Circuit Court for Baltimore City
Case No. 123118021

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 497

September Term, 2024

WILLIAM PARKER

v.

STATE OF MARYLAND

Graeff,
Ripken,
Eyler, Deborah S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: December 30, 2025

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

A jury, sitting in the Circuit Court for Baltimore City, found William Parker ("Appellant") guilty of first-degree assault and attempted robbery. The court sentenced Appellant to twenty years of incarceration for assault and a concurrent fifteen-year term for attempted robbery, with all but ten years suspended, to be followed by three years of supervised probation upon release. Appellant noted this appeal within thirty days of the court's judgment.

ISSUES PRESENTED FOR REVIEW

Appellant submitted the following issues for our review:[1]

I. Whether the circuit court abused its discretion in declining to instruct the jury on legally adequate provocation.

II. Whether the evidence is insufficient to sustain Appellant's convictions.

For the reasons to follow, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND[2]

On the morning of April 2, 2023, Santosh Valgapuri ("Valgapuri") was working as a cashier at a gas station in Baltimore City. A man entered the store portion of the station and began "yelling at the customers." Valgapuri locked the cash register because the man's behavior was "not usual." Valgapuri testified:

[1] Rephrased from:

1. Did the trial judge abuse discretion by declining to instruct the jury on legally adequate provocation?
2. Is the evidence legally insufficient to sustain Mr. Parker's convictions?

[2] The following facts were adduced at trial.

> And then after a few minutes [the man] left outside and immediately a lady customer walked inside and she was paying for her gas. And I was focusing on the man because . . . he was acting unusual. And he went to the car of the lady customer and he tried to open the fuel tank[.] . . . And then it did not open. And he just went into the front seat of the car and sat inside.
>
> * * *
>
> The lady [did not] know what happened there and she just went outside. She opened the gas tank and [was] pumping the gas. And then the man walked outside the car and he went to the lady[.] . . . And there was a conversation between them, but it was more like an argument. . . . The man was saying it was [his] car and the lady was saying it was [her] car, "Move away from my car."
>
> * * *
>
> And the lady was walking towards . . . her front seat. . . . And the man - - it was more like an action. And the lady tried to defend herself so that she could get into her car. But the man, he grabbed her cane . . . and he was aggressively beating her and the cane broke immediately.
>
> And then she fell down. And he was mercilessly beating her . . . . And he even kicked her with his legs . . . [o]n her face.

Sherry Harvey, who witnessed the incident from inside the store, testified: "[W]hen [the victim] went . . . to that car, all I know is this man kept - - when she was trying to get away from it, all I know, he snatched the cane, just banging, and banging, and banging and banging. Kicking her, and kicking her and kicking her."

The victim, Sophia Fair ("Fair"), who was 56 years old at the time of trial, testified that she is disabled and regularly uses a cane. On the morning in question, Fair drove her 2016 Ford Escape to the gas station and parked at the gas pump. She went into the station's store and prepaid for the gas she intended to pump. As she returned to her vehicle, she noticed that the fuel tank lid was open; however, she did not see anyone nearby. Fair testified: "I removed the nozzle from the gas [pump] and as soon as I turned to insert it into the vehicle, a black male was standing in my face, this close, using obscene language,

saying that it was his vehicle." Fair identified this person at trial as Appellant. Appellant was "verbally aggressive," and said to Fair, "Get the [f***] away from my truck. This is my truck. . . . [W]hat are you doing messing with my truck? . . . I'm going to [f***] you up."

Fair went back into the gas station store and asked that someone call the police because Appellant was claiming ownership of her vehicle and was threatening to hurt her. She then returned to her vehicle to continue pumping gas. Fair testified: "I didn't even make it back to the pump, actually. When I was coming towards the vehicle, [Appellant] jumped in my face. . . . I tried to push him out of my space." Appellant opened the rear door of Fair's vehicle, then pushed Fair. Fair "lifted" her cane at Appellant to "[p]rotect[] [her] space" and "intim[id]ate him to get [him] away from [her]." Fair described what happened next as follows:

> Once I said "Just, look, get out of my face, it's my truck," [Appellant] proceeded to hit me. He stomped me to the ground. I had a cane that I was carrying, a metal cane. [Appellant] [h]it me over the head [with the cane.] Beat me down to the ground. After the cane broke into a lot of pieces, he proceeded to stomp me with his . . . boot.
>
> By that time, I think I was out of it. Blood was gushing down my head. My nose was broke[n]. My pants had c[o]me off. By that time, somebody finally came over . . . to help me, to get him off of me.

