APPENDIX

A

Circuit Court for Montgomery County
Case No. 133838C
Argued: December 7, 2021

IN THE COURT OF APPEALS

OF MARYLAND

No. 16

September Term, 2021

DANIEL BECKWITT

v.

STATE OF MARYLAND

Getty, C.J.
McDonald
Watts
Hotten
Booth
Biran
Adkins, Sally D. (Senior Judge,
Specially Assigned),

JJ.

Opinion by Watts, J.

Filed: January 28, 2022

2022-01-28
12:01-05:00

This case involves the tragic death of twenty-one-year-old Askia Khafra, who died in a fire while trying in vain to escape from the reprehensible conditions of his workplace in the basement of his employer Daniel Beckwitt's, Petitioner's/Cross-Respondent's, home. Following a trial in the Circuit Court for Montgomery County, a jury found Beckwitt guilty of second-degree depraved heart murder and involuntary manslaughter. The circuit court sentenced Beckwitt to twenty-one years' imprisonment, suspending all but nine years, with credit for sixty days of time served, for second-degree depraved heart murder, and merged the conviction for involuntary manslaughter for sentencing. Beckwitt appealed, and the Court of Special Appeals held that the evidence was sufficient to support the conviction for gross negligence involuntary manslaughter but insufficient to support the conviction for depraved heart murder. See Beckwitt v. State, 249 Md. App. 333, 346, 245 A.3d 201, 209 (2021).

Beckwitt filed a petition for a writ of *certiorari* raising four issues—whether the circuit court lacked subject matter jurisdiction to enter a conviction on involuntary manslaughter due to old English statutes concerning a lack of liability for accidental fires, whether the evidence was sufficient to support the conviction for involuntary manslaughter, whether legal duty involuntary manslaughter is a lesser-included offense of depraved heart murder, and whether the circuit court erred by failing to correctly instruct the jury on the elements of legal duty involuntary manslaughter. The State, Respondent/Cross-Petitioner, filed a conditional cross-petition, raising one issue—whether the evidence was sufficient to support the conviction for second-degree depraved heart murder. We granted both the petition and conditional cross-petition.

We answer the questions raised as follows. To begin with, we reject Beckwitt's argument that, because the case involved an accidental house fire, certain old English statutes deprived the circuit court of subject matter jurisdiction. In actuality, the argument does not involve a question of subject matter jurisdiction and because Beckwitt failed to raise the issue in the circuit court, the matter is not preserved for appellate review. Were we to consider the issue, though, we would determine that the statutes on which Beckwitt relies do not preclude his prosecution or otherwise serve as a defense.

Next, we hold that the evidence was sufficient to support Beckwitt's conviction for involuntary manslaughter under both a gross negligence and failure to perform a legal duty theory of the offense. We hold that the evidence was sufficient to establish gross negligence involuntary manslaughter because Beckwitt's conduct, in causing Khafra to live and work in dangerous conditions, constituted a gross departure from that of an ordinarily careful and prudent person under the same circumstances and a disregard for the consequences which might ensue and so demonstrated a wanton and reckless disregard for Khafra's life. Beckwitt's conduct was likely to result in harm to Khafra at any moment and an ordinarily prudent person under similar circumstances would have been conscious of the risk to Khafra. The evidence was sufficient to establish legal duty involuntary manslaughter because the evidence demonstrated that Khafra was Beckwitt's employee and, as such, Beckwitt had a duty to provide Khafra with a reasonably safe workplace, which he failed to do with reckless indifference as to the endangerment of Khafra and that failure constituted gross negligence.

In addition, we hold that there was sufficient evidence for the jury to conclude that

Beckwitt's conduct was both the actual and legal cause of Khafra's death. Viewing the evidence in the light most favorable to the State, the evidence was sufficient for the jury to have found beyond a reasonable doubt the essential elements of involuntary manslaughter under both a gross negligence and legal duty theory.

Because we conclude that the evidence was sufficient to support Beckwitt's involuntary manslaughter conviction under both theories, we need not reach the issue of whether legal duty involuntary manslaughter is a lesser-included offense of depraved heart murder. Nonetheless, we determine that legal duty involuntary manslaughter is not a lesser-included offense of depraved heart murder, although gross negligence involuntary manslaughter is.

We conclude that Beckwitt's contention that the circuit court erred or abused its discretion by failing to instruct the jury as to all of the essential elements of legal duty involuntary manslaughter is not preserved for appellate review. If the issue were preserved, however, we would conclude that the circuit court did not abuse its discretion in giving the instruction because it constituted a correct statement of law and covered the essential elements of the offense.

Finally, in agreement with the Court of Special Appeals, we hold that the evidence was not sufficient to support Beckwitt's conviction for second-degree depraved heart murder because his conduct, although demonstrating a wanton and reckless disregard for human life, was not the kind of conduct that was likely, if not certain, to have caused death, and thus did not constitute conduct that demonstrated an extreme indifference to the value of human life. Beckwitt's conduct—including having Khafra dig tunnels beneath his home

while living and working in a basement with electrical power provided by multiple extension cords and power strips and that was filled with trash and debris which severely hampered Khafra's escape in the event of an emergency—whether considered individually or cumulatively, although demonstrating a reckless disregard for human life, did not constitute conduct that was reasonably likely, if not certain, to cause death. Accordingly, we affirm the judgment of the Court of Special Appeals.

BACKGROUND

This case involves uncommon and, indeed, bizarre facts which, in its reported opinion, the Court of Special Appeals set forth in a well-written, thorough, and detailed manner. See Beckwitt, 249 Md. App. at 347-51, 245 A.3d at 209-11. As there is no material dispute between the parties about the accuracy of the facts—although the parties certainly dispute whether the facts were sufficient to support Beckwitt's convictions—we adopt the facts as set forth by the Court of Special Appeals:

> This case involves the tragic death of Askia Khafra, a twenty-one-year-old who died while trying to escape a fire in [Beckwitt]'s basement. At the time of the fire, [Beckwitt] was twenty-six years old. The unfortunate series of events that brought Khafra and [Beckwitt] together arose from Khafra's idea to create a smartphone application or "app" called Equity Shark. Khafra envisioned Equity Shark as streamlining the process for average people to invest in "starter companies" or small businesses that had not yet gone public and needed funding. Khafra expended considerable effort in developing the app. In furtherance of that goal, Khafra browsed internet chatrooms looking for investors. Khafra found his first investor—[Beckwitt]—in such a chatroom.
>
> Khafra pitched his business idea to [Beckwitt], and explained that he was looking for approximately $5,000 to go to San Francisco to apply for a

Thiel Fellowship.[1] According to the parties' briefs, [Beckwitt] invested approximately $10,000 for a 5% stake in Equity Shark.[2] Khafra and [Beckwitt] went on to develop a close friendship. Khafra apparently became fascinated with [Beckwitt] due to [Beckwitt]'s wealth and financial success. Khafra looked to [Beckwitt] as someone who could help him grow Equity Shark, not just financially, but by assisting with computer coding and other efforts needed to develop the app into a viable business. Unfortunately, Equity Shark never took off as planned, and Khafra was not accepted for the Thiel Fellowship.

In order to repay [Beckwitt]'s $10,000 investment, Khafra agreed to dig tunnels underneath [Beckwitt]'s house. [Beckwitt] had been building tunnels and an underground bunker beneath his home because he apparently feared a nuclear war with North Korea.

Khafra was not the first person to dig tunnels for [Beckwitt]. Douglas Hart, who was approximately twenty years old at the time,[3] dug tunnels on several occasions from approximately October 2016 to April 2017. Logistically, Hart would drive his car to Maryland,[4] meet [Beckwitt] at a McDonald's, and then [Beckwitt] would require Hart to wear sunglasses with duct tape on them to obscure Hart's vision while [Beckwitt] drove the two to [Beckwitt]'s home. Despite the fact that [Beckwitt] actually lived in Maryland, he gave Hart the impression that they were going to Virginia. When Hart visited [Beckwitt] to dig tunnels, he typically stayed in the tunnels and basement area for approximately a month at a time and understood that he was not allowed into the rest of the house. Hart indicated that he was physically incapable of leaving the basement/tunnel area, and that although there was a door from the basement leading directly to the outside, that door was kept locked and [Beckwitt] always had the key. When Hart communicated to [Beckwitt] that he wanted to go outside for fresh air or to get food, however, [Beckwitt] would oblige him. Nevertheless, [Beckwitt] required Hart to wear the duct-taped sunglasses upon going outside to prevent Hart from learning the location of [Beckwitt]'s house.

---

[1]The transcript incorrectly refers to this as the "Peter Field Fellowship." The specifics of the Fellowship itself, however, such as the age limit, the requirement to drop out of school in order to attend, and the Fellowship's general purpose, persuade us that Khafra was pursuing a "Thiel Fellowship" rather than a "Field Fellowship." *See* Thiel Fellowship, *FAQ*, https://thielfellowship.org/faq/ (last visited Jan. 8, 2021).

[2]There appears to be some discrepancy regarding the total amount of [Beckwitt]'s investment, but that discrepancy is immaterial to the outcome of this appeal.

