Circuit Court for Wicomico County
Case No. 22-K-16-000822

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 741

September Term, 2017

WILL MONCHER

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Salmon, James P.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Arthur, J.

Filed: September 28, 2018

*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.

A jury in the Circuit Court for Wicomico County convicted Will Moncher,[1] appellant, of kidnapping and false imprisonment. The court sentenced Moncher to seven years' imprisonment for kidnapping; the false imprisonment conviction was merged for sentencing purposes.

In this timely appeal, Moncher presents the following issues:

1. Did the lower court err in denying [his] request for reverse waiver to the juvenile court?

2. Was the evidence sufficient to support [his] convictions of kidnapping and false imprisonment?

We shall affirm Moncher's convictions, because the circuit court did not err or abuse its discretion in denying his petition to transfer his case to the juvenile court and because the evidence is sufficient to support the jury's verdicts.

FACTUAL AND PROCEDURAL BACKGROUND

The following summary describes the facts established at Moncher's trial. Because Moncher challenges the sufficiency of the evidence to sustain his convictions, we recite these facts in the light most favorable to the prosecution. *See, e.g.*, *Davis v. State*, 207 Md. App. 298, 303 (2012) (citing *Moye v. State*, 369 Md. 2, 12 (2002)).

The Wicomico County Sheriff's Office received a report from 19-year-old Zachary Watson that at shortly after 11:30 p.m. on October 17, 2016, he was assaulted,

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[1] Although this appeal is captioned in the name of "Will Moncher," the Department of Juvenile Service's transfer report, reflecting information obtained directly from Moncher, identifies him as "Willsmith Claudima Moncher."

robbed, and kidnapped. Watson's assailants released him the following afternoon, after he had been forced to withdraw cash for them on two occasions.

Moncher was arrested and charged with crimes stemming from those events. At the time of both the crimes and the indictment, Moncher was 17 years old. The State charged Moncher as an adult, because the juvenile court does not have jurisdiction over kidnapping charges against a child who is "at least 16 years old . . . , unless an order removing the proceeding to the juvenile court has been filed under § 4-202 of the Criminal Procedure Article." *See* Md. Code (1974, 2013 Repl. Vol., 2017 Supp.), § 3-8A-03(d)(4)(ii) of the Courts & Judicial Proceedings Article.

Moncher invoked the "reverse-waiver" provisions in Md. Code (2001, 2008, 2017 Supp.), § 4-202 of the Criminal Procedure Article to request the transfer of his case to the juvenile court. The circuit court denied his request.

At trial, the State set out to prove that Moncher joined a kidnapping and armed robbery that was already in progress, acting as an accomplice by aiding, encouraging, or being willing to lend support. The State presented evidence that the victim, Zachary Watson, had arranged to meet a young woman in a park. Watson said that at around 11:30 p.m. on October 17, 2016, while he was talking with the young woman, "three guys came out of the bushes behind the park and ran over . . . threatening [him], [and] telling [him] to run [his] pockets, give [them] everything" he had. The woman ran away.

One of the assailants was armed with a baseball bat, another with a silver revolver. They beat Watson, kicked him, and forced him into his Hyundai Sonata, which they drove to an ATM machine outside a bank.

The gun-wielding assailant, later identified as John Charles, photographed Watson's driver's license. Charles told Watson that if he tried to run away or did anything to attract attention, they would find and kill his whole family. Charles gave Watson two minutes to withdraw money from an ATM. He threatened to shoot Watson if he took longer than two minutes.

Watson withdrew the daily limit of $500 and gave it to Charles, "the man with the gun." After Watson explained that his bank restricted cash withdrawals within any 12-hour period, Charles decided to hold Watson captive until he could make another ATM withdrawal.

Watson testified that during his ensuing captivity he travelled around Wicomico County, making numerous stops, as directed by Charles, who was joined by a revolving roster of companions, including Moncher. Watson drove the car, while Charles sat in the front passenger seat with the weapon visible on his lap, and Charles's companions sat in the back. The three men talked to each other in a language Watson believed to be "Haitian."

