

Circuit Court for Howard County
Case No. 13-K-14-054145

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2309

September Term, 2019

ANTWANE D. HOLLAND

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 4, 2021

*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.

Convicted by a jury in the Circuit Court for Howard County of first degree burglary and related offenses, Antwane D. Holland, appellant, presents for our review two questions: whether the evidence is sufficient to sustain the conviction for first degree burglary, and whether the court abused its discretion in allowing the State to impeach the defense's witness with her conviction for theft scheme. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State produced evidence that Mr. Holland burglarized a Columbia residence, stole property, and resisted arrest. During argument, Mr. Holland conceded that he was guilty of fourth degree burglary. Mr. Holland's defense to the other offenses, as presented through the testimony of a witness and argument, was that due to his consumption, prior to the burglary, of "a staggering amount of alcohol," he was "in no way . . . in the state of mind where he could have conjured up the specific intent that was required to commit the specific intent offenses."

Mr. Holland first contends that the evidence is insufficient to sustain the conviction for first degree burglary "because his high level of intoxication negated the specific intent required to commit" the offense. But, in moving for judgment of acquittal as to the offense, defense counsel argued only "that the State has not presented sufficient evidence." Defense counsel did not particularly argue that Mr. Holland's level of intoxication negated specific intent, *see* Rule 4-324(a) ("[t]he defendant shall state with particularity all reasons why the motion [for judgment of acquittal] should be granted"), and hence, Mr. Holland's contention is not preserved for our review.

Mr. Holland next contends that the court abused its discretion in allowing the State to impeach the defense’s witness, Cameron Kutney, with her conviction for theft scheme. Before Ms. Kutney took the stand, the prosecutor stated that he intended to impeach Ms. Kutney with the conviction. Defense counsel requested that the court “prohibit the State from introducing that conviction” on the ground that the “probative value of bringing in the conviction is outweighed by the unfair prejudice.” The court denied the request. During direct examination, Ms. Kutney testified as to the amount of alcoholic beverages that she and Mr. Holland consumed prior to the burglary, his subsequent demeanor, and his level of intoxication when he and Ms. Kutney parted. Defense counsel also elicited testimony from Ms. Kutney, apparently in an attempt to “draw the sting out” of her prior conviction,¹ that in 2011, she “pled guilty” in Harford County “to a count of misdemeanor theft scheme” relating to “shoplift clothing.” During cross-examination, the prosecutor elicited testimony from Ms. Kutney that “[t]here was more than one store that was part of that.”

Mr. Holland now contends that “[u]nder the facts of this case, . . . the trial court erred in determining that the probative value of [the] conviction outweighed the danger of unfair prejudice to” him. We disagree. In *King v. State*, 407 Md. 682 (2009), the Court of Appeals stated that “[w]here credibility is the central issue, the probative value of the impeachment is great, and thus weighs heavily against the danger of unfair prejudice.” *Id.* at 701 (internal citation, quotations, and italics omitted). The Court further stated that “the

¹*See Cure v. State*, 421 Md. 300, 305 (2011).

potential for unfair prejudice is less . . . where the witness to be impeached with evidence of a prior conviction is not the defendant.” *Id.* at 704. Here, Ms. Kutney was not the defendant, and because her testimony was the only evidence that supported Mr. Holland’s defense, her credibility was the central issue. Hence, the probative value of the impeachment was great enough to outweigh the danger of unfair prejudice, and the court did not abuse its discretion in allowing the impeachment.

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