[3]Hart testified at the April 2019 trial that he was twenty-three years old. From this fact we extrapolate that he was approximately twenty years old when he began working in [Beckwitt]'s tunnels in October 2016.

[4]At trial, Hart indicated that he was living in New York.

In early 2017, Khafra began digging tunnels at [Beckwitt]'s home for $150 a day. [Beckwitt] typically picked Khafra up at Khafra's parents' house in the early morning hours, around 3:00 a.m., and like Hart, required Khafra to be blindfolded during the trip to [Beckwitt]'s house.[5] Khafra would dig underneath [Beckwitt]'s home approximately once a month to every two months, and would stay anywhere from a few days to a few weeks at a time.[6] During his stays, Khafra mostly remained in the bunker area in the tunnels. According to [Beckwitt]'s brief, "Khafra roamed freely in the basement and the tunnels, but he was not permitted to come up to the first or second floors of the residence." Rather than take showers, Khafra cleaned himself using disposable wipes. To relieve himself, Khafra would urinate and defecate in a bucket he kept in the tunnels. Every few days, Khafra and [Beckwitt] used a winch system to haul the bucket from the basement to the first floor, where [Beckwitt] himself would dispose of its contents in the first-floor bathroom. Because [Beckwitt] did not own a phone, Khafra could only communicate with [Beckwitt] from the basement and tunnels using Google apps such as Google Voice and V Chat.[7] [Beckwitt] used numerous extension cords and power strips to provide electricity to the tunnels. In his interviews with police, [Beckwitt] intimated his familiarity with the failing power cords and having to reset the circuit breaker.

On September 3, 2017, Khafra went to [Beckwitt]'s home to resume work in the tunnels. A week later, while digging in the tunnels on September 10 at 2:32 a.m., Khafra messaged [Beckwitt] using Google Hangouts, stating "holy [s**t] bro there's no power down here." Approximately five minutes later, at 2:37 a.m., Khafra indicated that there was smoke in the basement. At 2:51 a.m., Khafra wrote again, stating that he no longer believed there was smoke in the basement, but that the lights had gone out and it was "pitch black down [there]" with no airflow. Khafra's message asked [Beckwitt] to "please try to fix when you see this."

[Beckwitt] did not see Khafra's messages until he woke up at approximately 9 a.m. At 9:27 a.m., [Beckwitt] wrote to Khafra that there had been a "pretty major electrical failure" and that [Beckwitt] was switching the

---

[5]During a trip to [Beckwitt]'s home, Khafra learned that [Beckwitt] actually lived in Bethesda, Maryland.

[6]Khafra's father testified at trial that he recalled Khafra going to [Beckwitt]'s house in January, February, March, April, and September of 2017.

[7]"Google Voice" is a program that "gives you a phone number for calling, text messaging, and voicemail." https://play.google.com/store/apps/details?id=com.google.android.apps.googlevoice&=en_US & gl=US (last visited Jan. 8, 2021).

"V Chat" is a private messenger service that allows users to "communicate instantly while avoiding [text messaging] fees[.]" https://play.google.com/store/apps/details?id=com.wVChat_9255903 (last visited Jan. 8, 2021).

power over to a different circuit. [Beckwitt] then went back to sleep, and awoke at approximately 3 p.m. [Beckwitt] went downstairs from his second-floor bedroom to get something to eat, and at around 4 p.m., he heard a beeping sound coming from the carbon monoxide detector in the dining room. [Beckwitt] understood the beep to signify a loss of power, which he confirmed when he could no longer hear the refrigerator running. [Beckwitt] waited approximately twenty to thirty minutes, believing that the circuit breaker would reset itself. When the power failed to return, [Beckwitt] went to the basement to manually reset the breaker. [Beckwitt] did not see Khafra while in the basement resetting the breaker.

On his way up the stairs from the basement to the first floor, [Beckwitt] heard an explosion, which he believed to be either the refrigerator's compressor or the air conditioner. [Beckwitt] went to the kitchen to see if the refrigerator's compressor was working, and immediately saw smoke rising out of the kitchen floor. [Beckwitt] promptly headed back to the basement to tell Khafra that there was a fire, and that Khafra needed to get out. [Beckwitt] heard Khafra yell "yo dude," but he could not see him through all of the smoke. Fearing that he would not be able to take the basement stairs to the first floor, [Beckwitt] exited the basement by unlocking the basement door that led directly to the outside.[8] Because he did not have a cellular phone, and because it would have been dangerous to return to his second-floor bedroom to call 9-1-1 from his computer, [Beckwitt] began to yell for help. [Beckwitt]'s neighbors called 9-1-1.

Firefighters from Montgomery County Fire and Rescue Service responded to [Beckwitt]'s home at approximately 4:23 p.m. The firefighters struggled to navigate through [Beckwitt]'s home to extinguish the fire, however, because, as [Beckwitt] concedes, "[t]he home by all accounts was a hoarder's home." Put simply, [Beckwitt]'s home was filled with an extreme amount of debris, trash, and other objects that made navigation difficult. In fact, it took firefighters approximately a minute and a half to two minutes to traverse the short distance from the basement's side entrance to the fire. Firefighters extinguished the fire with two or three sprays of water lasting approximately fifteen to thirty seconds each. When the steam finally cleared, firefighters found Khafra's lifeless body in the middle of the basement.

Beckwitt, 249 Md. App. at 347-51, 245 A.3d at 209-11 (footnotes and some alterations in

---

[8]Although he could not remember for certain, [Beckwitt] indicated that he "[thought he] had to" unlock the basement door to exit. [Beckwitt] could not recall whether the key was already in the door or whether he had it at the time, but told police it was "common" to keep the key in the door.

original).

We include additional facts below as necessary.

Opinion of the Court of Special Appeals

On January 28, 2021, the Court of Special Appeals affirmed Beckwitt's conviction for involuntary manslaughter, reversed the conviction for depraved heart murder, and remanded the case to the circuit court for sentencing on involuntary manslaughter. See Beckwitt, 249 Md. App. at 346, 245 A.3d at 209. The Court of Special Appeals concluded that Beckwitt's conduct, under the totality of the circumstances, was sufficient to establish gross negligence involuntary manslaughter. Id. at 362, 245 A.3d at 218. In reaching this conclusion, the Court of Special Appeals considered "the inherent dangerousness of [Beckwitt's] act[s], as judged by a reasonable person[,] combined with environmental risk factors, which, together, [made] the particular activity more or less likely at any moment to bring harm to another[.]" Id. at 362, 245 A.3d at 218 (cleaned up). The Court of Special Appeals determined that Beckwitt placed Khafra, who was not an experienced construction worker, in a dangerous situation by paying him to dig tunnels beneath his home with electricity provided by "extension cords and power strips with an apparent history of failing" and that Khafra could contact Beckwitt in case of an emergency only by messages sent through "Google apps" in the hope that Beckwitt would receive them. Id. at 363, 245 A.3d at 218.

The Court of Special Appeals noted that on the day of his death when Khafra believed he smelled smoke, his early morning messages went undetected for more than six hours until Beckwitt eventually woke up. See id. at 363, 245 A.3d at 218. The Court of

Special Appeals indicated that Beckwitt deprived Khafra of exact knowledge of his whereabouts by blindfolding him in transit to the home, which left Khafra, who apparently had internet and phone service, without knowledge of his location to call for help. See id. at 363, 245 A.3d at 218-19. The Court of Special Appeals determined that "the amount of debris and detritus in" the basement contributed to the environmental risk factors and "elevated the danger by hampering Khafra's ability to escape in the event of an emergency." Id. at 363, 245 A.3d at 219.

The Court of Special Appeals pointed out that Beckwitt's conduct on the day of the fire included that, upon seeing Khafra's messages at approximately 9 a.m. regarding a power outage and the possible odor of smoke, Beckwitt's sole response was to tell Khafra that there had been a "pretty major electrical failure," and to switch the power to another breaker. Id. at 364, 245 A.3d at 219. Later, after the carbon monoxide alarm started to beep, Beckwitt "waited approximately twenty to thirty minutes before finally resetting the circuit breaker despite the fact that the previous electrical failure had left Khafra in 'pitch black' darkness with no airflow." Id. at 364, 245 A.3d at 219. The Court of Special Appeals noted that "at no point in time did [Beckwitt] ask Khafra to leave the basement for precautionary reasons." Id. at 364, 245 A.3d at 219.

The Court of Special Appeals determined that the environmental risk factors and Beckwitt's conduct in relation to the risk factors, considered together, "sufficiently demonstrate[d] the requisite wanton and reckless disregard for Khafra's life necessary to support a conviction for gross negligence involuntary manslaughter." Id. at 364, 245 A.3d at 219. The Court of Special Appeals concluded that the State produced sufficient evidence

of actual causation, because but for Beckwitt having "Khafra work in a dangerous environment, Khafra would not have died." Id. at 372, 245 A.3d at 224. The Court of Special Appeals determined that there was sufficient evidence of legal causation because, based on the facts, "it was foreseeable that a fire might occur in the basement, and if it did, Khafra's ability to safely escape would be severely restricted." Id. at 373, 245 A.3d at 224.