Fair was treated at the scene by paramedics but declined to be transported to the hospital. According to a report of one of the emergency medical technicians who responded to the scene, Fair was advised that she should be seen at the emergency room; however, she was afraid her car would be stolen if she left it at the gas station, so she opted to wait for her family to come and help her.

Fair testified that she went to the hospital "sometime after the fact." She sustained a broken nose, fractures to her head, and a "busted" ear. Fair stated that, because of the incident, she can no longer sense when she has a runny nose.

On cross-examination, Fair acknowledged that when Appellant initially approached her, he "appeared confused" and told her that they had both "put money in the same pump[.]" Fair agreed that Appellant was "calm" at first, although she added, "in an intimidating way." Fair also agreed that she "got agitated with [Appellant] first." She explained, "When I go back to the pump, of course I'm agitated and aggressive because I know for sure that I put that money on that pump and now I am very aggressive and said, '[g]et away from me, just go.'"

The evidence admitted at trial included three clips of audio-visual footage from the gas station's security camera that captured the interaction between Fair and Appellant. In the first clip, Appellant approaches Fair, who is standing on the right side of her vehicle, pumping gas with one hand and holding her cane in the other. Appellant says something to Fair which is not audible. Fair shouts, "Get the [f***] away from me, yo, for real." Appellant then begins yelling at Fair; most of what he says is indecipherable, except for "we put money in the same pump" and "I'm being a man."

The next clip from the security footage begins with Fair and Appellant on the driver's side of the vehicle. Fair repeatedly shouts, "Don't touch my car" while she waves her cane. Appellant reaches out and touches the car, then steps closer and closer to Fair while repeatedly shouting "What are you gonna do?" and "Swing at me." Appellant then turns toward the car and says "Get my money from the car," and opens the left rear door.

Fair raises the cane in one hand and swings it toward Appellant. Appellant deflects the cane with a raised arm, then shuts the car door and moves toward Fair. Appellant continues to advance on Fair as she retreats to the front of the vehicle while swinging the cane at Appellant. Appellant then easily takes the cane out of Fair's hand, lifts it above his head with both hands, and begins to hit Fair repeatedly as she flees to the back of the car. The cane breaks during the assault, and Appellant uses the piece that is left in his hand to continue hitting Fair. Appellant hits Fair a total of twelve times, ending with a direct blow to Fair's face as Fair lay on the ground in a fetal position. Appellant then returns to the driver's side of the car and attempts to open a door.

The third and final clip begins with Appellant standing over Fair as she remains on the ground in a fetal position. Appellant kicks Fair in the head, at which point he is restrained by a bystander. Appellant escapes the hold, then returns to the driver's side of the vehicle, opens a door, and removes an object. He continues to yell at bystanders until police arrived, although it is unclear what he is saying. As police arrive on the scene, Appellant begins to walk away from the gas station as several bystanders point to him.

Officer Stephen Lepper of the Baltimore City Police Department testified that on the day of the incident, he was dispatched to the gas station to respond to an attempted carjacking. When he arrived, a bystander pointed to Appellant, who was walking away from the scene, and said "Stop him. He just assaulted somebody." Officer Lepper attempted to stop Appellant by asking him what happened; however, Appellant did not respond "in any kind of cohesive manner[.]"At that point, based on information gathered by other

officers on the scene, the decision was made to detain Appellant and place him in handcuffs.

According to Officer Lepper, Appellant was "very agitated" and "not cooperative[.]" He was "[t]alking very loudly" and did not comply with commands to put his hands behind his back. Audio-visual footage from Officer Lepper's body camera was admitted into evidence and shown to the jury. When Officer Lepper asked Appellant why he was resisting arrest, Appellant responded, "All I did was get gas. Bro, all I did was pull up to the gas station and get [gas] in my car. Now you can go to the gas station and get the footage. . . . All I did was try to go get gas. I'm trying to get home. I got to go home."