At one stop, sometime between 3:00 and 4:00 a.m, one assailant left, and Moncher got into the car. Moncher got into the front passenger seat, Charles went to the driver's seat, and Watson moved into the backseat. Moncher and Charles stayed with Watson for the duration of his captivity, which continued until after 3:30 p.m. that afternoon.

During one of the stops, Charles picked up a female acquaintance and parked outside a rundown house. At Charles's direction, Moncher forcibly removed Watson from the car, grabbing his arms and pulling and dragging him 10 to 15 feet to the back of

the house. There Watson, who had been injured when he was kicked and beaten in the initial assault, was able to pull himself up and stand on one leg.

While Charles and his female acquaintance had what Watson believed was a sexual encounter in the back seat of his parked car, Moncher and Watson waited outside the house. During that time, Moncher initiated a conversation, telling Watson that he was "dreadful sorry" that he was "doing this" and explaining that "he came from a poor family, . . . that they didn't have much growing up as kids." Eventually, Moncher dragged Watson back to the car.

After dropping off Charles's female acquaintance, Charles and Moncher began joyriding. At dawn, Charles used a bandana to blindfold Watson and started riding around Wicomico County, picking up people in Watson's car. Watson heard the door open and close six times over the course of the day. The conversations were in a language that Watson couldn't understand.

At around noon on October 18, 2016, after the 12-hour limit on withdrawals had passed, Charles, Moncher, and Watson returned to the same ATM that they had visited earlier. Charles took another picture of Watson's driver's license and threatened to kill Watson's family if he did not get more money. Watson withdrew another $450 and gave it to Charles.

After a brief stop at a market where Moncher bought Watson something to drink, Charles, Moncher, and Watson drove to an apartment complex. Watson waited with Moncher in the parking lot while Charles went to get supplies to clean the car. During this wait, Watson sat in the driver's seat with the car door open, while Moncher stood in

the doorway to prevent Watson from closing the door. Moncher again told Watson he was "sorry" and that he felt "like crap" that he was "doing this to somebody."

Charles returned with a bucket of foamy, strong-smelling liquid and two cloths, and he and Moncher wiped down Watson's car, inside and out. Charles warned Watson not to call the police, or else he would find Watson's family members and kill them. Charles and Moncher then walked away.

Watson drove home and reported what happened, first to his mother and then to the police. At an emergency room, he obtained medical treatment for the injuries that he suffered during the initial assault, which included damage to his knee from the baseball bat.

The State presented circumstantial evidence to corroborate Watson's testimony. The police investigators found information on social media that was consistent with Watson's report that he made arrangements to meet the young woman. The investigators also found that the woman had some kind of relationship with Charles and that she had communicated on social media with one of Moncher's relatives. Video surveillance footage from the ATM showed Watson making withdrawals at the times and location that he described. Watson identified both Charles and Moncher in photo arrays.

Moncher testified in his defense. He admitted that Charles came to his house at around midnight or 1 a.m. on the night of the kidnapping, but asserted that he was just expecting to go out to "chill with some girls[.]" He claimed to believe that Watson was Charles's cousin. He denied dragging Watson out of the car or that Watson was ever blindfolded. He maintained that he "was sleeping" in the car and that he did not observe

a gun or any injuries to Watson. He said that he helped to clean the car, but claimed not to know that he was destroying evidence. On cross-examination, Moncher admitted that he had lied to the police when he initially denied that he knew John Charles.

The jury convicted Moncher of kidnapping and false imprisonment, but acquitted him of robbery with a dangerous weapon, conspiracy to commit robbery with a dangerous weapon, robbery, conspiracy to commit robbery, first-degree assault, conspiracy to commit first-degree assault, use of a firearm in a felony or violent crime, possession of a firearm by a person under 21, and theft of less than $1,000. Challenging both of his convictions, Moncher noted this timely appeal.