On the other hand, the Court of Special Appeals concluded that Beckwitt's "conduct, viewed in conjunction with the surrounding circumstances, d[id] not satisfy the evidentiary standard required for depraved heart murder." Id. at 377, 245 A.3d at 227. From the Court of Special Appeals's perspective, Beckwitt's "conduct itself did not demonstrate an extreme disregard for human life reasonably likely to cause death." Id. at 377, 245 A.3d at 227 (emphasis omitted). The Court of Special Appeals explained:

> In our view, hiring someone to dig tunnels underneath a hoarder's home may demonstrate a reckless disregard for human life, but it is not the type of conduct that is likely, if not certain, to cause death, and thus does not rise to the level of opprobrious conduct that depraved heart murder proscribes—conduct that is so extreme in its disregard of human life that it may be deemed willful.

Id. at 378, 245 A.3d at 227.

The Court of Special Appeals concluded that it need not consider whether the evidence was sufficient to support a conviction for involuntary manslaughter under the failure to perform a legal duty theory because there was only one conviction for involuntary manslaughter, which the Court affirmed on the basis of gross negligence. See id. at 382

n.21, 245 A.3d at 230 n.21.[9]

Petition for a Writ of *Certiorari* and Conditional Cross-Petition

Beckwitt petitioned for a writ of *certiorari*, raising the following four issues:

> 1. As a matter of first impression, was the evidence legally sufficient to permit a rational trier of fact to find that Petitioner was guilty of involuntary manslaughter beyond a reasonable doubt for permitting his friend to work in a home with hoarding conditions accompanied by power outages?
>
> 2. As a matter of first impression, is legal duty manslaughter a type of gross negligence manslaughter that serves as a lesser included offense of depraved-heart murder, thereby requiring review of Petitioner's challenges to the legal duty manslaughter conviction?
>
> 3. Did the circuit court commit reversible error by failing to instruct the essential elements of legal duty manslaughter, for which there is no pattern jury instruction?
>
> 4. As a matter of first impression, did the circuit court lack subject matter jurisdiction to enter a conviction against an occupant of a home on a common law involuntary manslaughter charge resulting from an accidental housefire?

The State filed a conditional cross-petition, raising the following issue: "In an issue of first impression, does the line separating second-degree depraved heart murder and gross negligence manslaughter depend upon the likelihood of death and, if so, was the evidence sufficient in this case to support the jury's verdict of second-degree murder?" On June 22, 2021, we granted the petition and conditional cross-petition. See Beckwitt v. State, 474 Md. 720, 255 A.3d 1090 (2021).

---

[9]In addition, the Court of Special Appeals concluded that the circuit court did not err with respect to other matters raised on appeal by Beckwitt, including, among other things, not giving jury instructions concerning assumption of the risk, knowledge of the conditions by the victim, and the element of causation, and not sustaining objections to alleged improper remarks by the prosecutor during closing argument. See Beckwitt, 249 Md. App. at 382-401, 245 A.3d at 230-41. These issues are not before us.

DISCUSSION

I. Subject Matter Jurisdiction

The Parties' Contentions

Beckwitt's first contention is as unusual as the facts of the case. Beckwitt contends that a series of English statutes from the 1700s leading up to the enactment of the Fires Prevention (Metropolis) Act of 1774 prohibit today in Maryland a criminal prosecution "against someone in whose home a fire accidentally began." According to Beckwitt, the statutes were in existence as of July 4, 1776, and courts across the United States have incorporated them into their common law. Beckwitt contends that the statutes serve as a complete bar to any action arising from an accidental house fire, and, as such, divest the circuit court of subject matter jurisdiction over the prosecution of this case. Beckwitt urges this Court to determine that the old English statutes are a part of the common law of Maryland today, and that he is "entitled to any defense that was available by English statute that was incorporated into Maryland common law."

The State responds that the 300-year-old statutes to which Beckwitt refers do not prohibit his prosecution in this case and even if somehow the statues could be construed as having that effect, the issue is not one of subject matter jurisdiction. The State points out that a lack of subject matter jurisdiction occurs where jurisdiction is lacking in a fundamental sense, not where a trial court makes a ruling in violation of a statutory restriction on the court's authority or discretion. The State asserts that, because Beckwitt's contention about the English statutes does not involve an issue of subject matter jurisdiction, he was required to raise the issue in the circuit court and, because he failed to

do so, the contention is not preserved for appellate review. The State maintains that, even if the issue were preserved, Beckwitt has conceded that the preeminent authority on the topic has concluded that the Fires Prevention (Metropolis) Act of 1774 is not applicable in Maryland and contends that no other authority supports Beckwitt's contention. The State points out that, even if the Fires Prevention (Metropolis) Act of 1774 were somehow applicable today in Maryland, it would not prohibit the prosecution of this case because the *actus reus*[10] supporting the charges against Beckwitt involved the creation of dangerous circumstances preventing Khafra's escape from the fire—not causing the fire itself.

Standard of Review

It is well settled that a "lack of subject matter jurisdiction may be raised at any time, including initially on appeal" and "need not be raised by a party, but may be raised by a court *sua sponte*." Derry v. State, 358 Md. 325, 334, 748 A.2d 478, 482 (2000) (cleaned up). See also Md. R. 8-131(a) ("The issue[] of jurisdiction of the trial court over the subject matter . . . may be raised in and decided by the appellate court whether or not raised in and decided by the trial court."). We review without deference questions of law involving statutory interpretation. See Gorge v. State, 386 Md. 600, 610, 873 A.2d 1171, 1177 (2005).

---

[10]Black's Law Dictionary defines "*actus reus*" as "[t]he wrongful deed that comprises the physical components of a crime and that generally must be coupled with mens rea to establish criminal liability; a forbidden act" and as "[t]he voluntary act or omission, the attendant circumstances, and the social harm caused by a criminal act, all of which make up the physical components of a crime." *Actus Reus*, Black's Law Dictionary (11th ed. 2019).

Analysis

In agreement with the State, we conclude that Beckwitt's contention concerning the English Fires Prevention (Metropolis) Act of 1774 and earlier statutes does not raise a question of subject matter jurisdiction. We are not persuaded by Beckwitt's argument that 300-year-old statutes deprived the circuit court of subject matter jurisdiction in this case.

Subject matter jurisdiction, also called fundamental jurisdiction, see Tshiwala v. State, 424 Md. 612, 621, 37 A.3d 308, 313 (2012), "is the court's ability to adjudicate a controversy of a particular kind[,]" John A. v. Bd. of Educ. for Howard Cty., 400 Md. 363, 388, 929 A.2d 136, 151 (2007) (citation omitted). "If by that law which defines the authority of the court, a judicial body is given the power to render a judgment over that class of cases within which a particular one falls, then its action cannot be assailed for want of subject matter jurisdiction." Tshiwala, 424 Md. at 621, 37 A.3d at 313 (cleaned up). We have expressly recognized the difference between a court lacking fundamental jurisdiction and improperly exercising jurisdiction, explaining that just "[b]ecause a court or judge is unauthorized to take particular action or is erroneously exercising jurisdiction, does not mean that the court or judge does not have basic subject matter jurisdiction." Id. at 621, 37 A.3d at 313. We have explained:

> Simply because a statutory provision directs a court to decide a case in a particular way, if certain circumstances are shown, does not create an issue going to the court's subject matter jurisdiction. There have been numerous cases in this Court involving the situation where a trial court has jurisdiction over the subject matter, but where a statute directs the court, under certain circumstances, to exercise its jurisdiction in a particular way, and the tribunal erroneously refuses to do so because [of] an error of statutory interpretation or an error of fact. In these situations, this Court has regularly held that the matter did not concern the subject matter jurisdiction of the trial court.

Id. at 622, 37 A.3d at 313-14 (cleaned up).

Maryland circuit courts are courts of general jurisdiction and have "full common-law and equity powers and jurisdiction in all civil and criminal cases within [their] county[.]" Md. Code Ann., Cts. & Jud. Proc. (1974, 2020 Repl. Vol.) ("CJ") § 1-501. In criminal cases, with certain exceptions, the circuit courts have exclusive original jurisdiction over felony offenses. See CJ §§ 4-302(a), 4-301(b). The Circuit Court for Montgomery County—the circuit court in this case—plainly had subject matter jurisdiction over Beckwitt's criminal case because it had the power to render a judgment with respect to the felony offenses with which Beckwitt was charged. See Powell v. State, 324 Md. 441, 446, 597 A.2d 479, 482 (1991) (The circuit courts "are courts of original jurisdiction, authorized to hear all actions and causes, other than those particularly prescribed by statute or constitutional provision for other fora." (Citations omitted)). Beckwitt's contention that old English statutes preclude his prosecution and provide a complete defense because, according to him, the charges are based on an accidental housefire is, in actuality, an argument that the 300-year-old statutes compel the circuit court to exercise its jurisdiction in a particular way, *i.e.*, that given the circumstances, permitting Beckwitt's prosecution was erroneous. Under Maryland law, it is clear that Beckwitt's prosecution for depraved heart murder and involuntary manslaughter was not beyond the circuit court's subject matter jurisdiction.