On cross-examination, defense counsel asked Officer Lepper if he made any observations about Appellant's pupils or possible intoxication. Officer Lepper stated he did not detect the odor of alcohol on Appellant. Officer Lepper added:

> [Appellant's] behavior just seemed, like I said, agitated. . . . I've had many experiences with people who have been on illicit substances . . . and [Appellant's] level of agitation did not appear to be consistent with any of the other previous encounters I've had with people on illicit substances. So I wouldn't begin to make any kind of assessment that he was intoxicated on any level.

On redirect, Officer Lepper indicated that Appellant did not appear to be "under the influence of anything[.]" He explained that "most people" who get placed under arrest "are not happy about it" and "[t]here is usually some level of being upset and agitated." According to Officer Lepper, Appellant's reaction to being arrested was "typical[,]" and "nothing that occurred with [Appellant] would lead [Officer Lepper] to believe there was any type of intoxication or anything[.]"

After the State rested its case, defense counsel moved for a judgment of acquittal. On the charge of first-degree assault, counsel argued there was no evidence that Appellant intended to cause serious bodily harm. On the charge of attempted robbery, defense counsel argued there was no evidence that he was trying to take Fair's vehicle. The court denied the motion for judgment of acquittal.

The defense introduced Appellant's medical records from the Department of Public Safety and Correctional Services which demonstrated that, after Appellant was arrested, he was monitored and received treatment for symptoms of withdrawal from alcohol. The defense also introduced the body worn camera footage of two police officers other than Officer Lepper who responded to the scene. Appellant exercised his constitutional right not to testify.

At the close of all evidence, defense counsel renewed the motion for judgment of acquittal and submitted on the grounds previously stated. The court again denied the motion.

The court granted Appellant's request for a jury instruction on the defense of voluntary intoxication. The court denied Appellant's request for an instruction on the mitigation defense of hot-blooded response to a legally adequate provocation.

In closing argument, defense counsel told the jury there was "no defending that the assault occurred," but, although it was "brutal" and "ugly[,]" it was only a second-degree assault because there was no evidence that Fair sustained a life-threatening physical injury or serious disfigurement. Defense counsel further argued that Appellant was not guilty of attempting to take Fair's vehicle because he did not take Fair's keys from her, and there

was no evidence that he got into the driver's seat. Alternatively, defense counsel argued that Appellant was "intoxicated to the point that he could not form specific intent" to commit first-degree assault or attempted robbery.

The jury found Appellant guilty of first-degree assault and attempted robbery of Fair's vehicle.[3] We shall include additional facts in the discussion of the issues.

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN DECLINING TO INSTRUCT THE JURY ON THE DEFENSE OF LEGALLY ADEQUATE PROVOCATION.

The mitigation defense commonly known as "hot-blooded response to legally adequate provocation" traditionally applied only to criminal homicide and its "shadow forms" such as attempted murder. *Christian v. State*, 405 Md. 306, 322 (2008). In such cases, the defense, if accepted by the fact finder, mitigates murder to manslaughter because it negates the element of malice. *See Girouard v. State*, 321 Md. 532, 538 (1991). Circumstances which have historically supported a finding of legally adequate provocation include:

> mutual affray, assault and battery, discovering one's spouse in the act of sexual intercourse with another,[4] resisting an illegal arrest, witnessing, or

[3] The jury found Appellant not guilty of attempted carjacking; attempted motor vehicle theft; and attempted theft of between $1,500 and $25,000, an amount which represented the value of the vehicle. Although the attempted robbery charge of which Appellant was convicted was also related to Fair's vehicle, Appellant opted to accept the verdict despite the inconsistency.

[4] "Since 1997, '[t]he discovery of one's spouse engaged in sexual intercourse with another does not constitute legally adequate provocation for the purpose of mitigating a killing from the crime of murder to voluntary manslaughter even though the killing was provoked by that discovery.'" *Johnson v. State*, 266 Md. App. 518, 531 n.3 (2025) (quoting Md. Code Ann. (2002, 2021 Repl. Vol.), § 2-207(b) of the Criminal Law Article).

> being aware of, an act causing injury to a relative or a third party, and anything the natural tendency of which is to produce passion in ordinary men and women.

Christian, 405 Md. at 323 (citing *Girouard*, 321 Md. at 538) (footnote omitted). Such acts potentially "mitigate homicide to manslaughter because they create passion in the defendant and are not considered the product of free will." *Johnson v. State*, 266 Md. App. 518, 535 (2025) (quoting *Girouard*, 321 Md. at 538).

