Circuit Court for St. Mary's County
Case No. C-18-CR-20-000199

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1038

September Term, 2021

AVERY LESLIE STOKES

v.

STATE OF MARYLAND

Arthur,
Shaw,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 4, 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.

Following a jury trial in the Circuit Court for St. Mary's County, Avery Leslie Stokes, appellant, was convicted of manslaughter by vehicle. His sole contention on appeal is that there was insufficient evidence to sustain his conviction. For the reasons that follow, we shall affirm.

"The test of appellate review of 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." *Donati v. State*, 215 Md. App. 686, 718 (2014) (internal quotation marks and citation omitted). That standard applies to all criminal cases, "including those resting upon circumstantial evidence, since, 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). Moreover, "[t]he test is not whether the evidence should have or probably would have persuaded the majority of fact finders but only whether it possibly could have persuaded any rational fact finder." *Painter v. State*, 157 Md. App. 1, 11 (2004) (quotation marks and citations omitted). In making that determination, "[w]e 'must give deference to all reasonable inferences [that] the fact-finder draws, regardless of whether [we] would have chosen a different reasonable inference.'" *Donati*, 215 Md. App. at 718 (quoting *Cox v. State*, 421 Md. 630, 657 (2011)). In so doing, "[w]e defer to the fact finder's opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence[.]" *Neal*, 191 Md. App. at 314 (quotation marks and citations omitted).

Section 2-209(b) of the Criminal Law Article provides that a "person may not cause the death of another as a result of the person's driving, operating, or controlling a vehicle

. . . in a grossly negligent manner." To establish gross negligence, the State was required to prove that appellant acted with "a wanton or reckless disregard for human life." *Plummer v. State*, 118 Md. App. 244, 252 (1997) (quotation marks and citation omitted). In determining whether appellant's actions rise to the level of gross negligence in a vehicular manslaughter case, we may consider multiple factors, including:

> (a) drinking … ; (b) failure to keep a proper lookout and to maintain proper control of the vehicle; (c) excessive speed under the circumstances; (d) flight from the scene without any effort to ascertain the extent of the injuries; (e) the nature and force of the impact; (f) unusual or erratic driving prior to impact; (g) the presence or absence of skid marks or brush marks; (h) the nature of the injuries and the damage to the involved vehicle or vehicles; (i) the nature of the neighborhood, the environment where the accident took place.

Boyd v. State, 22 Md. App. 539, 550–51 (1974) (quotation marks and citation omitted).

The evidence at trial demonstrated that, despite the absence of oncoming traffic or other obvious hazards, appellant, while traveling at a high rate of speed, drove off the road in the middle of the day and struck a tree, killing one of the passengers in his vehicle. In challenging the sufficiency of the evidence, appellant contends that the accident was inadvertent and that there was insufficient evidence to establish that he acted with gross negligence. However, viewed in a light most favorable to the State, there was ample evidence from which the jury could conclude that appellant was not only grossly negligent, but also that he intentionally drove his car into the tree. Specially, the State presented evidence that: (1) appellant had used LSD the night before the crash and had not slept; (2) as he "came down" from the LSD the morning of the crash he started saying "odd" things like how "he was powerful" and "he didn't need physical objects"; (3) prior to the accident

appellant ran several stop signs, talked about "how things didn't matter," and "swerved in between two cars"; (4) data collected from the vehicle indicated that he was traveling 61 miles per hour in a 40 mile per hour zone one second before the crash, that he had increased the vehicle's throttle to 100 percent in the three seconds prior to the crash, and that he did not hit the brakes prior to the crash; (5) appellant's girlfriend, who was also a passenger in the vehicle, testified that based on her observations, appellant appeared to have "jerked the wheel" "on purpose" to try and hit the tree; (6) after the accident, appellant told his girlfriend, that he hit the tree to "show [her]" and told her "everything [would] be fine as long as [she] didn't snitch"; and (7) after the accident, appellant told another person that he had hit the tree "on purpose." Under these circumstances, we are persuaded the State presented sufficient evidence that appellant intentionally drove his vehicle in a manner which he knew or should have known was likely to cause harm to another person. Consequently, the jury could reasonably find that appellant acted with a reckless and wanton disregard for human life, and thus drove in a grossly negligent manner.

JUDGMENT OF THE CIRCUIT COURT FOR ST. MARY'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.