Because the issue raised by Beckwitt does not constitute an issue of subject matter jurisdiction, Beckwitt was required to raise the issue in the circuit court to preserve the

matter for appellate review. See Md. R. 8-131(a) ("Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]"). On brief, in a footnote, Beckwitt indicates that the issue is preserved because, while moving for judgment of acquittal, his attorney challenged the circuit court's "ability to enter a conviction on a common law offense that was not cognizable[.]" In moving for judgment of acquittal, among many other things, Beckwitt's counsel stated:

> [I]f there was a common law duty to provide a safe, unobstructed egress from a single-family home, . . . that common law duty was abrogated by enactment of the Maryland State Fire Prevention Code, because the State Fire Prevention Code exempts single-family homes from its scope. That code is codified in COMAR 29.06.01. . . . Single-family homes are specifically exempted from the code, just as smoke detector statutes . . . . So it is legally not possible to provide a basis for these charges by not providing adequate egress from a single-family home because there is no statutory or common law duty.

With these remarks, Beckwitt's counsel did not mention any old English statutes upon which he now relies, or otherwise argue, as he does now, that the statutes precluded Beckwitt's prosecution.[11] A review of the record leads to the conclusion that Beckwitt's contention concerning the Fires Prevention (Metropolis) Act of 1774 and any other English statute precluding his conviction in this case is not preserved for appellate review.

Even if we were to reach the merits, we would conclude that old English statutes did not preclude Beckwitt's prosecution or serve as a defense. In 1707, an English law was

---

[11]We also note that Beckwitt did not raise the issue he now raises concerning the alleged lack of subject matter jurisdiction and applicability of old English statutes on brief in the Court of Special Appeals.

enacted which provided in pertinent part:

> That no Action, Suit, or Process whatsoever, shall be had, maintained, or prosecuted against any Person in whose House or Chamber any Fire shall, from and after the said first Day of May, accidentally begin, or any Recompence be made by such Person for any Damage suffered or occasioned thereby; any Law, Usage, or Custom to the contrary notwithstanding[.]

6 Ann., Ch. 31, § VI (1707) (italics omitted).[12] Eventually, the provision was codified as part of the Fires Prevention (Metropolis) Act of 1774, which stated that "no Action, Suit, or Process whatever, shall be had, maintained, or prosecuted, against any Person in whose House, Chamber, Stable, Barn, or other Building, or on whose Estate any Fire shall, after the said twenty-fourth Day of June, accidentally begin[.]" Fires Prevention (Metropolis) Act of 1774, 14 Geo. III, Ch. 78, § LXXXVI (italics omitted).

As the State points out, historically, there has been disagreement about the scope of liability for accidental fires and the Fires Prevention (Metropolis) Act of 1774. In Koos v. Roth, 652 P.2d 1255, 1263 (Or. 1982), the Supreme Court of Oregon discussed the status of the common law of England in 1843 with respect to fires, explaining that "[a]n early common law action for letting one's fire escape and injure his neighbor is traced to [a]

---

[12]Section III of the statute provided in pertinent part, however:

> That if any menial or other Servant or Servants, through Negligence or Carelessness, shall fire or cause to be fired any Dwelling-house, or Out-house or House, such Servant or Servants being thereof lawfully convicted by the Oath of one or more credible Witnesses made before two or more of her Majesty's Justices of the Peace, shall forfeit and pay the Sum of one hundred Pounds unto the Churchwardens of such Parish where such Fire shall happen, to [be] distributed amongst the Sufferers by such Fire[.]

6 Ann., Ch. 31, § III (1707).

1401 report" and "applied equally to a fire set outdoors, for burning stubble in a field, as to fire in one's house." (Footnote omitted). The Court observed that in an 1894 law review article, "Wigmore treated this action as a form of absolute liability." Id. at 1264 & n.11 (footnote omitted). According to the Court, in a 1926 academic journal article, Winfield differed because a person would not have been "liable if he showed that the fire was the act of a stranger, or an act of God." Id. at 1264 & n.12 (cleaned up). In addition, although the Supreme Court of Oregon did not note this in Koos, in the 1894 law review article, Wigmore stated that, in 1712, "the responsibility for accidental fires in houses was abolished by the legislature." John H. Wigmore, *Responsibility for Tortious Acts: Its History — III*, 7 Harv. L. Rev. 441, 449 (1894) (footnotes omitted).

In a 1996 article in *The Journal of Legal Studies*, A.W. Brian Simpson discussed the "obscure" history of liability for fires, stating:

> During the eighteenth century a series of fire prevention statutes was passed; they include provisions dealing with fires which began "accidentally." In 1774 a comprehensive *Fires Prevention (Metropolis) Act* was passed; section 86 appears to assume that at common law there might be liability, possibly strict, for fires which escaped from premises but had not been deliberately kindled, but the provision is obscure. The underlying assumption seems to have been that fires which caused damage to neighbors would normally either have been deliberately kindled, and allowed by negligence to spread, or have begun through negligence, but that there might be situations where a fire was accidental in the sense that it had not spread through negligence. The Act of 1774 does not clearly indicate what the standard of liability was then supposed to be, perhaps for the reason I have explained. However, Blackstone in his *Commentaries* (1765-69) thought that the effect of the Act was to exonerate a householder from liability either for his own negligence or that of his servant. However, a servant responsible was made liable to a penalty, with imprisonment in default of payment. Since serious fires would commonly leave a potential defendant without means, tort actions may have had little value.

A.W. Brian Simpson, *Coase v. Pigou Reexamined*, 25 J. Legal Stud. 53, 76-77 (1996) (footnotes omitted).

In spite of this history, Beckwitt argues that a person cannot be prosecuted in Maryland for any crime related to an accidental housefire, seemingly without regard to any circumstances surrounding the fire. Beckwitt's contention is flawed for any number of reasons. First, Beckwitt concedes that Kilty's Report of the Statutes, the preeminent authority on the topic, concluded that the Fires Prevention (Metropolis) Act of 1774 is not applicable in Maryland.[13] Specifically, on brief, Beckwitt acknowledges: "Candidly, the

---

[13]In 1811, pursuant to a resolution of the General Assembly, William Kilty, the Chancellor of Maryland, made a report to the body concerning the English statutes applicable to the people of Maryland. Kilty's English Statutes, 1811, Vol. 143, at 1, available at https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000143/html/am143--1.html [https://perma.cc/R8VG-2F77]. According to the Archives of Maryland Online, the full title of the report is:

> A Report of All Such English Statutes as Existed at the Time of the First Emigration of the People of Maryland, and Which by Experience Have Been Found Applicable to Their Local and Other Circumstances; and of Such Others as Have Since Been Made in England or Great-Britain, and Have Been Introduced, Used and Practised, by the Courts of Law or Equity; and Also All Such Parts of the Same as May Be Proper to Be Introduced and Incorporated into the Body of the Statute Law of the State. Made According to the Directions of the Legislature, by William Kilty, Chancellor of Maryland. To Which Are Prefixed, an Introduction and Lists of the Statutes Which Had Not Been Found Applicable to the Circumstances of the People: with Full and Complete Indexes. Published under the Directions of the Governor and Council, Pursuant to a Resolution of the General Assembly.

Id. (some capitalization omitted). In State v. Magliano, 7 Md. App. 286, 293, 255 A.2d 470, 474 (1969), the Court of Special Appeals referred to Kilty's as "[t]he only evidence on th[e] subject" of which English statutes have been found to be applicable in Maryland.

statutes relied upon by [him] have not been found applicable by Kilty." Although Beckwitt argues that this Court is not precluded from having a different view from Kilty's,[14] we see no basis on which to diverge from the long-prevailing view that the Fires Prevention (Metropolis) Act of 1774 is not applicable in Maryland.

Even if the Fires Prevention (Metropolis) Act of 1774 were applicable in Maryland, it would not govern the outcome of this case. Beckwitt fails to appreciate that he was not convicted of second-degree depraved heart murder and involuntary manslaughter because an accidental fire occurred in the basement of his house. Rather, he was convicted because the evidence demonstrated that Beckwitt had created conditions in the basement that severely impeded Khafra's ability to report and escape from any potentially life-threatening situation, which manifested a reckless or wanton disregard for Khafra's life.

There is nothing novel about an individual being prosecuted and convicted for a death resulting from an accidental fire where the individual created conditions that caused the death. For instance, in Commonwealth v. Skufca, 321 A.2d 889, 891, 893-94 (Pa. 1974), the Supreme Court of Pennsylvania affirmed a defendant's conviction for involuntary manslaughter where the defendant locked her two young children in a room, without supervision, for several hours, and a fire started in the building. A visitor was prevented from rescuing the children due to the locked door, and the children died of smoke

---

[14]Beckwitt points to a footnote in Magliano, 7 Md. App. at 293 n.5, 255 A.2d at 474 n.5, in which the Court of Special Appeals stated: "That Kilty did not regard a statute as 'applicable' did not preclude a court from having a different view." Significantly, the Court of Special Appeals noted that one scholar had "found only two cases, however, in which Kilty's opinion was overruled[.]" Id. at 293 n.5, 255 A.2d at 474 n.5 (citations omitted).

inhalation. See id. at 891, 893. In Johnson v. State, 801 S.E.2d 294, 295-96 (Ga. Ct. App. 2017), the Court of Appeals of Georgia affirmed a defendant's convictions for involuntary manslaughter where the defendant left three of her children alone in a room with a space heater and blocked the apartment's hallway with a sofa and access to the kitchen with a table, and the space heater caught fire and two of the children died of smoke inhalation. In Commonwealth v. Levesque, 766 N.E.2d 50, 53 (Mass. 2002), the Supreme Judicial Court of Massachusetts concluded that evidence before the grand jury was sufficient to support the defendants' prosecution for manslaughter where the defendants accidentally started and failed to report a fire in a warehouse, which took the lives of six firefighters.