In *Christian*, the Supreme Court of Maryland held that a legally adequate provocation defense can apply to cases of first-degree assault. *Christian*, 405 Md. at 333.[5] If accepted by the fact finder, the defense mitigates first-degree assault to second-degree assault. *Id.*

To determine whether the defense potentially applies, "we look to the circumstances surrounding the homicide [or assault] and try to discover if it was provoked by the victim." *Girouard*, 321 Md. at 538. To generate the instruction, four requirements must be met:

[5] We note that in *Christian*, the Supreme Court of Maryland examined several cases in which it had previously held or suggested that legally adequate provocation could serve as a mitigation defense for assault with intent to murder, because as the offense was defined in terms of murder, defenses available in a murder prosecution would necessarily be applicable to negate such intent. 405 Md. at 329–30 (citations omitted). In conducting its analysis, the Court examined its holding in *Roary v. State*, where it had held that the crime of first-degree assault could supply the malice necessary to convict a defendant of murder in felony murder cases—in which case the legally adequate provocation defense would also apply. *Id.* at 332–33 (citing *Roary v. State*, 385 Md. 217 (2005)). The Supreme Court of Maryland later overruled *Roary*, holding that first-degree assault based on either intent to inflict serious physical injury or assault with a firearm cannot serve as the underlying felony to support felony murder. *State v. Jones*, 451 Md. 680, 708 (2017). In our view, the Court's holding in *Jones* does not undermine its decision in *Christian*, because the *Christian* court's reasoning centered on application of mitigation defenses only in circumstances where the first-degree assault is a "shadow form" of homicide. *Christian*, 405 Md. at 332.

1. There must have been adequate provocation;
2. The killing [or assault] must have been in the heat of passion;
3. It must have been a sudden heat of passion—that is, the killing [or assault] must have followed the provocation before there had been a reasonable opportunity for the passion to cool;
4. There must have been a causal connection between the provocation, the passion, and the [assault or] fatal act.

Id. at 539 (citations omitted). "Failure to prove any one of the necessary four elements is fatal to establishing a theory of hot-blooded provocation." *Price v. State*, 82 Md. App. 210, 218 (1990) (quoting *Scott v. State*, 64 Md. App. 311, 323 (1985) (further citation omitted). "Although the burden of production is on the appellant, the appellant himself need not testify in order to satisfy that burden. Any evidence . . . whether emanating from the appellant or the appellant's witnesses or the State's witnesses or from any source, can satisfy the burden of production." *Wilson v. State*, 195 Md. App. 647, 681 (2010) (vacated on other grounds, 422 Md. 533 (2011)).

A. Additional Facts

In arguing for the provocation instruction at trial, defense counsel suggested that the evidence demonstrated that Fair struck Appellant with her cane, which was "enough provocation for [Appellant] to then grab [the] cane and use it against [his] attacker." The court determined the evidence did not warrant the instruction, stating: "this was all brought out . . . whether mitigated by intoxication or not, by the conduct of [Appellant.]" The court further determined that any provocation on Fair's part was inadequate, stating, "What happened was [Fair] basically sort of menaced [Appellant] with the cane when he tried to get in her car."

B. Party Contentions

Appellant argues that the court abused its discretion in declining to instruct the jury on the defense of hot-blooded response to a legally adequate provocation. Appellant maintains the instruction was generated by evidence that Fair "tried to push" Appellant away from her after he "jumped in [her] face[;]" that she "acted aggressively" toward Appellant; and that she "lifted her cane in an attempt to intimidate" him. According to Appellant, Fair "took action first, causing him to react."

The State contends that the instruction was not warranted because Appellant was the initial aggressor. The State further contends there was no evidence regarding Appellant's subjective belief as to whether he was adequately provoked.