DISCUSSION

I. Reverse Waiver Transfer to Juvenile Court

Moncher contends that the court abused its discretion in denying his petition to transfer his case to juvenile court. The State counters that the court "correctly exercised [its] discretion in concluding that on balance, a transfer was not appropriate." For the reasons that follow, we agree that the court applied the correct legal standards and did not abuse its discretion in denying Moncher's transfer request.

A. Standards Governing Petitions for Reverse Waiver

Under § 3-8A-03(d)(4)(ii) of the Courts and Judicial Proceedings Article, the juvenile court's jurisdiction does not extend to kidnapping charges against anyone 16 or older, unless the circuit court grants what has become known as a "reverse waiver." A person under 18 may request a reverse waiver by petitioning the circuit court to transfer his or her case to juvenile court.

Section 4-202 of the Criminal Procedure Article "governs the process for a juvenile defendant seeking a reverse waiver of a criminal proceeding brought in the circuit court, back to juvenile court." *Smallwood v. State*, 451 Md. 290, 293 n.1 (2017). Section 4-202(b) describes the cases that are eligible for transfer to juvenile court:

> (b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial . . . if:
>
> > (1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;
> >
> > (2) the alleged crime is excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and
> >
> > (3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.

Section 4-202(d) lists the factors that a circuit court should consider in deciding whether to transfer a case to the juvenile court:

> (d) In determining whether to transfer jurisdiction under subsection (b) of this section, the court shall consider:
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> > (1) the age of the child;
> >
> > (2) the mental and physical condition of the child;
> >
> > (3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;
> >
> > (4) the nature of the alleged crime; and
> >
> > (5) the public safety.

Although the court must evaluate all five statutory factors, it may grant a waiver without resolving all of them in favor of the juvenile defendant. *See In re Appeal No. 646(76)*, 35 Md. App. 94, 95-96 (1977). "The burden is on the juvenile to demonstrate that under these five factors, transfer to the juvenile system is in the best interest of the juvenile or society." *Whaley v. State*, 186 Md. App. 429, 444 (2009). When based on a correct application of these statutory factors, a transfer decision lies within the broad discretion of the circuit court and will not be disturbed on appeal unless that discretion has been abused. *See id.*

B. The Record in the Motions Court

In response to Moncher's petition to transfer his case to juvenile court, the Department of Juvenile Services ("DJS") filed a report in which it recommended that the petition be denied. In brief, the report asserted that Moncher was "17 years and 6 months of age at the time of the offense" and "17 years and 9 months" of age at the time of the report. According to DJS, Moncher had "no known physical, mental health, or substance abuse condition that would prevent him from knowing right from wrong, or would preclude . . . his case from being tried in the adult criminal justice system." In DJS's view, if Moncher were found responsible in the juvenile system for kidnapping or firearm offenses, he would not be an appropriate candidate for placement in the State of Maryland, so "[o]ut of state placement would be considered." Finally, given his "age, the serious nature of the incident, [the] continuing danger to public safety," and the lack of any substantial need for educational assistance or mental health, physical health, or

substance abuse treatment, DJS asserted that Moncher was "not a suitable subject for treatment in any institution, facility, or program available to delinquents."

At the hearing on Moncher's transfer petition, the sole witness was the author of the DJS report. In his testimony, the witness reiterated and expanded upon the bases for the conclusion in the report. Moncher called no witnesses.

The court denied Moncher's petition for a transfer to juvenile court. In explaining its decision, the court began by taking note of the five factors that it must consider under § 4-202. The court observed that the first factor (Moncher's age) weighed against transferring the case to juvenile court, because Moncher was almost 18 years old. In the court's assessment, the second factor (Moncher's mental and physical condition) did not weigh in favor of or against a transfer to the juvenile court, because Moncher had no specific mental or physical problems that were susceptible to treatment in a juvenile facility. Because Moncher had almost no prior experience with the juvenile justice system, the court could not evaluate the third factor (his amenability to treatment in a juvenile facility), so it treated that factor as neutral or as weighing slightly in Moncher's favor.