In the cases discussed above, the *actus reus* supporting the criminal charges was not the setting of a fire or that an accidental fire occurred. Rather, the *actus reus* was the creation of dangerous circumstances surrounding the fire, such as preventing young children from being rescued or starting and failing to report a fire thereby placing firefighters in danger. Such conduct supported criminal culpability. The same can be said of the conduct in this case, where Beckwitt arranged for Khafra to live and work in a basement with a faulty source of electrical power for the provision of light and ventilation and with no way for Khafra to immediately communicate with him in the event of an emergency and with the basement filled with trash and debris which severely impeded Khafra's ability to escape the basement in the event of an emergency. Beckwitt was not charged, tried, and convicted based on the circumstance that an accidental fire occurred in the basement of his house. Beckwitt was charged, tried, and convicted based on his conduct in creating dangerous conditions from which Khafra could not escape in the event of an

emergency such as a fire. So, even if the Fires Prevention (Metropolis) Act of 1774 applied in Maryland, it would not preclude Beckwitt's prosecution or otherwise serve as a defense because the charges in this case were not based on Khafra having lost his life in an accidental fire but rather on Beckwitt's conduct in subjecting Khafra, in wanton and reckless disregard for his life, to the dangerous conditions that caused his death.

II. Involuntary Manslaughter

The Parties' Contentions

Beckwitt contends that the evidence was insufficient to support a conviction for involuntary manslaughter under either a theory of gross negligence or a theory of legal duty. Beckwitt argues that the State failed to demonstrate that his conduct demonstrated a wanton and reckless disregard for human life, *i.e.*, that his conduct rose to the level of gross negligence. Beckwitt maintains that having a person work in a home with hoarding conditions and power outages is not likely to cause harm to the person, and that hoarding is not inherently dangerous conduct. Beckwitt asserts that there was no legal duty applicable to the circumstances of the case and that the jury instruction regarding the duty to provide a safe workplace failed to take into account that such a duty does not "encompass providing emergency egress in the event of an accidental fire" or "providing a smoke alarm." Beckwitt also argues that the State failed to provide sufficient evidence establishing both actual and legal causation.

The State responds that the involuntary manslaughter conviction can be reversed only if there was insufficient evidence under both the legal duty and gross negligence theories. The State maintains that Beckwitt's conduct demonstrated a reckless and wanton

disregard for Khafra's life and was grossly negligent, and that Beckwitt failed to perform his legal duty to provide Khafra with a reasonably safe work environment, a duty which any employer owes to an employee. The State contends that both legal and actual causation are satisfied as Khafra's death would not have occurred but for Beckwitt's conduct and his death was a reasonably foreseeable consequence of such conduct.

Standard of Review

In State v. Wilson, 471 Md. 136, 159, 240 A.3d 1140, 1153 (2020), we described the standard of review of the sufficiency of evidence as follows:

> In determining whether the evidence is legally sufficient, we examine the record solely to determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. In examining the record, we view the State's evidence, including all reasonable inferences to be drawn therefrom, in the light most favorable to the State.

(Cleaned up). In reviewing the evidence, we consider "whether the verdict was supported by sufficient evidence, direct or circumstantial, which could convince a rational trier of fact of the defendant's guilt of the offenses charged beyond a reasonable doubt." White v. State, 363 Md. 150, 162, 767 A.2d 855, 862 (2001) (citation omitted). "Circumstantial evidence may support a conviction if the circumstances, taken together, do not require the trier of fact to resort to speculation or conjecture, but circumstantial evidence which merely arouses suspicion or leaves room for conjecture is obviously insufficient." Smith v. State, 415 Md. 174, 185, 999 A.2d 986, 992 (2010) (cleaned up). "It must afford the basis for an inference of guilt beyond a reasonable doubt." Id. at 185, 999 A.2d at 992 (cleaned up).

Involuntary Manslaughter Generally

In Maryland, involuntary manslaughter is a common law felony generally defined

as "the unintentional killing of a human being, irrespective of malice." State v. Thomas, 464 Md. 133, 152, 211 A.3d 274, 285 (2019) (citation omitted). There are three varieties or theories of involuntary manslaughter: "(1) unlawful act manslaughter—doing some unlawful act endangering life but which does not amount to a felony; (2) gross negligence manslaughter—negligently doing some act lawful in itself; and (3) the negligent omission to perform a legal duty." Id. at 152, 211 A.3d at 285 (cleaned up). For the latter two variations of involuntary manslaughter—gross negligence and negligent omission to perform legal duty—"the negligence must be criminally culpable[,] i.e., grossly negligent." Id. at 152, 211 A.3d at 285 (cleaned up).

In addition, the State must "demonstrate a causal connection between such gross negligence and death to support a conviction, although it is not essential that the ultimate harm which resulted was foreseen or intended." Id. at 152, 211 A.3d at 285 (cleaned up). The causal connection "includes actual, but-for causation and legal causation." Id. at 152, 211 A.3d at 285; see also id. at 173, 211 A.3d at 297-98 ("[T]he defendant's gross negligence must be the proximate cause of the victim's death—meaning the (1) actual, but-for cause and (2) legal cause." (Cleaned up)). "[A]ctual cause, or cause-in-fact, concerns the threshold inquiry of whether [the] defendant's conduct actually produced an injury." McCauley v. State, 245 Md. App. 562, 575, 227 A.3d 656, 663 (2020) (cleaned up). "For conduct to be the actual cause of some result, it is almost always sufficient that the result would not have happened in the absence of the conduct—or 'but for' the defendant's actions." Thomas, 464 Md. at 174, 211 A.3d at 298 (cleaned up).

As to actual causation in gross negligence involuntary manslaughter cases, in

Thomas, we observed that on only a few occasions have Maryland cases "evaluated the actual, or but-for, cause of a given result[.]" Id. at 174-75, 211 A.3d at 298. We discussed one instance, stating:

> In one such case, the Court of Special Appeals determined that a mutual agreement to engage in grossly negligent conduct can be sufficient to find causation, even where the victim was, himself, engaged in the grossly negligent act. In *Goldring v. State*, 103 Md. App. 728, 730-31, 654 A.2d 939[, 940] (1995), two racers, Hall and Goldring, participated in a drag race on a two-lane country highway with a posted 45-mile-per-hour speed limit. During the race, Hall accidently struck the side of Goldring's vehicle and lost control of his car. *See id.* at 731, 654 A.2d [at 940]. Hall and two pedestrians were killed. *See id.* The court concluded that Goldring's conduct in competing in the drag race bore a sufficiently direct causal connection to Hall's death to support Goldring's conviction for involuntary manslaughter, and Goldring was convicted in the death of Hall and the two pedestrians. *See id.* at 738, 654 A.2d [at 944].

Thomas, 464 Md. at 175, 211 A.3d at 298-99.

In Thomas, id. at 175, 211 A.3d at 299, we also discussed Palmer v. State, 223 Md. 341, 353, 164 A.2d 467, 474 (1960)—a case in which we stated "that a defendant does not 'cease to be responsible for his otherwise criminal conduct because there were other conditions which contributed to the same result.'" Specifically, we stated:

> In *Palmer*, we held a mother liable for gross negligence involuntary manslaughter when she failed to prevent her husband's savage beatings of her daughter. Significantly, the Court concluded that it was not necessary that the mother's grossly negligent conduct be the sole reason for her daughter's death. *See Palmer*, 223 Md. at 353, 164 A.2d [at 474]. Ultimately, her unwillingness to aid her child, which was her duty, resulted in the child's death and she, too, could be convicted of involuntary manslaughter. Thus, we took a broader view of actual cause, implicitly recognizing that the grossly negligent conduct need only be the but-for cause of the death, and not an independently sufficient cause of it.

Thomas, 464 Md. at 175, 211 A.3d at 299.

In Thomas, id. at 178, 211 A.3d at 301, we explained that "[t]he concept of legal causation is applicable in both criminal and tort law, and the analysis is parallel in many instances" and "turns largely upon the foreseeability of the consequences of the defendant's conduct." (Cleaned up). The State is not required to prove "that the ultimate harm which resulted was actually foreseen or intended." Id. at 178, 211 A.3d at 301 (cleaned up). Rather, "[i]t is sufficient that the ultimate harm is one which a reasonable man would foresee as being reasonably related to the acts of the defendant." Id. at 178, 211 A.3d at 301 (cleaned up).

