

Circuit Court for Anne Arundel County
Case No. C-02-CR-17-002232

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 249

September Term, 2019

MAURICE P. DORSEY

v.

STATE OF MARYLAND

Fader, C.J.,
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 3, 2020

*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.

Following a bench trial in the Circuit Court for Anne Arundel County, Maurice P. Dorsey, appellant, was convicted of possession of cocaine, negligent manslaughter by automobile, criminally negligent manslaughter by automobile, second-degree assault, failure to stop at the scene of an accident involving death, failure to stop at the scene of an accident involving serious bodily injury, failure to remain at the scene of an accident causing death, failure to remain at the scene of an accident causing serious bodily injury, fleeing and eluding a uniformed police officer in a vehicle, and fleeing and eluding a uniformed police officer by fleeing on foot. He raises two issues on appeal: (1) whether there was sufficient evidence to sustain his convictions, and (2) whether the court erred by admitting into evidence the cocaine that was seized by the police because, he claims, the State failed to establish a proper chain of custody. For the reasons that follow, we shall affirm.

Mr. Dorsey first contends that there was insufficient evidence to sustain his convictions. In analyzing the sufficiency of the evidence admitted at a bench trial to sustain a defendant's convictions, we "review the case on both the law and the evidence," but will not "set aside the judgment ... on the evidence unless clearly erroneous." Maryland Rule 8-131(c). "We review sufficiency of the evidence to determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *White v. State*, 217 Md. App. 709, 713 (2014) (internal quotation marks and citation omitted).

Here, the State presented evidence that a person driving a black Acura ran a stop sign; fled from the police at a high rate of speed; struck another vehicle, injuring one of the

occupants and killing the other; and then exited the vehicle following the crash and fled from the police on foot. During a search of the Acura, the police recovered two plastic baggies containing a white rock-like substance that ultimately tested positive for cocaine.

In challenging the sufficiency of the evidence, Mr. Dorsey asserts that the State failed to prove that he was the person driving the Acura. However, at trial, three police officers identified Mr. Dorsey as the person that they saw exit the Acura and flee on foot immediately following the crash. Mr. Dorsey's driver's license was subsequently found inside the Acura. Moreover, Mr. Dorsey's girlfriend, who owned the Acura, testified that she had given him permission to use it on the day of the incident. Viewed in a light most favorable to the State, this evidence was sufficient to establish Mr. Dorsey's identity as the perpetrator of the charged offenses beyond a reasonable doubt. Although Mr. Dorsey contends that the officers' identifications were unreliable and that there was no fingerprint or DNA evidence linking him to the Acura, those arguments go to the weight of the evidence, not its sufficiency, and were for the fact-finder to resolve.

Mr. Dorsey also claims that the court abused its discretion in admitting the cocaine that was seized from the Acura because the State failed to establish a proper chain of custody. The standard for "determining whether a proper chain of custody has been established . . . [is] whether there is a 'reasonable probability that no tampering occurred.'" *Cooper v. State*, 434 Md. 209, 227 (2013) (quoting *Breeding v. State*, 220 Md. 193, 199 (1959)). "The circumstances surrounding [an item of evidence's] safekeeping in that condition [that is substantially the same as when it was seized] in the interim need only be proven as a reasonable probability[,] and in most instances is established by responsible

parties who can negate a possibility of tampering and thus preclude a likelihood that the thing's condition was changed.” *Wagner v. State*, 160 Md. App. 531, 552 (2005) (quotation omitted). The existence of gaps or weaknesses in the chain of custody generally go to the weight of the evidence and do not require exclusion of the evidence as a matter of law. *See Easter v. State*, 223 Md. App. 65, 75 (2015). “[D]eterminations of the adequacy of the chain of custody are left to the sound discretion of the trial court, and we review those rulings for abuse of discretion.” *Wheeler v. State*, 233 Md. App. 265, 274 (2017).

At trial, it became apparent that the envelope containing the seized cocaine did not have a chain of custody form attached to it. The prosecutor proffered that he had been able to obtain the chain of custody form from Bob Llano, the chemist who tested the cocaine. However, Mr. Dorsey objected to the admission of the cocaine, claiming that the State could not establish a proper chain of custody because the chain of custody form had been separated from the envelope.

In response to Mr. Dorsey's objection, the State called two witnesses. First, Detective Joseph Guinta testified that he had taken the cocaine directly to the police station, weighed it, placed it into the envelope, and sealed the envelope with an evidence sticker. The evidence sticker contained the case number, the name of the law enforcement agency submitting the request, the date of the request, where the evidence was recovered, and Mr. Dorsey's name. Detective Guinta then filled out the chain of custody form. After Detective Guinta signed the chain of custody form, he placed both it and the envelope in a “drop box” so that it could be tested. Detective Guinta testified that he recognized the envelope at trial because of the evidence sticker and the fact that his signature was on the outside. He also

recognized the chain of custody form because it contained his signature and had the same case number as the one on the envelope. According to Detective Guinta the envelope was in the same condition as when he submitted it, except for the fact that it had been cut open.

Next, Mr. Llano testified that he received the envelope and the chain of custody form, signed the chain of custody form, and then put the envelope and the chain of custody form in a locker, to which he had the only key. When he received the envelope, it was sealed on the bottom and top. Several days later, he removed the envelope from the locker, made sure that it corresponded with the information that was written on the chain of custody form, opened the bottom of the envelope, and then tested the substance inside. Based on that testing, he opined that the envelope contained approximately 13 grams of cocaine. Following Mr. Llano's testimony, the court admitted the cocaine and the chain of custody form over appellant's objection.

On appeal, Mr. Dorsey contends that the chain of custody was insufficient because: (1) the State failed to satisfactorily explain how the chain of custody form had been separated from the envelope, and (2) the integrity of the evidence could not be guaranteed in light of Detective Guinta's testimony that the envelope had been opened and he was not the one who opened it. However, we are persuaded that the State demonstrated a reasonable probability that no tampering occurred and that the drugs tested by Mr. Llano, and that were introduced at trial, were the same drugs seized by Detective Guinta. Specifically, Detective Guinta's testimony established that he had possession of the cocaine from the time it was recovered until the time he put it in the drop box and that, when it was put in the drop box, the chain of custody form was attached to the envelope

containing the cocaine. Mr. Llano's testimony further demonstrated that the envelope containing the cocaine and the chain of custody form were still together when he received them and when he tested the cocaine, thus providing strong evidence that the cocaine tested by Mr. Llano was the same cocaine seized from Mr. Dorsey. Moreover, Mr. Llano specifically indicated that he made sure that the information on the envelope matched the information on the chain of custody form immediately before he began testing. Although it was not clear how the chain of custody form became detached from the envelope after the cocaine was tested, this gap in the chain of custody went to the weight of the evidence and did not render it inadmissible as a matter of law. Finally, the fact that the envelope had been opened by someone unknown to Detective Guinta was adequately explained by Mr. Llano, who testified that he had opened the bottom of the envelope when he removed the cocaine for testing. Consequently, the court did not abuse its discretion in admitting the cocaine into evidence.

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