Circuit Court for Caroline County
Case No.: C-05-CR-20-000150

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 710

September Term, 2021

SAMANTHA M. OLNEY

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: March 2, 2002

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

After Samantha M. Olney,[1] appellant, pleaded not guilty to an agreed statement of facts in the Circuit Court for Caroline County to several counts of possession of drug paraphernalia with the intent to use it, the court found her guilty of committing those offenses.[2] The court imposed a $250 fine for one of the counts and merged the remaining counts for sentencing.

On appeal, appellant contends that the evidence was legally insufficient. For the reasons explained below, we shall affirm.

BACKGROUND

As noted above, the case proceeded by way of a not guilty plea to an agreed statement of facts. Joint Exhibit #1, a redacted police report, provided most of those agreed-upon facts, as follows:

> On Friday, February 21, 2020, at approximately 2155 hours, I, DFC. Cooper was on patrol, operating marked patrol vehicle CS-13, in the area of Downes Station Road near Ridgely Road, Ridgely, Maryland 21660.
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> While on patrol I observed a vehicle, later identified as a 2018 Hyundai Elantra, blue in color, displaying Maryland registration 9DL0058, traveling at what appeared to be a speed greater than the posted speed limit of 50 miles per hour. I activated my Stalker Dual Radar Unit, front deck (DE4978) and received a speed reading of 69 miles per hour.
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> I then conducted a traffic stop in the area of Eastbound Shore Highway at Log Cabin Road, Denton, Maryland 21629. While approaching the vehicle I observed the operator to be making sudden movements. I then positioned myself at the B-pillar of the vehicle and observed the operator to be startled

[1] In the transcripts of the trial proceedings, appellant's last name is spelled "Onley" rather than "Olney" as it is appears seemingly everywhere else in the record.

[2] Section 5-620(a)(2) prohibits a person from possessing or distributing "controlled paraphernalia under circumstances which reasonably indicate an intention to use the controlled paraphernalia for purposes of illegally administering a controlled dangerous substance."

by my presence. I requested the operator to provide license and registration for the vehicle, at which time I positively identified the operator as Samantha Olney (defendant) by her Maryland Driver's license. I then returned to my vehicle to complete the associated paperwork in reference to the traffic stop. While positioned in my vehicle I observed Samantha to be making furtive movements. Samantha appeared to be reaching toward the glove compartment as well as the floor area of the vehicle.

After observing the furtive movements made by Samantha, I returned to her vehicle on the passenger side in order to make a second observation of the areas she was moving towards. At the completion of the traffic stop I informed Samantha of the traffic citation and warning she was receiving for her speed and failure to display documentation of insurance. After providing Samantha with the appropriate information I advised her that she was free to go. Once Samantha was advised that she was free to leave I requested for her consent to search the vehicle. Samantha then agreed to the consent search. Samantha exited the vehicle and began to walk towards the front of my patrol vehicle as instructed. While Samantha was walking, I inquired if there was anything in the vehicle, I should be aware of. Samantha stated that whatever is in the vehicle does not belong to her because it is her fiancé's.

During the consent search, I located the following items within the center console of the vehicle:

- (2) Hypodermic Syringes
- Partial aluminum can with suspected heroin residue
- Black cloth like string tied in a knot
- Cotton swab with suspected heroin residue

I observed the partial aluminum can to have charring marks on one side and a white residue opposite of that, which appeared to be suspected heroin residue. The black cloth like string was tied in a [k]not indicative of being used as a tourniquet in order to get one's [veins] to protrude in order to inject a substance. The cotton swab appeared to have come from a Q-tip in order to filtrate a substance being injected. The above listed items are identified through my training, knowledge and experience as a controlled dangerous substance and paraphernalia. [sic] I have been a Deputy Sheriff for two years and have received training in the identification and detection of a controlled dangerous substance (CDS). During this time, I have made and/or assisted in CDS arrests which have resulted in convictions.

> Samantha was placed under arrest at approximately 2226 hours and advised of her Miranda Rights at approximately 2230 hours. Samantha stated that she agreed to speak with me about the evidence that was located. Samantha stated that the syringes, aluminum can, black cloth string and cotton swab were all used for heroin. Samantha stated she knew what the items were for because she and her fiancé are in recovery from such narcotics.
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> Samantha and the evidence seized were transported to the Caroline County Sheriff's Office (CCSO) for booking and processing. Once at CCSO, Samantha was requested to perform a strip search, with the approval of Sgt. Peris, at approximately 2245 hours. The strip search was conducted in the presence of Cpl. [sic] Peris from Denton Police Department and Correctional Officer Heath from the Caroline County Detention Center. The strip search was conducted due to Samantha's furtive movements within the vehicle previously mentioned and the observation made of multiple clothing garments being disheveled as she exited the vehicle. The result of the strip search was negative.
>
> [Hand-written:] Dep. Cooper would have testified that all items seized were used for intravenous drug use.

Joint Exhibit #2, a Maryland State Police Forensic Sciences Division lab report, provided the additional agreed-upon facts that (1) the aluminum can and cotton swab were tested for heroin, but the results were "Insufficient Data for Confirmation," and (2) that the syringes were not tested.

DISCUSSION

Appellant all but concedes that the evidence was legally sufficient to support a charge that she *possessed* the drug paraphernalia recovered from her car. According to her, however, the evidence was legally insufficient to support a finding that she possessed the paraphernalia with the *intent to use it*.

In reviewing the sufficiency of the evidence, we review the record to determine whether, "'after viewing the evidence in the light most favorable to the prosecution, any

rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *Pinheiro v. State*, 244 Md. App. 703, 711 (2020) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "'Since intent is subjective and, without the cooperation of the accused, cannot be directly and objectively proven, its presence must be shown by established facts which permit a proper inference of its existence.'" *Spencer v. State*, 450 Md. 530, 568 (2016) (quoting *Davis v. State*, 204 Md. 44, 51 (1954)).

We think that, in viewing the evidence in the light most favorable to the State, a rational fact-finder could draw the inference that appellant intended to use the drug paraphernalia recovered from the console in her car.

First, the police officer who stopped appellant's vehicle saw her making sudden and furtive movements while reaching around the glove compartment and floor area of her car. These actions give rise to the inference that appellant was aware of the used paraphernalia and intended to use it again. In addition, the fact that appellant possessed items of paraphernalia that had already been used for ingesting drugs, while certainly indicative of past drug use, also permitted the inference that, because the items had not been discarded, they were intended to be used again. Moreover, although appellant initially denied ownership of anything in the car, she later told the police that she was in "recovery" from heroin use.

From all of the foregoing, a rational factfinder could have drawn the inference that appellant had the intent to use the paraphernalia she possessed. It is of no moment that the evidence may have also supported some other inference. "Choosing between competing

inferences is classic grist for the [fact-finder] mill." *Cerrato-Molina v. State*, 223 Md. App. 329, 337 (2015).

Consequently, we shall affirm the judgments of the circuit court.

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