C. Standard of Review

A trial court "must give a requested jury instruction when '(1) the requested instruction is a correct statement of the law; (2) the requested instruction is applicable under the facts of the case; and (3) the content of the instruction was not fairly covered elsewhere in the jury instruction actually given.'" *Rainey v. State*, 480 Md. 230, 255 (2022) (quoting *Ware v. State*, 348 Md. 19, 58 (1997)). We review the court's decision to give a requested jury instruction for abuse of discretion. *Id.*

"A requested jury instruction is applicable if the evidence is sufficient to permit a jury to find its factual predicate." *Id.* (quoting *Bazzle v. State*, 426 Md. 541, 550 (2012)). "As long as the relied-upon evidence, if believed by a rational juror, supports the proponent's claim, the proponent has met the burden of showing that the requested jury instruction applies to the facts of the case." *Hollins v. State*, 489 Md. 296, 312 (2024). To

generate an instruction on a defense to a criminal charge, "[t]he defendant must meet this burden as to each element of the defense[.]" *Jarvis v. State*, 487 Md. 548, 564 (2024).

"The threshold determination of whether the evidence is sufficient to generate the desired instruction is a question of law for the judge." *Bazzle*, 426 Md. at 550 (quoting *Dishman v. State*, 352 Md. 279, 292 (1998)). "[T]he threshold is low, as a [party] needs only to produce 'some evidence' that supports the requested instruction[.]" *Id.* at 551 (citing *Dykes v. State*, 319 Md. 206, 216–17 (1990)). "'*Some evidence* is not strictured by the test of a specific standard. It calls for no more than what it says— "some," as that word is understood in common, everyday usage.'" *Id.* (quoting *Dykes*, 319 Md. at 216–17). In reviewing whether there was "some evidence" to support the instruction, "we view the facts in the light most favorable to the requesting party," in this case, Appellant. *Page v. State*, 222 Md. App. 648, 668–69 (2015) (citing *Hoerauf v. State*, 178 Md. App. 292, 326 (2008)).

D. Analysis

We perceive no error in the court's determination that the instruction was not warranted. The defense theory of hot-blooded response to a legally adequate provocation is limited to situations where the victim is the initial aggressor. *See Tripp v. State*, 36 Md. App. 459, 466 (1977) ("[A] defendant seeking to extenuate an intentional killing upon the theory that he killed in hot-blooded rage brought on by the provocative acts of his victim is limited to those killings where the victim is the provocateur."), modified on other grounds by *Sparks v. State*, 91 Md. App. 35 (1992). Here, the evidence viewed the light most favorable to Appellant does not support a finding that Fair provoked the assault. The

undisputed evidence clearly shows that Fair acted in response to Appellant's "intimidating" behavior, his claim of possession or ownership of her vehicle, and his attempts to enter her vehicle without her consent.

Even if Fair had provoked the incident, so that the defense was potentially available to Appellant, there was no evidence from which the jury could have found the elements of the defense. Regarding the first element, "[f]or provocation to be 'adequate,' it must be 'calculated to inflame the passion of a reasonable man and tend to cause him to act for the moment from passion rather than reason.'" *Girouard*, 321 Md. at 539 (quoting *Carter v. State*, 66 Md. App. 567, 572 (1986) (some internal quotation marks and further citation omitted). That Fair "lifted" her cane at Appellant and "aggressively" yelled "get the [f***] away from me" and "don't touch my car" is not legally adequate provocation. *See Girouard*, 321 Md. at 540 ("mere words, threats, menaces or gestures, however offensive and insulting, do not constitute adequate provocation.") (quoting *Lang v. State*, 6 Md. App. 128, 132 (1969)).[6] Furthermore, neither Fair's attempts to push Appellant away after he accosted her, nor her hitting or attempting to hit Appellant with her cane when he sought to enter her car would suffice. "For the provocation to be deemed objectively adequate, a slight battery or merely offensive touching is not enough. The battery has to be significant enough in a physical sense that it might ignite the passion of and cloud the reason of a reasonable or average person." *Wilson*, 195 Md. App. at 689 (citing *Scott v. State*, 64 Md.

[6] "Adequate provocation can be elicited from words 'if they are accompanied by conduct indicating a present intention and ability on the part of the victim to cause the [defendant] bodily harm.'" *Wood v. State*, 436 Md. 276, 294 (2013) (quoting *Carter v. State*, 66 Md. App. 567, 572 n.3 (1986)). That is not the case here.

App. 311, 323 (1985)). Examples of what might constitute a significant enough battery include "if the victim had thrown the defendant down the stairs[,]" a "clout with a heavy hickory stick[,]" a "blow upon the back of the head with a pistol[,]" or a "staggering blow" with a fist. *Id.* at 689–90 (citing *Dorsey v. State*, 29 Md. App. 97, 103 (1975); Moreland, *The Law of Homicide* 76 (1952); Perkins, *Criminal Law* 60 (2d ed. 1969)). Here, the evidence viewed in the light most favorable to Appellant does not demonstrate that he sustained a significant battery.

