

Circuit Court for Baltimore County
Case No. C-03-CR-24-001699

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 274

September Term, 2025

KENNETH L. TRICE

v.

STATE OF MARYLAND

Graeff,
Berger,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 4, 2026

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority

Following a jury trial in the Circuit Court for Baltimore County, Kenneth L. Trice, appellant, was convicted of threat of arson, second-degree assault, and malicious destruction of property. Appellant’s sole contention on appeal is that there was insufficient evidence to sustain his conviction for threat of arson because the State failed to prove that he was making a “true threat.” This contention, however, is not preserved for appellate review as he did not raise it when making his motion for judgment of acquittal. *See Peters v. State*, 224 Md. App. 306, 353 (2015) (“[R]eview of a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal.” (quotation marks and citation omitted)).

Even if preserved, however, appellant’s claim lacks merit. Section 6-107(a)(1) of the Criminal Law Article (CR) of the Maryland Code provides: “A person may not threaten verbally or in writing to set fire to or burn a structure[.]” This Court has defined a threat as “an expression of a determination or intent to injure presently or in the future.” *Hammonds v. State*, 436 Md. 22, 42 (2013) (quoting *Abbott v. State*, 190 Md. App. 595, 619 (2010)). Because CR § 6-107 punishes speech, the First Amendment of the United States Constitution’s guarantee of the freedom of speech is implicated. Accordingly, to find appellant involved of threatening arson, it is necessary to find that his threat was a “true threat.” *See Abbott*, 190 Md. App. at 619 (noting that true threats are not constitutionally protected speech and are distinct from “words as mere political argument, talk or jest” (quotation marks and citation omitted)). “Whether a particular communication constitutes a true threat depends on both its language and its context.” *Id.* at 620.

Viewed in a light most favorable to the State, the evidence at trial established that appellant went to his wife’s workplace, yelled at her, punched her, and choked her, while stating that she “wouldn’t live through this.” When appellant’s wife returned home later that evening, appellant asked her to come into the house and stated that he had a “surprise” for her. Appellant’s wife asked him to leave, but appellant told her that she needed to “talk with him and sit on the couch.” When she refused, appellant picked up a can of gasoline, poured some of it on the floor, and stated that he was going to “burn [the] fu**ing house down.” He also told his wife “[e]ither you talk to me or it’s going up.”

Based on this evidence, we conclude that a rational trier of fact could find that appellant’s threat constituted a true threat to commit arson. Focusing on statements that he made to his wife during the incident that he did not want to do anything and only wanted “to talk,” appellant contends that the threat to burn down the house was not genuine. Rather, it came from a “man who was upset with the circumstances of his relationship with his wife and [who] was trying to get her attention so that they could address their marital difficulties.” But the jury was not required to adopt appellant’s version of the evidence. And based on the fact appellant had been physically abusive to his wife earlier in the day, and then poured gasoline on the floor when she refused to come inside and talk with him later that evening, there was ample evidence that when appellant made the threat to burn the house down, he had the intent to carry it out.

Finally, appellant emphasizes that the police never recovered matches or a lighter, indicating that he could not bring his threat to fruition. But whether appellant could carry out the threat at the time is immaterial. *See Abbott*, 190 Md. App. at 621 (“Nor is the

government required to prove the present ability or intent to carry out the threat.”).

Consequently, we shall affirm the judgments.

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