Circuit Court for Baltimore City
Case No. 122146015

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 864

September Term, 2024

KELVIN A. M.

v.

STATE OF MARYLAND

Reed,
Shaw,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 3, 2025

*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.

Convicted by the Circuit Court for Baltimore City of first degree child abuse, first degree assault, second degree assault, reckless endangerment, and related offenses, Kelvin A. M., appellant, presents for our review a single issue: whether the evidence is insufficient to sustain the conviction of first degree assault. For the reasons that follow, we shall affirm the judgment of the circuit court.

At trial, the State called Tashia B. (hereinafter "Tashia"), who testified that appellant is the father of her son A. and daughter B. On April 14, 2022, appellant, Tashia, A., and B. were living at a Holiday Inn hotel on Gay Street. At that time, A. was eight years old and B. was three months old. When asked "what happened around 11:00 that night," Tashia testified:

> We were all in the room, and I guess [appellant] was out and came back in. He wasn't himself, and he blacked out, and it started with him, and I, like he came after me and [A.] came in to stop what was going on, and it just escalated from there.

Tashia testified that while she was nursing B., appellant "was upset" and "just venting." When Tashia tried "to calm [appellant] down," "it upset him," and he "hit" Tashia near her right eye. Appellant also "grabbed" A., "[p]ulled on him," "[k]icked him," and "punched him . . . on his head and . . . body." Later that evening, Tashia, A., and B. "went to the hospital," where A. remained for "[a]bout a week."

The State also called Baltimore City Police Detective Alejandro Garcia, who testified that on April 14, 2022, he "responded to the hospital in reference to [a] call for service." After speaking with Tashia, Detective Garcia saw A., who "was unresponsive." The detective "noticed bruises and injuries to [A.'s] head and face," that his lips and

forehead were swollen, and that "he had blood coming from either his mouth or nose." Detective Garcia responded to the Holiday Inn, where he viewed "security footage" of the hallway adjacent to the room in which "the incident occurred." "[O]n that footage," the detective saw A., who "looked scared," "coming out of the room" and laying "against the wall." Appellant then exited the room, "dragged" A., and "stomped him in the head multiple times." The court admitted the footage into evidence.

The State also produced evidence that a "head CT" of A. revealed "evidence of a skull fracture with evidence of bleeding within the brain." The State called Genevieve Whitman Grissom, who testified that she had previously been a nurse, and had resided at the Holiday Inn. On April 14, 2022, Ms. Grissom was asked to provide assistance to A. As Ms. Grissom "tried to talk to" A., appellant "came in and . . . started yelling at" him, stating: "This is your fault. You deserve this. What's wrong with you[?]"

Following the close of the State's case, appellant testified that when he awoke on April 14, 2022, he went to a grocery store and purchased "two shots of Canadian Mist and a bottle of Guinness." Appellant "[d]rank the . . . Canadian [M]ist and took the bottle of Guinness with some food in [his] backpack . . . towards the hotel." A "block away from the hotel, [appellant] stopped and had a drink with a friend" named Francis, who gave appellant "a shot of [F]ireball." Appellant "dropped the [F]ireball," but "didn't feel so well [a] couple of minutes after." Appellant returned to the hotel room, but "[n]obody was in the room, so [he] left." Appellant testified:

> [T]he rest of the day went blank. Thirteen hours passed. I just figured out that 13 hours had passed yesterday. Thirteen hours went missing. And my baby mama even said yesterday, she found me outside and bring me home.

* * *

> After I drank that [F]ireball with Francis, everything went black and that had never happened before.

Appellant recalled that Tashia "brought [him] up" to their room, where he later "woke up in the bed." Tashia "tapped [appellant] on [his] leg" and told him to "get [in] the shower." Appellant "got up[] angrily," because he did not "know the time or nothing," he could not sleep, and he was "trying to go out the door." Appellant recalled "arguing and fighting" with Tashia, after which appellant's "son got into . . . the door jamb" and "screamed something out really loud." Appellant remembered "raising [his] hand and striking [A.] one time," after which appellant "went blank again." Appellant remembered "being outside [when] one of the neighbors stopped" him and then spoke with police officers. The officers "flashed [a] flashlight in [appellant's] face and . . . eyes," and "asked . . . if [he] wanted to go to the hospital." Appellant replied, "yes, because I can't remember nothing going on," and was put in a car. When appellant arrived at the hospital, he "was in the bed concerned about [his] son." After appellant asked "if they okay or if they all right," he "went blank again," and "woke up the next morning." Appellant testified: "They keep . . . telling me I'd done stuff that I can't recall." Appellant confirmed that "in addition to drinking that day," he "also smoke[d] weed." The court admitted into evidence records of Johns Hopkins Hospital related to treatment of appellant, which indicated, in pertinent part, that the "ethanol level" of his blood was "218," and that he tested "positive for cannabinoids."

During cross-examination, appellant confirmed that "in the morning," he consumed "[t]wo shots of Canadian [M]ist, . . . a Guinness, a beer, and . . . a [F]ireball." Appellant also confirmed that he "remember[ed] saying to Tashia that [he was] glad that the police came, because otherwise [A.] would have died." Appellant also confirmed that during a call from jail, he told A. that "he was going to hell . . . because he rose up against his father." Appellant testified:

> That's how I was raised up.
>
> * * *
>
> You don't rise up against it – my moral standards and goals are one raised is separate from how you're raised. Because in the household I'm raised, we're not raised a certain way to curse a[n] elder out or argue with elders. And so a lot of cultural differences, because I was raised on the British system.

