably, the trial court found:

> The requirements that are—the elements that are required for the use of a handgun in the commission of a felony or crime of violence and the elements that are required for carrying a handgun for the purpose of injuring or killing another, are not the same elements that are required for all of the charges [of which] the Defendant was found guilty … . Particularly, the charges of armed carjacking, carjacking, robbery with a deadly weapon and robbery in first-degree assault.

Id. at 672. The trial court denied the motion, concluding that the verdicts were only factually inconsistent, but not legally so:

> With respect to armed carjacking, carjacking, robbery with a deadly weapon, first-degree assault. There is no necessity for use of a handgun … to convict the Defendant. The – Counsel for the Defense argues that the only (inaudible) provided to the Court or through this trial was the bb gun. I cannot go into the mind of the jury and determine that perhaps they believed that that bb gun was, in fact, somehow connected to the Defendant or not.

Id. at 673.

This Court upheld the trial court's ruling, agreeing that the verdicts were not legally inconsistent. *Id.* at 680. We set forth the elements of carjacking, armed carjacking, and

robbery with a dangerous weapon, and observed that those crimes did not require proof of the use of a "handgun." *Id.* at 681. The verdicts were only factually inconsistent, "for reasons known but to the jury." *Id.* This Court could only speculate at those reasons:

> The [jury] could have decided that, as to the wearing or carrying charge, Teixeira did not do so "with the purpose of injuring or killing another." This element is not a predicate either to the armed robbery or armed carjacking charges. As to the handgun use charge, the jurors could well have decided that Teixeira had not employed a handgun that met the definition of "firearm," but instead another dangerous weapon or even an instrument that was not "capable of being concealed on or about the person and which is designed to fire a bullet by the explosion of gunpowder."

Id. at 681-82 (citation omitted).

This Court also disagreed with Teixeira's argument suggesting that the "character of the offense" controlled. *Id.* at 682. While the offenses in the indictment suggested the conduct forming the basis for the charges, "leads us not to legal inconsistency but to factual anomalies." *Id.* at 683. We concluded, "[t]he jury's choices in this regard, while a source of wonder, are beyond appellate scrutiny." *Id. But see Savage v. State*, 226 Md. App. 166, 173-74 (2015).

Thus, consistent with *Teixeira*, we hold that the offenses of armed carjacking; use of a firearm in the commission of a crime of violence; and wearing, carrying, or transporting a handgun do not have the same elements. Therefore, differing verdicts on these counts, such as occurred here, are not legally inconsistent. Therefore, we affirm the armed carjacking conviction.

II. Sentencing Issues

Appellant makes two additional arguments about his sentencing (1) that the court imposed illegal sentences for theft because appellant was only convicted of one count theft; and (2) that appellant did not receive credit for time already served while incarcerated in connection with these crimes. The State concedes these issues and agrees that this case should be remanded for further proceedings. We concur.

An illegal sentence may be challenged on direct appeal, even absent an objection at the sentencing hearing. This is required because, as the Court of Appeals recently explained:

> An illegal sentence is one not permitted by law. The purpose of [Maryland] Rule 4-345(a) is to provide a vehicle to correct an illegal sentence where the illegality inheres in the sentence itself, not for re-examination of trial court errors during sentencing. It follows that an illegal sentence can be corrected where there is some illegality in the sentence itself or where no sentence should have been imposed.

Meyer v. State, 445 Md. 648, 682-83 (2015) (internal citations omitted).

A. Illegal Sentences for Theft

Appellant was charged generally in the indictment under CR § 7-104 with two counts of theft between $10,000 and $100,000. Count 9 charged him with the theft of Chapparo's Nissan on July 24, 2014, and Count 12 charged him with the same crime, but on July 29, 2014. The verdict sheet submitted to the jury included both charges, with the only difference being the dates of the offense.

Notwithstanding two separate charges in the indictment, early in its instructions to the jury, the court informed it that there was only one charge of theft. Later, however, when

the court delineated the crimes on the verdict sheet, the court twice repeated the same theft instruction, giving slightly different versions of the pattern instruction on theft based on obtaining or exerting unauthorized control. *See* Maryland State Bar Ass'n, *Maryland Criminal Pattern Jury Instructions* 4:32, at 832 (2012).

During deliberations, the jury sent a note asking why there were two theft counts, asking in pertinent part, "Can 'theft' occur on both dates?" The court heard from the parties asking "[w]hat was the theft that occurred on the first date?" After the prosecutor responded, "[t]heft of the vehicle," the court asked "[w]hat was the theft that occurred on the second date," defense counsel answered, "[t]he theft of the vehicle." The court then decided to answer the jury note by stating "[i]t is the theft of the Altima" and that, in effect, the jury should only decide one of the two questions on the verdict sheet regarding the theft of the vehicle. When the jury returned its verdict, it found appellant guilty only of the theft of the vehicle on July 24, 2014, the date of the underlying robbery and carjacking.

Although the record reveals that appellant originally was charged twice in the District Court of Maryland in connection with this case, it is unclear why the State followed suit in the Circuit Court when it indicted appellant twice for the theft of the same vehicle. Indeed, nothing in the indictment, the facts, or the instructions, suggest that appellant used different methods to steal the Nissan. *See, e.g.*, CR § 7-104 (providing that theft may be accomplished by unlawfully obtaining unauthorized control, or by deception, or by possessing stolen property, or by mistake). Absent some suggestion that the State prosecuted appellant under different theories, the only discernible difference between the two counts is that one includes the date that the car was stolen and other includes the date

that the car was recovered. This is an error as our criminal law statutes make clear that theft "constitutes a single crime[.]" CR § 7-102(a). And, the gravamen of theft remains "the depriving of the owner of his rightful possession of his property. The particular method employed by the wrongdoer is not material." *Craddock v. State*, 64 Md. App. 269, 278 (1985); *see also Jackson v. State*, 141 Md. App. 175, 198 (2001) (merging two sentences for felony theft and robbery where both "were predicated on the taking of the same property from the same victim in a single incident") (citing *Bellamy v. State*, 119 Md. App. 296 (1998)).

Accordingly, we are persuaded that appellant was sentenced twice for the same offense. We shall remand this case for resentencing, pursuant to Maryland Rule 8-604(d)(2), with directions to vacate the duplicate sentence for theft on Count 12.

B. Credit for Time Served

Section 6-218(b) of the Criminal Procedure ("CP") Article provides, in pertinent part:

> (1) A defendant who is convicted and sentenced shall receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in the custody of a correctional facility, hospital, facility for persons with mental disorders, or other unit because of:
>
> (i) the charge for which the sentence is imposed; or
>
> (ii) the conduct on which the charge is based.

CP § 6-218(b).

Neither the transcript of appellant's sentencing nor his commitment record indicate how much time appellant spent in custody in connection with this case, nor whether he

received any credit for time served. On resentencing the circuit court should determine and award appellant the requisite credit for time served pursuant to CP § 6-218(b).

JUDGMENT FOR ARMED ROBBERY VACATED. THEFT COUNTS REMANDED FOR RESENTENCING WITH DIRECTIONS TO VACATE DUPLICATE THEFT JUDGMENT. CASE REMANDED FOR RESENTENCING TO AWARD CREDIT FOR TIME SERVED. JUDGMENTS OTHERWISE AFFIRMED. COSTS TO BE ASSESSED ONE HALF TO APPELLANT AND ONE HALF TO PRINCE GEORGE'S COUNTY.