Gross Negligence Involuntary Manslaughter

With respect to gross negligence involuntary manslaughter, the State must prove that the defendant's conduct that resulted in the victim's death, "under the circumstances, amounted to a disregard of the consequences which might ensue and indifference to the rights of others, and so was a wanton and reckless disregard for human life." State v. Albrecht, 336 Md. 475, 500, 649 A.2d 336, 348 (1994) (cleaned up). The defendant "must have committed acts so heedless and incautious as necessarily to be deemed unlawful and wanton[.]" Id. at 500, 649 A.2d at 348 (cleaned up). "The act must manifest such a gross departure from what would be the conduct of an ordinarily careful and prudent person under the same circumstances so as to furnish evidence of indifference to the consequences." Thomas, 464 Md. at 153, 211 A.3d at 286 (cleaned up). "Moreover, the defendant, or an ordinarily prudent person under similar circumstances, should be conscious of this risk." Id. at 154, 211 A.3d at 286 (citations omitted). In Thomas, id. at 160-61, 211 A.3d at 290, we explained that, in addition to the above considerations,

determining whether an individual's conduct constitutes gross negligence

> also involves an assessment of whether an activity is more or less likely at any moment to bring harm to another, as determined by weighing the inherent dangerousness of the act and environmental risk factors. This weighing must amount to a high degree of risk to human life—falling somewhere between the unreasonable risk of ordinary negligence and the very high degree of risk necessary for depraved-heart murder.

(Cleaned up).

Whether a defendant's conduct rises to the level of gross negligence is a fact-specific inquiry and "[t]here is no scientific test or quantifiable probability of death that converts ordinary negligence to criminal gross negligence." Id. at 159, 211 A.3d at 289. Instead, "the inherent dangerousness of the act engaged in, as judged by a reasonable person[,] . . . is combined with environmental risk factors, which, together, make the particular activity more or less likely at any moment to bring about harm to another." Id. at 159, 211 A.3d at 289 (cleaned up). The inquiry into gross negligence is not limited to an assessment of inherent dangerousness and environmental factors; "the defendant, or an ordinarily prudent person under similar circumstances, should be conscious of the risk to others." Id. at 167, 211 A.3d at 294 (citation omitted).

We have indicated that gross negligence involuntary manslaughter generally occurs "in four main contexts: automobiles, police officers, failure to perform a duty, and weapons." Id. at 154, 211 A.3d at 286. In Thomas, in considering "under what circumstances the dangers of heroin would justify holding a dealer liable for involuntary manslaughter for supplying the means by which his customer fatally overdoses[,]" we discussed cases involving automobiles, police officers, and weapons to "create a helpful

tableau depicting how we assess a defendant's level of negligence." Id. at 139, 154, 211 A.3d at 277, 286.[15]

In the context of automobiles and gross negligence,[16] we observed that, in Duren v. State, 203 Md. 584, 588-90, 102 A.2d 277, 279-80 (1954), a defendant's conduct constituted gross negligence where the defendant operated a vehicle in a reckless manner by speeding in a heavily congested residential and business area and struck and killed a pedestrian. See Thomas, 464 Md. at 154-55, 211 A.3d at 286-87. In State v. Kramer, 318 Md. 576, 586-89, 592-93, 569 A.2d 674, 679-82 (1990), we held that the evidence was sufficient to support a jury's finding that the defendant's conduct constituted gross negligence where the defendant while driving in a rural area passed vehicles in a no-pass zone going at least 75 miles per hour, while talking and joking with passengers, and hit an oncoming vehicle, killing an occupant. See Thomas, 464 Md. at 155-56, 211 A.3d at 287. By contrast, in Johnson v. State, 213 Md. 527, 529-30, 132 A.2d 853, 854, 856 (1957), we concluded that the evidence was not sufficient to support a conviction for manslaughter by vehicle where the defendant, who was driving in a non-residential area early in the morning, hit a curb, side-swiped a pole, and ended up in a plot of grass, causing a passenger to be ejected from the car and killed. See Thomas, 464 Md. at 156-57, 211 A.3d at 287-

---

[15]Although we recognized that involuntary manslaughter could involve a failure to perform a duty, in Thomas we did not discuss this line of cases.

[16]In Thomas, 464 Md. at 154, 211 A.3d at 286, although we recognized that a criminal statute for "manslaughter by vehicle"—defined "as causing the death of another by driving, operating, or controlling a vehicle in a grossly negligent manner"—"preempts any prosecution for such conduct as common law gross negligence manslaughter," the cases involving manslaughter by vehicle were relevant because they involve "the same common law concept and meaning of gross negligence[.]" (Cleaned up).

88. At trial, there was contradictory testimony about the speed at which the car had been going. See id. at 156, 211 A.3d at 287. Looking at environmental factors such as "the type of road traveled, the time of day, the traffic, the density and character of the neighborhood, and any safety precautions or warnings disregarded," we "determined that there was insufficient evidence to conclude that the defendant was grossly negligent." Id. at 156-57, 211 A.3d at 287-88 (citations omitted).

In Thomas, we also discussed gross negligence involuntary manslaughter cases involving negligent police officer conduct that resulted in death. See id. at 157, 211 A.3d at 288. Although "such cases are evaluated under a heightened 'reasonable police officer under the circumstances' standard, rather than a reasonably prudent person standard[,]" we noted that the cases provided "guidance concerning the line between ordinary and gross negligence." Id. at 157, 211 A.3d at 288 (citation omitted). In Albrecht, 336 Md. at 478, 480-82, 649 A.2d 337-39, we held that the evidence was sufficient to support a conviction for gross negligence involuntary manslaughter where an officer removed a shotgun from his vehicle, racked the gun, leveled it at the victim, and, with his finger on the trigger, intended to swing the shotgun to aim it at another person, but instead the gun discharged, and the victim was killed. See Thomas, 464 Md. at 157-58, 211 A.3d at 288.

Lastly, in Thomas, we discussed Mills v. State, 13 Md. App. 196, 197, 282 A.2d 147, 147 (1971), a case in which a sixteen-year-old defendant took his father's gun with him to a school dance, then went into a bathroom with friends to look at the gun and drink liquor. See Thomas, 464 Md. at 159, 211 A.3d at 289. The defendant, who knew there was one bullet in the chamber, pointed the gun at his friend, who slapped the gun from the

defendant's hand, causing it to hit the floor, discharge, and kill another boy. See id. at 159, 211 A.3d at 289. The Court of Special Appeals concluded "that the circumstances plainly demonstrated a grossly negligent act dangerous to life" and that "the friend's reaction when the gun was pointed in his direction was wholly predictable, and therefore not an independent supervening cause." Id. at 159, 211 A.3d at 289 (cleaned up).

After reviewing the cases discussed above, in Thomas, we concluded that the defendant's conduct demonstrated a wanton and reckless disregard for human life and that the evidence was sufficient to support a conviction for gross negligence manslaughter. See id. at 171-72, 211 A.3d at 296-97. The agreed findings of fact in the case showed that the victim, a twenty-three-year-old man, died of a heroin overdose. See id. at 141, 147, 211 A.3d at 278-79, 282. The defendant, a heroin dealer and user, would consume twelve bags of heroin a day, using four bags for a single shot, and would travel to Delaware every two to three days to get his supply of heroin. See id. at 148, 211 A.3d at 283. The defendant had sold heroin to the victim a few times. See id. at 149, 211 A.3d at 283. In the hours before he was found dead in the early morning, the victim called the defendant approximately twenty-seven times over the course of twenty-two minutes and, during the same time span, the victim text messaged the defendant five times. See id. at 145, 169, 211 A.3d at 280-81, 295. This was unusual behavior because the defendant usually met the victim earlier in the day to sell him heroin. See id. at 149, 211 A.3d at 283. The defendant met with the victim and sold him four bags of heroin—the only time he sold heroin to the victim around midnight. See id. at 149, 211 A.3d at 283.

In Thomas, we considered "the inherent dangerousness of distributing heroin with

the attendant environmental risk factors presented[,]" and observed that, according to the agreed statement of facts, anyone in the defendant's position—who was knowingly engaged in the unregulated selling of a controlled dangerous substance to customers in a region suffering from an epidemic of heroin and opioid abuse and deaths—"would understand the dangers of heroin, and its propensity to harm physically, if not kill, individuals who are ingesting it." Id. at 167, 211 A.3d at 294 (cleaned up). We determined that it was "fair to infer that [the defendant] subjectively knew an overdose was possible based on his statement that [the victim] 'couldn't have overdosed off [the amount] I sold him.'" Id. at 168, 211 A.3d at 295 (last alteration in original). We concluded that "the consumption of heroin in unknown strength is dangerous to human life, and the administering of such a drug is inherently dangerous[,]" although "distribution, alone, does not always amount to gross negligence." Id. at 169, 211 A.3d at 295 (cleaned up).

We noted that the defendant was a "systematic and sustained heroin distributor[,]" who also abused heroin himself, not an "infrequent or inexperienced provider." Id. at 170, 211 A.3d at 295. From this, we stated that it could be inferred that the defendant "was aware of the risk to life posed by consistent heroin abuse, cognizant of its ill-effects, and, yet, continued to sell the drug notwithstanding its danger." Id. at 170, 211 A.3d at 296 (citations omitted). We concluded that the defendant's conduct constituted a wanton and reckless disregard for human life and that the evidence was sufficient to support the defendant's conviction for gross negligence manslaughter beyond a reasonable doubt. See id. at 171-72, 211 A.3d at 296-97.