Because Moncher focuses on the court's comments on the final factors (the nature of the offense and public safety), we quote those comments in full:

> And then we get down to the last two which are the nature of the alleged crime and the public safety. Unlike some crimes that we have that appear in front of us, this crime occurred, and I'll get to Mr. Moncher's involvement, but it was a horrible crime. Not just robbing someone but there was a physical assault that occurred, someone was held at gun point. The alleged statement of facts I believe were [sic] that his clothes were taken and that he was then taken around to ATMs to dispense money. Mr.

> Moncher was not allegedly involved in the attack, and again I think this cuts both ways, but came into it after the fact. So, I mean, he had to make a choice then whether to get into a vehicle with people holding someone who at this point I'm not sure whether they are clothed or not clothed,[2] allegedly at gunpoint, to take them around to ATM machines to take money out for them. It's a horrible crime.
>
> And his choosing to participate, I'm not sure it's any better that he came in later or not, because, you know, as they pointed out, there's no argument that he was with some friends and caught up in a moment that just carried on. He made a conscious decision to get into the car after a crime, to in effect join up at that point.
>
> And as it relates to the public safety, obviously we have a person who is driven around our community, being held at gunpoint to extract money out of the ATM machines for these people that are holding him. I can't imagine the thoughts that are going through the person's mind or in effect how that affects people in the community what the feeling of public safety is when this is going on and Mr. Moncher's participation in it.

The court concluded: "In consideration of the five factors equally, but specifically also looking at the nature of the alleged crime and public safety, the Court's going to deny the motion and order that he remain in adult court."

C. Moncher's Challenge

Moncher relies on *Whaley v. State*, 186 Md. App. 429 (2009), in which this Court held that the circuit court erred in denying a petition for a reverse waiver because it proceeded as though it was required to assume that a juvenile defendant was guilty of the offenses with which he was charged. *Id.* at 449. According to Moncher, the circuit court

[2] The police report states that the assailants took Watson's "outer clothing." At trial, however, Watson testified that he did not recall being asked to remove his clothing or telling police that he had done so.

in this case "incorrectly applied an assumption of [his] guilt of the offense when it made its decision." To the contrary, this case bears little resemblance to *Whaley*.

In *Whaley* the State told the circuit court that it had to presume Whaley's guilty in the reverse-waiver proceeding. *Id.* at 436. Furthermore, in announcing its decision, the court expressly stated that it was required to assume the truth of the charges and of the factual allegations that support them. *Id*. at 439.

Although a circuit court is statutorily required to consider "the nature of the alleged crime" in determining whether to order a reverse waiver (§ 4-202(d)(4) of the Criminal Procedure Article), the *Whaley* Court held that the circuit court had erred in assuming that the defendant was guilty of all of the allegations against him. *Whaley v. State*, 186 Md. App. at 449. We explained:

> Such a presumption in the criminal court, where the burden is on the juvenile, could create its own set of problems. It could force a defendant to preview his defense in an attempt to obtain the reverse waiver. In addition, the same judge hearing the reverse waiver and assuming guilt (albeit for a limited purpose) may be the one who hears the criminal case. Finally, an assumption of guilt for consideration of a reverse waiver could skew the analysis of the five statutory factors; because the "nature of the alleged offense" factor will almost invariably be found by the court and be linked to the "public safety" factor. It is no surprise that one assumed guilty of a serious offense will frequently be deemed to be a threat to public safety and not amenable to treatment. This seems to run contrary to the authorization to transfer jurisdiction to the juvenile court (Crim. Proc. § 4–202(b)(3)) when it is "in the interest of the child."

Id. at 447 (footnote omitted).