In addition, there was no evidence to prove the second element of the defense, that is, that Appellant committed the assault "in the heat of passion." "This element of the defense, the actual state of rage in the mind of the defendant, is a subjective requirement." *Wilson*, 195 Md. App. at 682. "It would not be enough that some legally adequate provocation had occurred. It would not be enough that, objectively speaking, the circumstances *could* have created hot-blooded rage in an average or reasonable person. It must affirmatively be established that the *defendant himself* was actually acting in hot blood." *Id.* at 682–83 (emphasis added) (collecting cases). "Generally speaking, only [the defendant] can attest to the 'hot-blooded' nature of the killing[,]" or, in this case, the assault. *See Carter*, 66 Md. App. at 573. *See also Bartram v. State*, 33 Md. App. 115, 175 (1976) ("The blood, however, must indeed be hot and, generally speaking, only the hot-blooded killer can attest to that."). Appellant did not testify at trial, nor are we suggesting such a requirement; however, there was no other evidence of Appellant's subjective state of mind—including his statements to police captured on body worn cameras immediately

after the assault—that would support a finding that Appellant actually acted "in the heat of passion."

In sum, we conclude that the evidence at trial did not generate an instruction on the defense of hot-blooded response to a legally adequate provocation. The court did not abuse its discretion in declining to give such an instruction.

II. THE EVIDENCE WAS SUFFICIENT TO SUSTAIN APPELLANT'S CONVICTIONS.

A. Party Contentions

Appellant contends that his conviction for first-degree assault must be reversed because there was no evidence that he intended to cause serious physical injury. Appellant further contends that his conviction for attempted robbery must be reversed because the State failed to prove that he attempted to take Fair's vehicle. The State maintains that "a rational juror could infer that [Appellant] intended to seriously injure and rob Fair when he beat her with an aluminum cane and entered her vehicle." We agree with the State.

B. Standard of Review

"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.'" *State v. Krikstan*, 483 Md. 43, 63 (2023) (quoting *Walker v. State*, 432 Md. 587, 614 (2013)). "[T]he test is not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded *any* rational fact finder." *Benton v. State*, 224 Md. App. 612, 629 (2015) (quoting *Painter v. State*, 157 Md. App. 1 (2004)) (emphasis in original). This standard "applies to all

criminal cases, including those resting upon circumstantial evidence, since, generally, proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts." *State v. Smith*, 374 Md. 527, 534 (2003) (citation omitted).

"Our role is not to review the record in a manner that would constitute a figurative retrial of the case." *Krikstan*, 483 Md. at 63 (citation omitted). "Weighing the credibility of witnesses and resolving any conflicts in the evidence are tasks proper for the fact finder." *Smith*, 374 Md. at 533–34 (quoting *State v. Stanley*, 351 Md. 733, 750 (1998)). Accordingly, this Court "must give deference to all reasonable inferences [that] the fact []finder draws, regardless of whether [we] would have chosen a different reasonable inference." *Donati v. State*, 215 Md. App. 686, 718 (2014) (quoting *Cox v. State*, 421 Md. 630, 657 (2011) (internal quotation marks and further citation omitted).

C. Analysis

i. The evidence was sufficient to sustain Appellant's conviction for first-degree assault.

To raise an offense from second-degree assault to first-degree assault, the State must prove, beyond a reasonable doubt, that the defendant committed a second-degree assault and then prove the additional requirement that the defendant committed the assault (1) with a firearm, (2) by intentionally strangling another, or (2) with the intent to cause serious physical injury. Md. Code (2002, 2021 Repl. Vol.), Criminal Law Article ("CR"), § 3-202(b)(1); *see also Snyder v. State*, 210 Md. App. 370, 385–86 (2013). Here, the State's theory of the case was that Appellant committed a battery upon Fair with the intent to cause

serious physical injury. "Serious physical injury" in this context is statutorily defined as "physical injury that: (1) creates a substantial risk of death; or (2) causes permanent or protracted serious: (i) disfigurement; (ii) loss of the function of any bodily member or organ; or (iii) impairment of the function of any bodily member or organ." CR § 3-201(d).