As to causation, we concluded that the defendant's conduct—selling four bags of

heroin to the victim, who consumed them—was sufficient to establish actual, but-for causation, stating: "There is no evidence in the record that [the victim] could have died without the heroin, and this is enough to find but-for causation." Id. at 178, 211 A.3d at 300 (citation omitted). We also concluded that there was sufficient evidence of legal causation. See id. at 180, 211 A.3d at 301. We explained that the State was not required to prove "that the four bags of heroin were the only reason [the victim] overdosed and died." Id. at 180, 211 A.3d at 301. We stated that "[r]ather, there must be sufficient evidence in the record to determine that [the victim] would not have died but for the heroin and that his death was a foreseeable consequence of [the defendant] selling him the four bags of heroin[,]" which the State had established. Id. at 180, 211 A.3d at 301.

In State v. Morrison, 470 Md. 86, 94-95, 233 A.3d 136, 141 (2020), this Court held that the evidence was not sufficient to support a mother's convictions for gross negligence involuntary manslaughter and reckless endangerment where a mother co-slept with her four-month-old infant and her four-year-old daughter, after an evening of drinking beer with friends virtually, and the infant died as a result of asphyxia from probable overlay. 470 Md. at 94-95, 233 A.3d at 141. We concluded that the mother did not engage in inherently dangerous conduct and we observed that the State did not introduce evidence that the mother was aware of the risks associated with co-sleeping "or that a reasonable person under the circumstances would have appreciated those risks." Id. at 115, 233 A.3d at 153. Although the evidence showed that the mother had consumed alcohol, there was insufficient evidence to support a finding that she was intoxicated or impaired on the night her infant died. See id. at 121, 233 A.3d at 157. In sum, we concluded that "there was

insufficient evidence of gross negligence—wanton and reckless disregard for human life—"and that "the conviction for involuntary manslaughter was properly reversed." Id. at 124, 233 A.3d at 158.

Legal Duty Involuntary Manslaughter

In Maryland, it is a longstanding principle that an employer owes an employee the duty to provide a reasonably safe place to work. See, e.g., Athas v. Hill, 300 Md. 133, 139, 476 A.2d 710, 713 (1984) ("Among the nondelegable duties which the employer owed his employees was the duty to provide a safe place to work[.]" (Citations omitted)).

In State v. DiGennaro, 415 Md. 551, 564-65, 3 A.3d 1201, 1208-09 (2010), this Court discussed whether a defendant could have been convicted of involuntary manslaughter under a legal duty theory where the victim's death was not caused by the defendant's negligent operation of a vehicle, but rather by the failure to clear a roadway of debris that fell from his dump truck. The Court of Special Appeals had reversed the defendant's conviction for manslaughter by vehicle and we affirmed, holding that the definition of the term "operating" in the manslaughter by vehicle statute is synonymous with the definitions of "drive" and "operate" in the Transportation Article, such "that a defendant cannot be convicted of manslaughter by vehicle unless the victim died as a result of grossly negligent conduct that occurred while the defendant was actually operating a vehicle." Id. at 553-54, 563-64, 3 A.3d at 1202, 1208. Although the defendant had not been charged with legal duty involuntary manslaughter, we discussed whether he could have been convicted of the offense. See id. at 564-67, 3 A.3d at 1208-10. We stated:

> To convict a defendant of involuntary manslaughter by grossly

> negligent failure to perform a legal duty, the State must prove beyond a reasonable doubt that (1) the victim's death was caused by the defendant's failure to perform a duty that the defendant had a legal obligation to perform, and (2) the defendant acted in a grossly negligent manner because the defendant (a) was aware of his or her obligation to perform that duty, and (b) was aware that his or her failure to perform that duty would create a high degree of risk to human life.

DiGennaro, 415 Md. at 566, 3 A.3d at 1210 (citations omitted).

We explained that the defendant could have been convicted of legal duty involuntary manslaughter if the State proved beyond a reasonable doubt that:

> (1) even though his operation of the vehicle was neither reckless nor negligent, as a result of what occurred while he had been operating that vehicle, [the statute] imposed upon him a duty to take appropriate remedial measures on behalf of other users of the highway; (2) he failed to perform that duty with reckless indifference to the issue of whether his inaction was endangering other users of [the road]; and (3) under the circumstances, that failure constituted gross negligence.

Id. at 564-65, 3 A.3d at 1208-09 (footnotes omitted).

Analysis

We hold that the evidence was sufficient to support Beckwitt's conviction for involuntary manslaughter under either a gross negligence or legal duty theory.[17] In assessing the sufficiency of the evidence to support a conviction for gross negligence involuntary manslaughter, we must determine whether Beckwitt acted with the *mens rea* necessary to establish gross negligence, *i.e.*, whether he acted with wanton and reckless

[17]In this case, the jury was instructed on both the gross negligence and failure to perform a legal duty type of involuntary manslaughter. The verdict sheet did not contain a separate question requiring the jury to choose between the two theories or otherwise differentiate between the two theories. When the jury returned its verdict, it returned a general verdict of guilty as to involuntary manslaughter.

disregard for Khafra's life. This involves a determination as to whether Beckwitt's conduct departed from that of an ordinarily careful and prudent person and demonstrated a disregard of the consequences to Khafra. It also requires an assessment of whether Beckwitt's conduct was likely to bring harm at any moment, *i.e.*, whether the inherent dangerousness of the conduct combined with environmental risk factors together made the conduct more or less likely at any moment to result in harm to Khafra. See Thomas, 464 Md. at 160-61, 211 A.3d at 290.

Applying this framework, we conclude that the evidence was sufficient to establish gross negligence involuntary manslaughter because Beckwitt's conduct constituted a departure from the conduct that any reasonable person would have taken under the circumstances and demonstrated a disregard of the consequences to Khafra. On multiple levels, Beckwitt's conduct constituted a departure from the conduct that a reasonable person would have engaged in under similar circumstances. No reasonable person would have required Khafra to live and work in a basement with a faulty supply of electricity for light and airflow and without a reliable way for Khafra to contact him. No reasonable person would have maintained the abhorrent conditions that existed in the basement with debris and trash blocking Khafra's route out in the event of an emergency. And no reasonable person would have reacted as casually as Beckwitt did on the day of the fire upon learning of the two power outages in the basement.

Beckwitt's conduct was likely to bring harm to Khafra at any moment and an ordinarily prudent person under similar circumstances would have been conscious of the risk to Khafra. See Thomas, 464 Md. at 160-61, 211 A.3d at 290. Beckwitt's conduct,

accompanied by other circumstances, presented a risk of danger to Khafra. Specifically, the combination of Beckwitt's conduct and environmental risk factors that he created in the basement produced a substantial risk of harm to Khafra—namely, that he would not be able to escape from the basement in the event of a fire or any other emergency. Beckwitt hired Khafra, a young man with no construction experience, to live underground for weeks at a time and dig tunnels beneath his home in conditions that could only be described as extraordinarily unsafe, *i.e.*, dangerous. Electricity to the tunnels was provided by multiple extension cords and power strips that had a history of failing and making the circuit breaker trip. In response to power outages, Beckwitt would switch the power to a different circuit or wait, believing that the circuit breaker might reset itself, and replace extension cords rather than make any meaningful improvement to the electricity source. A loss of electricity would result in a loss of both light and ventilation in the tunnels. The failure to provide reliable electricity alone constituted conduct on Beckwitt's part that created a dangerous condition and an environmental risk factor that made it likely that working in the basement could result in harm to Khafra at any moment and created a risk that any reasonable person would have been aware of. An ordinarily prudent person would know that causing someone to live and work in a basement in which there could be power outages that result in a lack of light and airflow would create circumstances, *i.e.*, risk factors, that could prevent the person from escaping the basement in the event of an emergency.

The evidence showed that Beckwitt engaged in conduct that increased the risk of harm by causing Khafra to work in the basement with no reliable way to contact him in the event that he was injured or needed to leave the basement in an emergency. Beckwitt did

not have a cell phone or landline telephone and Khafra could reach him only through an internet messaging app. The unreliability of this method of communication was demonstrated when in the early morning hours on September 10, 2017, the power first went out, and Khafra messaged Beckwitt stating that there was no power and that there was smoke in the basement; Beckwitt did not see the messages until over six hours later when he woke up.

Compounding the risk was the circumstance that Khafra did not know his exact location if he needed to call for assistance in an emergency. Beckwitt took deliberate steps to conceal the location of his house. The evidence at trial showed that Beckwitt actively sought to hide his address from Khafra and Hart, another person whom Beckwitt hired to dig in his basement. In transit to the home, Beckwitt required Hart to wear sunglasses with duct tape on them and he required Khafra to be blindfolded, all to obstruct Hart's and Khafra's vision when Beckwitt drove them to the house. Although Khafra eventually learned that Beckwitt lived in Bethesda, Beckwitt had nevertheless attempted to conceal the fact. And although Khafra learned that the house was in Bethesda, he did not know—and could not know—his exact location because Beckwitt used a virtual private network such that, had Khafra tried to use his cell phone's location services while connected to Beckwitt's network, it would have appeared as if Khafra were in Virginia. These circumstances obviously would have impeded Khafra's ability to call for help in the event of an emergency and are circumstances that an ordinarily prudent person would have known presented a risk of harm.

