

Circuit Court for Baltimore City
Case No.: 117234023

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 690

September Term, 2021

DIWAUN PAIGE

v.

STATE OF MARYLAND

Nazarian,
Leahy,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 5, 2022

*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.

In 2018, following trial in the Circuit Court for Baltimore City, a jury found Diwaun Paige, appellant, guilty of first-degree murder, use of a firearm in the commission of a crime of violence, and wearing, carrying, or transporting a handgun. On January 7, 2019, the court sentenced him to life imprisonment without the possibility of parole for first-degree murder, fifteen years concurrent for use of a firearm in a crime of violence, and three years concurrent for the handgun offense.

On appeal, appellant contends that the evidence was legally insufficient.¹ For the reasons explained below, we shall affirm.

BACKGROUND

On July 22, 2017, Malone “Mia” Sanders, the victim, was shot and killed on Brunswick Street, a residential street lined with row homes, in Baltimore City. Police found spent 9mm shell casings and two 9mm bullets near her body. A police investigation revealed that she had been selling crack cocaine, as she was known to do, on the evening she was killed. Although the shooting, and some of the events preceding and following it, were captured on video surveillance cameras, the identity of the shooter was not apparent from the surveillance footage.

The surveillance footage did reveal, however, that minutes before the shooting the victim was seen with Rico Cooper entering, and then leaving, the Wilkens Tavern which was nearby where the shooting took place. At trial, Cooper testified that he was aware that

¹ Appellant filed his original notice of appeal on March 8, 2019. That appeal was dismissed by this Court as untimely filed. On June 15, 2021, the Circuit Court for Baltimore City granted appellant post-conviction relief in the form of the right to file a belated notice of appeal, which he did on June 29, 2021, prompting this appeal.

appellant and the victim were “fussing” over a drug sale that had taken place earlier on the night of the shooting. He identified appellant as the person who shot the victim.

Danielle Gress testified that she was inside a row house at 520 Brunswick Street with others using crack cocaine when, moments after the shooting, appellant and his girlfriend entered the row house, packed their bags and left in appellant’s truck. Gress noticed that appellant had a shiny object in his waistband when he came in, but could not definitively testify that the object was a handgun.

During a recorded telephone call between appellant and his girlfriend, appellant instructed her to go get what he had left “down there” and sell it. During another recorded telephone call appellant said that he believed that the police were looking for a gun. A few days later, the police received a tip from a confidential informant which caused them to search a vacant home at 482 Brunswick Street. Inside, the police recovered a loaded 9mm pistol. Appellant’s DNA was found on the genetic material swabbed from the magazine and cartridges of the 9mm pistol the police found.

As noted earlier, on appeal appellant contends that the evidence is legally insufficient to support his convictions. Specifically, he claims that Cooper, the witness who testified that he witnessed appellant shoot the victim, and Gress, the witness who testified that she saw appellant pack his bags and leave immediately after the shooting, gave inconsistent and otherwise non-credible accounts of the events they described. In addition, appellant claims that it was possible the genetic material recovered from the handgun had been contaminated.

DISCUSSION

In reviewing the sufficiency of the evidence, we review the record 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.”” *Pinheiro v. State*, 244 Md. App. 703, 711 (2020) (quoting *Titus v. State*, 423 Md. 548, 557 (2011), in turn quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). In doing so, we defer to the jury’s evaluations of witness credibility, resolution of evidentiary conflicts, and discretionary weighing of the evidence, by crediting any inferences the jury reasonably could have drawn. *Grimm v. State*, 447 Md. 482, 495 (2016). Moreover, “[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).

We conclude, in viewing the evidence in the light most favorable to the State, a rational fact-finder could draw the inference that appellant shot the victim. Cooper’s testimony alone would make the evidence legally sufficient regarding appellant’s identity as the person who shot and killed the victim. That evidence was corroborated by Gress’s testimony that appellant packed his bags and left in his truck moments after the shooting. Appellant’s identity as the shooter was further corroborated by the finding that his genetic material was found on the magazine and cartridges of a pistol of the same caliber used in the shooting in a home near the shooting.

From all of the foregoing, a rational factfinder could have drawn the inference that appellant was the person who shot the victim. It is of no moment that the evidence may have also supported some other inference. “Choosing between competing inferences is

classic grist for the [fact-finder] mill.” *Cerrato-Molina v. State*, 223 Md. App. 329, 337 (2015).

Consequently, we shall affirm the judgments of the circuit court.

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