Appellant argues that the evidence was insufficient to convict him of first-degree assault because there was there was no evidence that he intended to cause serious bodily harm. We disagree. A jury may infer that an individual had a specific intent to cause a serious physical injury "from an individual's conduct and the surrounding circumstances," regardless of whether the victim in fact suffers such an injury. *Chilcoat v. State*, 155 Md. App. 394, 403 (2004) (citing *Ford v. State*, 330 Md. 682, 703, 705 n.9 (1993)). *See also State v. Manion*, 442 Md. 419, 434 (2015) (explaining that, "[g]iven the subjective nature of intent, the trier of fact may consider the facts and circumstances of the particular case when making an inference as to the defendant's intent"). Furthermore, "the jury may 'infer that one intends the natural and probable consequences of his act.'" *Chilcoat*, 155 Md. App. at 403 (quoting *Ford*, 330 Md. at 704). We are satisfied that the evidence at trial would permit a rational jury to infer that Appellant intended to cause "serious physical injury" as that term is statutorily defined, as serious physical injury is a natural and probable consequence of kicking a person in the head and striking the person repeatedly with a metal object, including a direct blow to the face.

ii. The evidence was sufficient to sustain Appellant's conviction for attempted robbery.

"The essential elements of the crime of robbery are 'the felonious taking and carrying away of the personal property of another, from his person or in his presence, by violence or putting in fear.'" *Conyers v. State*, 345 Md. 525, 558 (1997) (quoting *West v. State*, 312 Md. 197, 202 (1988)). "A person is guilty of an attempt when, with intent to commit a crime, he engages in conduct which constitutes a substantial step toward the commission of that crime[.]" *Hall v. State*, 233 Md. App. 118, 138 (2017) (quoting *Townes v. State*, 314 Md. 71, 75 (1988)). For example, "unlawful entry of a structure, vehicle, or enclosure in which it is contemplated that the crime will be committed" is sufficient to constitute a "substantial step" toward the commission of a crime if it is "strongly corroborative of the actor's criminal purpose[.]" *Young v. State*, 303 Md. 298, 311–12 (1985).

To convict Appellant of attempted robbery, the State was required to prove that Appellant intended to take Fair's vehicle from her by violence or putting her in fear, and that he took a substantial step toward committing that crime. As the trial court aptly noted in denying Appellant's motion for judgment of acquittal,

> "[w]e have testimony from [the cashier] who testified that he sees [Appellant] get in the car. We have the video that shows [Appellant] opening the door to the car. We have [Appellant's] statements about it being his car. We have him knocking the owner to the ground . . . when she tries to stop him from getting into the car."

We agree with the trial court's conclusion that this evidence, viewed in the light most favorable to the State, was sufficient to permit the jury to find the elements of attempted robbery.

Appellant maintains his conviction must be reversed because there was no evidence that he got into the driver's seat of the car; there was no evidence that he brought a weapon to the scene; the evidence demonstrated that he did not take Fair's keys from her; the evidence demonstrated that he did not strike Fair first; the evidence demonstrated that he made no attempt to flee; Fair testified that he "appeared to be confused"; and he was treated for symptoms of alcohol withdrawal after he was arrested. These contentions are unavailing, as they relate to the weight of the State's evidence, and not its sufficiency. "In testing the legal sufficiency of the evidence in a criminal case, we take that version of the evidence most favorable to the State and assume for all of its constituent elements, regardless of their evidentiary origins, maximum credibility and maximum weight." *Cerrato-Molina v. State*, 223 Md. App. 329, 351 (2015). We do not consider evidence tending to support the defense theory of the case because "with respect to the burden of production, the exculpatory inferences do not exist. They are not a part of that version of the evidence most favorable to the State's case." *Id. See also Ross v. State*, 232 Md. App. 72, 98 (2017) ("[I]f two inferences reasonably could be drawn, one consistent with guilt and the other consistent with innocence, the choice of which of these inferences to draw is exclusively that of the fact-finding jury and not that of a court assessing the legal sufficiency of the evidence.").

In sum, the evidence was sufficient to support Appellant's convictions for first-degree assault and attempted robbery. The court did not err in denying Appellant's motion for a judgment of acquittal.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.