Nonetheless, the prohibition on presuming a juvenile defendant's guilt does not preclude a court considering the level of his or her participation in the alleged offenses. *See Gaines v. State*, 201 Md. App. 1, 14 (2011). In fact, "[i]t is difficult, if not

impossible, to consider 'the nature of the alleged crime,' which the court must do, without considering the actions taken by the alleged perpetrators to commit that crime." *Id.* Thus, when evaluating the "nature of the alleged crime," courts may consider "'not only the type of crime, but also the circumstances surrounding its commission.'" *Id.* at 13 (quoting *In re Waters*, 13 Md. App. 95, 104 (1971)) (emphasis removed).

Pointing to some of the language in the circuit court's ruling, Moncher argues that "the lower court clearly violated *Whaley's* proscription against considering [his] participation in the crime[,]" by "specially [taking] into account . . . its appreciation of [Moncher's] role in the crime." *Whaley*, however, contains no "proscription" against considering a juvenile defendant's participation in a crime; it proscribes only the presumption of guilt. *Whaley v. State*, 186 Md. App. at 449. Furthermore, *Gaines* expressly recognizes that a circuit court may (and perhaps must) consider "the actions taken by the alleged perpetrators," *Gaines v. State*, 201 Md. App. at 14, in carrying out its statutory obligation to consider the nature of the alleged crime.

This case is quite different from *Whaley*, in which the circuit court explicitly assumed the defendant's guilt because it incorrectly believed that it was required to do so. *Whaley v. State*, 186 Md. App. at 449. Nothing in the court's remarks in this case reflect an express, or even an implicit, assumption of guilt. To the contrary, in the quoted remarks, the court was simply recounting the allegations against Moncher, which it had little choice but to do under a statute that requires it to consider "the nature of the alleged crime." The court did not err or abuse its discretion in discussing, considering, or weighing the level of Moncher's participation in the offenses. *Gaines v. State*, 201 Md.

App. at 14. Just as the circuit court in *Gaines* was entitled to weigh "the possibility that a person who participates in a brazen daytime armed holdup is likely to engage in such activity in the future, if given the opportunity" (*id.* at 21), the circuit court in this case was entitled to weigh Moncher's alleged decision to join a kidnapping that was in progress and to detain an injured, blindfolded victim at gunpoint until enough time had passed that he could be forced to withdraw additional cash from an ATM.

In a separate argument, Moncher asserts that the circuit court "misapplied the law" when it stated that it was considering the five factors equally, but added that it was "specifically also looking at the nature of the alleged crime and public safety." Contrary to Moncher, we do not understand the court to have meant that it was required to give greater weight to the nature of the alleged crime and to public safety than to the other three factors. Rather, we understand the court to have meant that the nature of the alleged crime and the public safety were decisive in its analysis.

In summary, the court's determination not only rested on a correct understanding of applicable legal standards, but was firmly supported by the record, especially by DJS's recommendation against transfer. *See Whaley v. State*, 186 Md. App. at 449 ("[w]ithout a favorable report from DJS, a reverse waiver request faces almost certain denial"). The court did not err or abuse its discretion in denying Moncher's petition to transfer his case to juvenile court.

II. Sufficiency of the Evidence

Moncher argues that the evidence was insufficient to support his convictions for kidnapping and false imprisonment. We disagree.

The test for reviewing evidentiary sufficiency is 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." *Cox v. State*, 421 Md. 630, 656-57 (2011) (citations and quotation marks omitted). Evidence is sufficient to sustain a conviction if it "'either showed directly, or circumstantially, or supported a rational inference of facts which could fairly convince a trier of fact of the defendant's guilt of the offense charged beyond a reasonable doubt.'" *Donati v. State*, 215 Md. App. 686, 718 (2014) (quoting *State v. Albrecht*, 336 Md. 475, 479 (1994)). Circumstantial evidence alone may be enough to prove a defendant's guilt as long as "the circumstances, taken together, do not require the trier of fact to resort to speculation or conjecture[.]" *Smith v. State*, 415 Md. 174, 185 (2010) (citation and quotation marks omitted). The circumstantial evidence on which a conviction is based need not exclude every possibility of the defendant's innocence. *Morgan v. State*, 134 Md. App. 113, 124-25 (2000).

