

Circuit Court for Harford County
Case No. C-12-CR-19-000439

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 34

September Term, 2020

MARLON THOMAS, JR.

v.

STATE OF MARYLAND

Graeff,
Ripken,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 6, 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 Harford County of resisting arrest, disorderly conduct, and failure to obey a reasonable lawful order, Marlon Thomas, Jr., appellant, presents for our review a single question: whether the evidence is sufficient to sustain the convictions. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Harford County Sheriff’s Deputy Kevin Smith, who testified that on March 4, 2019, he and his partner, Harford County Sheriff’s Deputy Tyler Dinan, “received a call that a male and female were creating a disturbance” at “the Walmart in Abingdon.” Responding to the call, the deputies “made contact with a Walmart employee who was able to positively identify that” Mr. Thomas “was the one creating the disturbance with the female.” Deputy Smith testified:

At that time we were unable to identify [Mr. Thomas] as he refused to provide any type of identification or name to us verbally.

* * *

I explained to him the reason that we were there, at which time he stated that he did not talk to the police. I asked for I.D. multiple times, at which point he failed to identify himself. At one time he did state that he had his I.D. in his pocket but would refuse to provide it to me.

* * *

He attempted to leave, at which time I told him that he was not free to leave as we were conducting an investigation. I placed myself in front of him, at which time again he tried to leave. I explained to him again that he was not free to leave until we could identify him and run a warrants check to [e]nsure that he had no warrants and that no crime had actually occurred while we were speaking to the female.

* * *

After that he quickly stated his name, at which time as I was trying to write it down he again tried to walk past me. I walked in front of him again stating that he was not free to leave. I extended my arm as he was approaching me, at which time he slapped my arm. At that time we attempted to place him under arrest, at which time a physical assault occurred.

* * *

At that point he was under arrest for creating a disturbance as we had other people in the Walmart watching us at this time as well as obstructing by not providing his name and I.D. as well as assault for slapping my arm.

* * *

As we [were] attempting to arrest him, a second subject jumped on my back. At that time I began to struggle with the second subject. At another point in time [Mr. Thomas] was able to escape Deputy Dinan who he was in a struggle with. I came over and attempted to free the second subject from my grasp. The assault continued and he was able to get free. I chased him down the aisle and I tackled him to the ground. As I was holding him there, he again . . . tried to get himself free. Eventually we were able to get him under control and get him into custody.

During cross examination, Deputy Smith testified that at the time of the offenses, he “had been a deputy” for “approximately two years.” During recross examination, defense counsel asked the deputy: “What were you investigating? Nothing happened.” Deputy Smith replied: “At that point I was responding to a call. Many times they are either upgraded or downgraded. I responded to a verbal call that we later learned that an assault occurred.”

Mr. Thomas contends that “the State failed to meet its burden of showing that Deputy Smith’s order for Mr. Thomas to stay was lawful,” because “[a]n investigatory stop must be supported by the reasonable, articulable suspicion of criminal activity,” and “the only information [that the deputies] had was a report that Mr. Thomas and his female

companion had engaged in a verbal dispute some unknown amount of time prior to the [deputies'] arrival.” We disagree. At the time of the offenses, Deputy Smith had been a deputy for approximately two years, and knew that “[m]any times [calls] are either upgraded or downgraded.” The deputy had once “responded to a . . . call” for a “verbal” incident, but “later learned that an assault [had] occurred.” When Deputy Smith arrived at the Walmart, an employee identified Mr. Thomas as “the one creating the disturbance with the female.” When the deputy made contact with Mr. Thomas, he repeatedly “refused to provide any type of identification or name” and “attempted to leave.” When Deputy Smith stated that he and Deputy Dinan “were conducting an investigation,” Mr. Thomas “again . . . tried to leave.” When Deputy Smith “explained to” Mr. Thomas “that he was not free to leave until” the deputies could not only “run a warrants check,” but “[e]nsure . . . that no crime had actually occurred,” Mr. Thomas “again tried to walk past” Deputy Smith. Finally, when Deputy Smith stated a third time that Mr. Thomas “was not free to leave” and “extended [his] arm,” Mr. Thomas assaulted the deputy. We conclude that Mr. Thomas’s conduct, as observed by Deputy Smith and viewed in the context of all of the other circumstances known to the deputy, gave him a particularized and objective basis for suspecting Mr. Thomas of criminal activity. *See Sizer v. State*, 456 Md. 350, 364 (2017) (“[r]easonable suspicion has been defined as nothing more than a particularized and objective basis for suspecting the particular person stopped of criminal activity” (internal

citations and quotations omitted)). Hence, Deputy Smith's order to Mr. Thomas to stay was lawful, and the evidence is sufficient to sustain the convictions.

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