

Circuit Court for Wicomico County
Case No.: C-22-CR-22-000492

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 446

September Term, 2023

CHARLES LOHNER ECKER

v.

STATE OF MARYLAND,

Nazarian,
Reed,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 4, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Following a jury trial in the Circuit Court for Wicomico County, Charles Lohner Ecker, appellant, was convicted of first-degree assault and lesser included offenses. On appeal, he contends that the evidence was insufficient to support his conviction. For the reasons that follow, we shall affirm.

In reviewing whether the evidence was sufficient to convict Ecker, we must “determine whether . . . *any* rational trier of fact could have found the essential elements of [first-degree assault] beyond a reasonable doubt.” *Williams v. State*, 251 Md. App. 523, 569 (2021) (cleaned up) (quoting *Taylor v. State*, 346 Md. 452, 457 (1997)). Put differently, “the limited question before us is not whether the evidence should have or probably would have persuaded [most] fact finders but only whether it possibly could have persuaded any rational fact finder.” *Smith v. State*, 232 Md. App. 583, 594 (2017) (cleaned up). We conduct our review keeping in mind our role of reviewing both the evidence and all reasonable inferences deducible from it in a light most favorable to the State. *Smith v. State*, 415 Md. 174, 185–86 (2010).

To convict Ecker of first-degree assault, the State had to prove that he either “intentionally strangl[ed]” the victim, or, more broadly, “intentionally cause[d] or attempt[ed] to cause [the victim] serious physical injury[.]”¹ Md. Code Ann., Crim. Law (“CL”) §§ 3-202(b)(1) & (3). Here, Ecker contends the evidence was insufficient to support either modality. We disagree.

¹ The third modality of first-degree assault—assault with a firearm—is not relevant here because the State did not allege any firearm. *See* Md. Code Ann., Crim. Law § 3-202(b)(2).

“Strangling,” in this context, “means impeding the normal breathing or blood circulation of another person by applying pressure to the other person’s throat or neck.” CL § 3-202(a). “Serious physical injury,” in contrast, means an injury that “(1) creates a substantial risk of death; or (2) causes permanent or protracted serious (i) disfigurement; (ii) loss of the function of any bodily member or organ; or (iii) impairment of the function of any bodily member or organ.” CL § 3-201(d).

Here, L.,² the victim, testified that during the altercation that gave rise to the charges, Ecker knocked her unconscious with just two punches. She further testified that she woke up to Ecker on top of her, “choking” her. L. then testified that she tried to fight Ecker off and was able to stand up, but Ecker had his hands around her throat, and she lost consciousness a second time. The State also produced records of a Facebook conversation between Ecker and L. that occurred after the altercation in which he told her: “I knocked you out, helped you up, took five more telling you to stop and then I put you back to sleep.” L. also described scratches on her neck, which were confirmed by the investigating officer. Viewing this evidence in a light most favorable to the State, we conclude that a rational trier of fact could have found that Ecker impeded L’s normal breathing or blood circulation by applying pressure to her throat or neck, which rendered her unconscious. The evidence was therefore sufficient to support his conviction under the strangulation modality of first-degree assault.

² In accordance with Maryland Rule 8-125, we use only the victim’s initial in this opinion because Ecker was also charged with a fourth-degree sex offense, although he was acquitted of that alleged crime.

Even if this were insufficient to prove the strangulation modality of first-degree assault, there was still sufficient evidence to support Ecker’s conviction under the serious-physical-injury modality. L. testified that Ecker’s first punch split open her lip. His continued blows also left her with an injured jaw, swollen face, and broken nose. Other witnesses corroborated L.’s injuries. Further, L. testified that her face never fully recovered following the altercation; it lost its symmetry, and her jawbone was not the same. Again, viewing this evidence in a light most favorable to the State, we conclude that a rational trier of fact could have found that Ecker caused L. permanent or protracted serious disfigurement or impairment of the function of a bodily member or organ. The evidence was therefore also sufficient to support his conviction under serious-physical-injury modality of first-degree assault.

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