

Circuit Court for Baltimore City
Case No.: 117067012

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 126

September Term, 2018

TRAYVON GRAYSON

v.

STATE OF MARYLAND

Wright,
Berger,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 1, 2019

*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.

Appellant, Trayvon Grayson, was convicted by a jury sitting in the Circuit Court for Baltimore City of unlawful possession of a regulated firearm after having been convicted of a disqualifying crime, wearing carrying or transporting a handgun on his person, and illegal possession of ammunition. The court sentenced him to a total term of eight years of incarceration, and ordered that the first five years be served without the possibility of parole. On appeal he argues that the “evidence was insufficient to establish that the item was a handgun, or a regulated firearm” because the firearms examiner did not testify that it met the statutory definition of a firearm or a handgun. He further argues that there “was not sufficient proof that the item was a firearm or handgun” because no proof was presented at trial that the gun operated “via the action of an explosive.” Because there was sufficient evidence for the jury to find that the weapon was both a “firearm” and a “handgun” and that it was operational, we affirm.

BACKGROUND

At approximately 9:00 p.m. on February 11, 2017, officers of the Baltimore City Police SWAT team were in a covert location observing an area along South Carey Street that is known to be an open-air drug market. During their surveillance, the officers observed a group of people, including appellant, standing outside a restaurant at the corner of Baltimore and South Carey Streets. After about an hour of surveillance, the officers observed appellant walk by himself to the side of the street opposite the restaurant, pull a gun out from his right-hand side, look around, and place it beside a parked car. The officers then left their covert location and stopped appellant. While speaking with appellant, Officer Christopher Timms looked around the area in which he had seen appellant place

the gun and located it sitting atop of one of the car's tires. The gun was recovered and discovered to be loaded with nine cartridges. Officer Timms described the weapon as a "handgun," and specified that it was a "nine shot revolver loaded with nine rounds." A second officer at the scene, Officer Maxwell Anderson, testified that he observed appellant pull what appeared to be a "handgun with a long barrel" from his waistband. Both the weapon and the bullets with which it was loaded were admitted into evidence. A photo of the weapon was also admitted into evidence.

Daniel Lamont, an expert in "firearms examination and operability," testified that he examined the weapon and identified it to be a "JC Higgins 88" 22 revolver. He measured the barrel to be six inches and noted that it had come with "nine live cartridges, unfired ammunition." Mr. Lamont "fired the weapon" and concluded that it was operable because it "fired as it was designed to."

DISCUSSION

As noted, appellant argues that the evidence was insufficient to convict him of the aforementioned handgun and firearm offenses because the expert did not testify that the weapon recovered met the statutory definition of a firearm or a handgun. He further argues that there was insufficient proof presented at trial that the gun operated "via the action of an explosive" as required by statute.

"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.'" *Fuentes v. State*, 454 Md. 296, 307 (2017) (quoting *McKenzie v. State*, 407 Md. 120, 136 (2008) (citation omitted)). This

“review standard applies to all criminal cases, including those resting upon circumstantial evidence, because, generally, proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts.” *Neal v. State*, 191 Md. App. 297, 314 (2010). “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.” *State v. Mayers*, 417 Md. 449, 466 (2010).

Appellant was convicted of possession of a regulated firearm after having been convicted of a disqualifying crime, *see* Md. Code Ann., Pub. Safety § 5-133(b)(1); wearing carrying or transporting a handgun on his person, *see* Md. Code Ann., Crim. Law § 4-203; and being in illegal possession of ammunition, *see* Pub. Safety § 5-133.1. A “handgun” is a “pistol, revolver, or other firearm capable of being concealed on the person.” Crim. Law § 4-201(c). A “handgun” is further defined as “a firearm with a barrel less than 16 inches in length.” Pub. Safety §5-101(n)(1). A “firearm” is “a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive.” Pub. Safety § 5-101(h)(1). “To qualify as a ‘handgun,’ a device must be a ‘firearm.’” *Holmes v. State*, 209 Md. App. 427, 439 (2013).

A “weapon’s identity as a handgun can be established by testimony or by inference.” *Brown v. State*, 182 Md. App. 138, 166 (2008). This Court has “considered and upheld numerous convictions where no tangible evidence was presented at trial establishing the

use of a handgun, and it is well settled that circumstantial evidence alone will often suffice.” *Curtin v. State*, 165 Md. App. 60, 72 (2005).

Given the officers’ and expert’s description of the weapon recovered and the expert’s testimony that upon test firing, the gun “fired as it was designed to,” we conclude that the State’s evidence was sufficient for a rational jury to conclude that the weapon “expelled a projectile by the action of an explosive” and met the statutory definition of both a firearm and a handgun.

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