Following the close of the evidence, the court stated, in pertinent part:

> This court is satisfied that [appellant] certainly had some level of alcohol in his body at the time of the incident. The Court will note that on the video, . . . I did review it yesterday and I did take notes from it. One of the things that the Court noted that [appellant] indicated to [Tashia] that, "You're not a man. I'm going to talk to my son. Move. Move. Shut the fuck up." Pushes her out of the way.
>
> At that point, the defendant pushes, punches the child in the head. Drags him with force by the leg, then twists him, then stomps him with his right foot.
>
> The Court does note that things go out of frame at that point in time. And then the Defendant comes back into the frame and is kicking [A.] about his body and stomps on his head a number of times.
>
> He then continues to push [Tashia] out of the way. The Court notes that at some point, the Defendant fell to the ground with his knee in the child's back for a significant period of time. He then stands up and hits [A.] in the head two times, while the child is still limp.

> The Court will also note that the Defendant did ultimately pick [A.] up, move him around, and said, "there ain't nothing wrong with you, ain't nothing wrong with you. I'm your father." And at some point gives the child back to the mother.
>
> The Court knows that he is enraged with [Tashia] at that point in time. [Tashia] then needs to take the child and is able to take the child to the first floor, where the video changes from the third floor to the first floor. And at that time, you can see the lump that is already on her head, as the paramedics get there.
>
> And then while the paramedics are there, the Defendant comes back while Ms. Grissom is there, the paramedics are there and is yelling at [A.] and tries to drag [A.], even while the paramedics are there telling [A.], that he is bad.
>
> The Court will note that . . . the defense effectively is that [appellant] was too intoxicated . . . to be able to form the specific intent required for those crimes that are specific intent crimes.
>
> The Court will note that there are a number of factors that will go into determining how alcohol affects one's body, and part of it is the observations of the individual; the individual's ability to move, to walk, to talk, to interact.
>
> The testimony of [appellant] that he does not remember things for about 13 hours. The Court does not dispute that there may be some things that [appellant] blacked out on, but the Court is not satisfied that there is sufficient proof to show that [appellant] does not – did not remember everything, and that [appellant] did not have the ability to form the specific intent required. The Court bases that on the actions of the Defendant during the video.
>
> The Court notes that he is able to walk away, come back, talk, speak, explain to [Tashia] how she needs to get out of the way, yelled at [A.] and letting him know that this, that he's bad.
>
> The Court is satisfied that based on what was presented on video and the testimony, that the Defendant does have or did or did have at that time, the ability to form the intent for the various crimes listed.

The court subsequently convicted appellant of first degree child abuse of A. The court also convicted appellant of first degree assault of A., stating:

> The Court also finds that as far as specific intent, crime of first degree assault, that the serious physical injury that was caused by [appellant] was done with the intent to cause injury.
>
> The Court finds that [appellant] made it clear, both on the video and even in court today, that his value system allows him to basically strike the child.
>
> * * *
>
> [T]he actions of [appellant] on that day were well beyond corporal punishment.
>
> This Court makes the finding that the actions of [appellant] on that day did rise to the level of a first degree assault, because the Court does find that it was [appellant's] intent to cause serious bodily . . . injury to [A.]

The court also convicted appellant of reckless endangerment of B., second degree assault of Tashia, and related offenses.

At sentencing, the court imposed a term of imprisonment of 25 years for the first degree child abuse. For the first degree assault, the court imposed a term of imprisonment of 25 years, all but ten years suspended, to be served consecutively to the sentence for first degree child abuse. For the reckless endangerment, the court imposed a term of imprisonment of one year, to be served consecutively to the sentence for first degree assault. Finally, for the second degree assault, the court imposed a term of imprisonment of three years, to be served consecutively to the sentence for reckless endangerment.

Appellant contends that the "evidence adduced at trial . . . established that [he] consumed an inordinate amount of alcohol and cannabinoid . . . that [a]ffected his ability to form the specific intent to cause serious physical injury to" A., and "hence[,] established that he did not act with specific intent in assaulting" A. We disagree. The Supreme Court

of Maryland has long held that "[e]vidence of drunkenness which falls short of a proven incapacity in the accused to form the intent necessary to constitute [a] crime merely establishes that the mind was affected by drink so that he more readily gave way to some violent passion and does not rebut the presumption that a man intends the natural consequence of his act." *State v. Gover*, 267 Md. 602, 607-08 (1973) (citation omitted). The Court has also stated that evidence of a defendant's actions at the time of the offense, "ability to speak intelligibly while allegedy intoxicated," and "amount of design in planning the crime" may be "inconsistent with the assertion that he was unable to form any specific intent[.]" *Bazzle v. State*, 426 Md. 541, 556-57 (2012) (footnote omitted).

Here, the parties produced considerable evidence inconsistent with the assertion that appellant was unable to form the specific intent to assault A. The video recording of the assault revealed that appellant pursued A. out of their hotel room, dragged and kicked A., "stomped [A.] in the head multiple times," and held "his knee in [A.'s] back for a significant period of time." The recording further revealed that during the assault, appellant stated that he was "going to talk to [his] son," told A. that there was "nothing wrong with" him, reminded A. that appellant was his father, and "explain[ed] to [Tashia] how she need[ed] to get out of the way." Ms. Grissom testified that appellant intelligibly told A. that the assault was his fault and that he deserved the assault, and asked A. what was "wrong with" him. Also, appellant testified that he struck A. after he "got into . . . the door jamb" and "screamed something out really loud," told Tashia that A. "would have died" if police had not arrived and that he was angry that A. "rose up against his father," and "was raised" to believe that a child does not "argue with elders." In light of this evidence, the

evidence of appellant's drunkenness falls short of a proven incapacity to form the intent necessary for first degree assault, merely establishes that appellant's mind was affected by drink and cannabinoids so that he more readily gave way to violent passion, and does not rebut the presumption that he intended the natural consequence of his actions. Hence, the evidence is sufficient to sustain the conviction of first degree assault.

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