Circuit Court for Prince George's County
Case No. JA-17-290

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1264

September Term, 2017

IN RE: M.S.

Woodward, C.J.,
Kehoe,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned), N

JJ.

PER CURIAM

Filed: June 14, 2018

*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.

The Circuit Court for Prince George's County, sitting as a juvenile court, found M.S., appellant, involved in the offenses of robbery, second-degree assault, and theft of property valued less than $1,000. Following a disposition hearing, the court merged those offenses, placed M.S. on supervised probation, and ordered him to pay restitution. On appeal, M.S. asserts that the evidence was insufficient to sustain the juvenile court's findings of delinquency. For the reasons that follow, we affirm.

In reviewing the sufficiency of the evidence to sustain a conviction in a criminal case, this Court reviews the evidence admitted at trial in the light most favorable to the prosecution and determines whether any rational trier of fact could have found the essential elements beyond a reasonable doubt. *In re: Kevin T.*, 222 Md. App. 671, 676-677 (2015). We employ the same review in juvenile delinquency proceedings, and we will not disturb the juvenile court's findings of fact unless they are "clearly erroneous." *Id.*

At the adjudication hearing, T.A., a fourteen-year-old juvenile, testified that he was walking home from school when he observed five juveniles standing outside of the Lucky Star restaurant. T.A. knew two of those juveniles, T.Y, and appellant. The group followed T.A. for several minutes until T.Y. approached T.A. and pushed him to the ground. As soon as T.A. fell to the ground, appellant and the other three juveniles "ran" towards him, surrounded him, and stood over the top of him, so that he "couldn't get up." T.Y. and one of the other juveniles then pulled off T.A.'s coat and took his cell phone. After obtaining those items, all five juveniles "ran off." T.A.'s grandmother called 911 the same day and T.A. gave a statement to the police; however, he did not identify appellant as being involved in the incident at that time.

Appellant first contends that there was insufficient evidence to prove that he was even present during the incident. However, T.A. testified that appellant was one of the five juveniles involved the incident and "[i]t is well settled that the evidence of a single eyewitness is sufficient to sustain a conviction." *Handy v. State*, 201 Md. App. 521, 559 (2011) (citation omitted). Although appellant claims that T.A.'s testimony was not credible because T.A. did not identify him as one of the perpetrators when speaking to the police shortly after the incident, it is "not a proper sufficiency argument to maintain that the [trier of fact] should have placed less weight on the testimony of certain witnesses or should have disbelieved certain witnesses." *Correll v. State*, 215 Md. App. 483, 502 (2013). That is because "it is the [trier of fact's] task, not the court's, to measure the weight of the evidence and to judge the credibility of the witnesses." *State v. Manion*, 442 Md. 419, 431 (2015) (citation omitted). Therefore, we will not disturb the circuit court's credibility findings on appeal.

Appellant alternatively claims that, even if he was present and "stood over" T.A. while his possessions were being taken, the evidence was insufficient to prove that he was an accomplice to the robbery or assault because there was "no suggestion that he actively participat[ed] in or advise[d] or encourage[d]" T.Y.'s initial pushing of T.A. This contention misses the mark. T.Y.'s initial push of T.A. was not, as appellant claims, "conduct integral to the robbery and second-degree assault charges." Rather, wholly independent of the initial push, T.Y. committed a robbery and an assault, when he forcefully removed T.A.'s jacket as he lay on the ground. *See Martin v. State*, 174 Md. App. 510, 516 (2007) (noting that robbery is defined "as the felonious taking and carrying

away of the personal property of another, from his person or in his presence, by violence or putting in fear . . . or, more succinctly, as larceny from the person, accompanied by violence or putting in fear" (citation omitted)); *see also Raiford v. State*, 52 Md. App. 163, 164-70 (1982)*, rev'd in part on other grounds*, 296 Md. 289 (1983) (holding that the act of ripping a shoulder strap bag off of the victim's arm was sufficient force to constitute a robbery). By standing over T.A. and preventing him from getting up while T.Y. committed the robbery and assault, appellant both encouraged and participated in those offenses. Consequently, the State presented sufficient evidence to support appellant's delinquency adjudication.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.