Adding to the dangerous conditions and environmental risk factors created by

Beckwitt, the basement was filled with a large amount of trash, construction debris, and other items. Indeed, the basement was so full of trash and debris that it took over twenty firefighters, working eight- to ten-hour days, several weeks to clear it out. The detritus in the basement was piled six to seven feet tall, creating a wall of materials on either side of narrow pathways, which themselves were obstructed with items. To move around in the basement, a person was required to squeeze through the pathways, sometimes crawling, pushing, and moving debris to proceed, and walking on trash that was piled approximately one-and-a-half to two feet high.

The situation in the tunnels (the area in the basement in which Khafra would dig) was so dangerous that a fire investigator, Lieutenant Erin Wirth of Montgomery County Fire Rescue, a witness for the State, testified that she responded to the scene the day after Khafra's death and was equipped with a mask that covered her entire face, an air line to oxygen tanks outside the house, a small oxygen tank on her person, and a safety harness, but she refused to crawl to the end of the tunnels because she did not feel it was safe to do so.[18] According to Daniel Maxwell, a fire origin and cause investigator for NEFCO Fire Investigations, who testified as an expert witness for the State, escape from the fire in the basement would have been very difficult given the trash and debris in the basement. Maxwell testified that people escaping a fire "instinctive[ly]" get close to the floor to get below the "layer of hot air and gases." Maxwell testified that getting down and crawling

[18]Lieutenant Wirth testified that the conditions were unsafe for her to go to the end of the tunnels "[n]ot just because of shoring and dirt and all of that, but also the water that had come down from the firefighting."

through Beckwitt's basement would have been difficult, though, because Khafra would have had "to crawl over all the debris, all the buckets and the bags of cement and all the other" items in the basement. Based on Lieutenant Wirth's and Maxwell's testimony, any rational trier of fact could have concluded that, given the amount of debris in the basement, Khafra's ability to move through the basement was impeded to the point that he ran out of time to escape the fire. In other words, a rational trier of fact could have determined that Beckwitt created conditions in the basement that prevented Khafra's ability to get out.

We are wholly unpersuaded by Beckwitt's contention that "Khafra's mode of egress was reasonable under the circumstances" and that "Khafra was not prevented from escaping the basement[,]" but rather was simply "slowed down by the hoarding conditions." (Cleaned up). Based on the evidence, the jury reasonably could have concluded that the conditions that Beckwitt maintained in the basement impeded Khafra's escape to the extent that Khafra was unable to get out of the basement during the fire. In evaluating the sufficiency of the evidence, our duty is to "examine the record solely to determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Wilson, 471 Md. at 159, 240 A.3d at 1153 (cleaned up). "We defer to any possible reasonable inferences the jury could have drawn from the admitted evidence and need not decide whether the jury could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence." Fuentes v. State, 454 Md. 296, 308, 164 A.3d 265, 272 (2017) (citations omitted).

In this case, on top of all of the other circumstances, the evidence demonstrated that

living conditions in the basement were atrocious and that, while in the basement, Khafra was entirely reliant on Beckwitt for food, basic hygiene, and escape. There were no toilet facilities. Khafra urinated and defecated in a bucket that Beckwitt emptied every few days. Khafra cleaned himself using disposable wipes. On the day of the fire, Khafra was found dead in the tunnels, wearing no clothes.

In addition to the hazardous conditions he established in the basement, Beckwitt's conduct on the day of the fire demonstrated an indifference to or disregard of the consequences that might befall Khafra as a result of the power outages. Khafra messaged Beckwitt early in the morning on September 10, 2017, beginning at 2:32 a.m., alerting him to a power outage, at 2:37 a.m., advising of smoke in the tunnels, and at 2:51 a.m. about the darkness and lack of airflow. Beckwitt did not see the messages until he woke up over six hours later, at approximately 9:00 a.m. After Beckwitt awoke and finally saw Khafra's three messages, despite the content of the messages, he did not respond until 9:27 a.m., almost a half hour later. At that time, instead of checking on Khafra or getting Khafra out of the basement right away, Beckwitt responded by simply telling Khafra that there had been a "pretty major electrical failure" and that his solution was to "switch[] it all over to a different circuit." Beckwitt then went back to sleep for over five hours. Later that day, at around 4:00 p.m., Beckwitt heard the carbon monoxide alarm beep. Beckwitt understood the beeping sound to be an indication of another loss of power, which was confirmed when he did not hear the refrigerator running anymore. Despite there being another loss of power and knowing from Khafra's earlier messages that the previous power outage had resulted in Khafra being in the dark with no airflow, Beckwitt waited twenty to thirty minutes before

going to investigate the outage and reset the circuit breaker in the basement. As Beckwitt was leaving the basement, he heard an explosion, saw smoke, and became aware that the fire had started.

From the evidence produced at trial, the jury reasonably could have concluded that on the day of the fire when Beckwitt finally went to the basement to reset the circuit breaker as a result of the second power outage, he knew the following: Khafra was alone in the basement with trash and debris obstructing his ability to get out; electrical power to the basement was supplied by a series of extension cords and power strips and was unreliable; there had been two power outages in the span of just over twelve hours, one of which he himself described as a "pretty major electrical failure"; Khafra had thought he smelled smoke in the basement during the night; and, Khafra had been without electrical power in the morning and had told him that there was no airflow or light in the basement. Yet, despite knowing all of this, Beckwitt did not take any steps to have Khafra leave the basement earlier in the day before the fire and did not respond promptly to the second power outage that immediately preceded the fire. Beckwitt's conduct on the day of the fire and overall conduct in creating unsafe conditions in the basement placed Khafra in a position in which he would have been at a high risk of harm during a fire or other emergency. The evidence was sufficient to demonstrate that Beckwitt possessed enough information to be aware of the risk of harm to Khafra and that on the day of the fire, he disregarded the risk or, at the very least, was indifferent to it. An ordinarily prudent person would have been aware of the risk of harm to Khafra under the circumstances.

In this case, with certainty, viewing the evidence in the light most favorable to the

State, any rational juror could have concluded beyond a reasonable doubt, based on evidence of the dangerous conditions that Beckwitt created in the basement and his disregard for Khafra's safety on the day of the fire, that his "conduct amounted to a wanton and reckless disregard for human life—a gross departure from the conduct of an ordinarily prudent person, without regard to the consequences or the rights of others, and [was] likely to bring harm at any moment." Thomas, 464 Md. at 171, 211 A.3d at 296 (cleaned up). Beckwitt not only departed from conduct that a reasonable person would have taken under similar circumstances but also demonstrated both a disregard of the consequences which might ensue and an indifference to Khafra's well-being, and so evinced a wanton and reckless disregard for Khafra's life. In sum, the evidence was sufficient for a rational trier of fact to find that Beckwitt's conduct was grossly negligent.

Because we conclude that the evidence was sufficient to support Beckwitt's conviction for involuntary manslaughter under a gross negligence theory, we need not necessarily consider whether the evidence was also sufficient to support a conviction under the legal duty theory of involuntary manslaughter.[19] To dispel any remaining question

---

[19]In Griffin v. United States, 502 U.S. 46, 47, 49 (1991), in considering "whether, in a federal prosecution, a general guilty verdict on a multiple-object conspiracy charge must be set aside if the evidence is inadequate to support conviction as to one of the objects[,]" the Supreme Court stated that it was a well-settled rule of criminal procedure "that a general jury verdict was valid so long as it was legally supportable on one of the submitted grounds[.]" The Supreme Court further stated:

> It is one thing to negate a verdict that, while supported by evidence, may have been based on an erroneous view of the law; it is another to do so merely on the chance—remote, it seems to us—that the jury convicted on a ground

concerning the sufficiency of the evidence for Beckwitt's conviction for involuntary manslaughter, however, we address the issue and determine that the evidence was sufficient for the jury to have found beyond a reasonable doubt that Beckwitt failed to fulfill the legal duty to provide Khafra with a reasonably safe work environment and that the failure to do so was grossly negligent. To be sure, no Maryland case has directly addressed whether an employer may be convicted of involuntary manslaughter under a legal duty theory. Maryland law is clear, though, that employers have a common law duty to provide employees with a reasonably safe work environment. See Athas, 300 Md. at 139, 476 A.2d at 713. The evidence was sufficient to support a conviction for legal duty involuntary manslaughter as long as the State proved beyond a reasonable doubt that Beckwitt was Khafra's employer, that Beckwitt failed to fulfill the duty to provide a reasonably safe workplace with reckless indifference as to whether his inaction endangered Khafra, and that, under the circumstances involved, the failure constituted gross negligence. Cf. DiGennaro, 415 Md. at 564-65, 3 A.3d at 1208-09.

In this case, the evidence was sufficient for the jury to conclude that Beckwitt was Khafra's employer. Beckwitt paid Khafra $150 per day to live in the basement and dig tunnels. As such, in accord with Maryland law, as his employer, Beckwitt owed Khafra the duty of providing a reasonably safe work environment. Based on the evidence concerning the conditions that Beckwitt created and allowed to persist in the basement,

---

> that was not supported by adequate evidence when there existed alternative grounds for which evidence was insufficient.

Id. at 59-60 (cleaned up).