Under this standard, the court must view not only the evidence itself "but also all reasonable inferences deducible from the evidence in a light most favorable to the State." *Smith v. State*, 415 Md. at 185-86 (citing *Allen v. State*, 402 Md. 59, 77 (2007)). The jury in its role as the finder of fact "has the 'ability to choose among differing inferences that might possibly be made from a factual situation[.]'" *Smith v. State*, 415 Md. at 183 (quoting *State v. Smith*, 374 Md. 527, 534 (2003)). The jurors are entitled to "weigh the evidence given to them based upon [their] experience with people and events." *Morgan v. State*, 134 Md. App. at 125. A court reviewing the sufficiency of the evidence does

"not second-guess the jury's determination where there are competing rational inferences available" (*Smith v. State*, 415 Md. at 183), nor does the court "decide whether the jury could have drawn other inferences from the evidence, refused to draw inferences, or whether [the court] would have drawn different inferences from the evidence." *Id.* at 184 (citing *State v. Smith*, 374 Md. at 557).

Under the State's theory of the case, Moncher was alleged to have been an accomplice in the kidnapping and false imprisonment of the victim. "It is well established in Maryland law that '[t]o be an accomplice a person must participate in the commission of a crime knowingly, voluntarily, and with common criminal intent with the principal offender, or must in some way advocate or encourage the commission of the crime.'" *Silva v. State*, 422 Md. 17, 28 (2011) (quoting *State v. Raines*, 326 Md. 582, 597 (1992)) (further citations and quotation marks omitted). The defendant may be found guilty as an accomplice if "the defendant, with the intent to make the crime happen, knowingly aided, counseled, commanded, or encouraged the commission of the crime, or communicated to a participant in the crime that [the defendant] was ready, willing, and able to lend support, if needed." Maryland Criminal Pattern Jury Instructions 6:00 (2d ed. 2013, 2016 Supp.). An accomplice "is a guilty participant, and in the eye of the law is equally culpable with the one who does the act." *Owens v. State*, 161 Md. App. 91, 100 (2005) (citations and quotation marks omitted).

"Kidnapping is a statutory crime in Maryland." *State v. Stouffer*, 352 Md. 97, 105 (1998). Under § 3-502(a) of the Criminal Law Article, "A person may not, by force or fraud, carry or cause a person to be carried in or outside the State with the intent to have

the person carried or concealed in or outside the State." "[T]he gist of the offense of kidnapping in Maryland is unlawful confinement coupled with transportation of the victim." *Tate and Hall v. State*, 32 Md. App. 613, 616 (1976).

"False imprisonment is a lesser included offense of kidnapping." *Paz v. State*, 125 Md. App. 729, 739 (1999). "Common law false imprisonment is the unlawful detention of a person against his will." *Id.* "Kidnapping adds the requirement of 'carrying the victim to some other place.'" *Id.* (quoting *Johnson v. State*, 292 Md. 405, 432 (1982)). "If kidnapping is proved, false imprisonment is also proved." *Id.*

In arguing that the evidence was insufficient to convict him of kidnapping and false imprisonment, Moncher points out that he had no involvement in the initial assault, abduction, and theft. He minimizes his role in the subsequent events, arguing that he did not "drag" Watson away from the car (as Watson testified) when Charles expropriated it for use in a sexual encounter, but that he merely "assisted [Watson] in getting far enough away from the car to afford Charles and the woman some privacy."[3] He claims to have been "asleep" when Charles ordered Watson to withdraw money (on the second occasion), threatened to kill Watson's family members, and took a picture of his driver's license. He denies that he did anything to restrain Watson's freedom of movement when he stood just outside the open car door while Charles retrieved the detergent or chemicals that he and Moncher used to clean the car. He does not mention his participation in cleaning the interior and exterior of the car before Watson was released, or Charles's

[3] Moncher does not mention Watson's testimony that Moncher also dragged him back to the car when the assignation had ended.

final warning that he would find Watson's family members and kill them if he called the police.

Suffice it to say that Moncher ignores inferences and evidence that support the guilty verdicts on the charges of kidnapping and false imprisonment. Although Moncher was not part of the group that initially kidnapped Watson at the park, the evidence was more than sufficient for the jury to find beyond a reasonable doubt that he joined that kidnapping while it was in progress and that his active participation enabled it to continue.

Because "'kidnapping involves interfering with the victim's liberty, it continues until that liberty is restored.'" *State v. Stouffer*, 352 Md. at 114 (quoting *State v. Gomez*, 622 A.2d 1014, 1016 (Conn. 1993)). Based on Watson's testimony and the corroborating circumstantial evidence, a jury could infer that Moncher served as a valuable accomplice to Charles for more than 12 hours after he became aware that Watson was being held in captivity.

First, Moncher forcibly extended Watson's captivity, while Charles commandeered the Sonata for a private sexual rendezvous. Following directions from Charles, Moncher pulled and dragged the injured Watson from the car, moving him a distance of "[t]en to fifteen feet." While Charles was occupied with his female companion for some period of time, Moncher stood guard, preventing Watson's escape. As they waited, Moncher apologized to Watson for "doing this," explaining that he needed money. Moncher then "dragged" Watson "back to the car." By itself, this

evidence is sufficient for the jury to find all the elements of kidnapping and false imprisonment.

In addition to the evidence of that discrete episode, the jury heard that Moncher was present while Watson was driven or forced to drive around Wicomico County until enough time had passed that he could make another ATM withdrawal. Charles was armed. Watson was injured and blindfolded, so obviously he was not a willing participant. Even though Charles and Moncher can speak English, they conversed in a Haitian dialect of French, thereby preventing Watson from understanding what they were saying. From this evidence, the jury could reasonably infer that Moncher was an accomplice in that scheme, rather than a mere witness to it.

Moreover, when the trio finally drove to the ATM, Moncher was in the car while Charles took a second photograph of Watson's license, threatened to kill Moncher and his family if he attempted to run or call the police, and received the $450 Watson withdrew from the ATM. Although Moncher claimed to have been asleep during those events, the jury was entitled to disbelieve his testimony (*see Allen v. State*, 402 Md. at 78) and to find that he knew of Charles's threats and that his continued presence deterred Watson from attempting to escape.

Finally, upon arriving at the parking lot of the apartment complex where Watson was ultimately released from captivity, Moncher continued to stand guard. Positioning himself inside the open door of the Sonata while they waited for Charles to gather cleaning supplies, Moncher prevented Watson from closing the door and driving away. Another apology from Moncher confirmed that he had knowingly, if regretfully,

participated in the unlawful detention and kidnapping over the preceding 12 hours. Thereafter, Moncher assisted Charles in destroying fingerprint or DNA evidence by wiping down the interior and exterior of the car with a strong-smelling detergent or chemical.

In short, the jury could easily have found Moncher guilty of kidnapping and false imprisonment, based both on his actions during Charles's rendezvous with the woman and on his role in the scheme to hold Watson captive through the second ATM withdrawal. Watson's testimony amply supports the inferences that Moncher unlawfully detained Watson against his will, "carrying" him "to some other place" while guarding against Watson's escape, from the time Moncher got into the Sonata, throughout the remainder of Watson's captivity. The "carrying" or "asportation" element of kidnapping is satisfied both by the specific evidence that Moncher dragged Watson to and from the Sonata during Charles's rendezvous and by the broader evidence that Moncher guarded Watson during the hours-long joyride. Accordingly, the evidence is sufficient to sustain Moncher's convictions for kidnapping and false imprisonment.

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