Circuit Court for Somerset County
Case No. C-19-CR-24-000046

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1087

September Term, 2024

JOHN JEROME BYRD, III

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 18, 2025

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

Following a bench trial in the Circuit Court for Somerset County, John Jerome Byrd, III, appellant, was convicted of second-degree assault. Specifically, he asserts that, because the court found that he was attempting to "play wrestle" with the victim, the State failed to establish that he intended to cause, and did cause, harmful or offensive contact. For the reasons that follow, we shall affirm.

In reviewing the sufficiency of the evidence, we ask "whether, after reviewing 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." *Ross v. State*, 232 Md. App. 72, 81 (2017) (quotation marks and citation omitted). Furthermore, we "view[] not just the facts, but 'all rational inferences that arise from the evidence,' in the light most favorable to the" State. *Smith v. State*, 232 Md. App. 583, 594 (2017) (citation omitted). In this analysis, "[w]e give 'due regard to the [fact-finder's] findings of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses.'" *Potts v. State*, 231 Md. App. 398, 415 (2016) (citation omitted).

In the instant case, the State alleged that appellant assaulted his brother, the victim, in their mother's kitchen. There was, to be sure, conflicting testimony from several persons in the house about what occurred on the night of the incident. However, viewed in a light most favorable to the State, Bonnie Ward, their mother, testified that appellant arrived at her house intoxicated and upset. Appellant later told the police that he had "an issue with his mother allowing [his brother] to move back into" the house. According to Ward, appellant's brother was putting a pizza into the oven, and had his back turned to appellant, when appellant came up behind him, "grabbed him," and slammed him to the ground.

Ward was not sure if appellant was playing around until she observed that appellant had "his hands around [his brother's] throat." She then tried to get appellant to get off of his brother, but he would not do so. This led Ward to call the police and request the assistance of another male in the house, asking him to come downstairs and "physically [get appellant] off of [his brother]."

We are persuaded that this evidence, specifically Ward's testimony that appellant slammed his brother to the ground, put his hands around his brother's throat, and refused to get off of his brother when requested to do so, was sufficient to sustain appellant's conviction for second-degree assault. *See Hourie v. State*, 53 Md. App. 62, 73 (1982) ("In general, the testimony of a single witness, no matter what the issue or who the person, may legally suffice as evidence upon which the jury may found a verdict." (cleaned up)). In claiming otherwise, appellant asserts that the court was required to acquit him because it "accept[ed] as true [his contrary] testimony that he grabbed [the victim] in an act of play[.]" He further contends that the court could not accept that testimony "and also find that he intended to, and did, commit a harmful or offensive touching[.]"

As an initial matter, it is not clear that the court did, in fact, find appellant's testimony regarding his intent to be credible. Rather, the court only noted that appellant had testified to that effect, and then later stated that "[w]hether it was his - - in [his] mind, his intent to do harm or not, that's not really the standard." But even if we assume that the court ultimately found appellant's testimony to be believable in its entirety, "[t]he issue of legal sufficiency of the evidence is not concerned with the findings of fact based on the evidence or the adequacy of the factfindings to support a verdict." *Chisum v. State*, 227

Md. App. 118, 129 (2016). Rather, "[i]t is concerned only, at an earlier pre-deliberative stage, with the objective sufficiency of the evidence itself to permit the factfinding even to take place." *Id.* at 129-30. As previously set forth, the State presented evidence that appellant slammed his brother to the ground and put his hands around his throat. And that evidence was objectively sufficient to sustain appellant's conviction. To be sure, there can be errors in the rendering of the verdict in a bench trial. But those errors are "different from a challenge to the legal insufficiency of the evidence" and thus must be "timely preserved[.]" *Id*. at 131 n.2. Because appellant did not object to the manner in which the trial court rendered its verdict, that issue is not preserved for appellate review. *See* Maryland Rule 8-131(a).

JUDGMENT OF THE CIRCUIT COURT FOR SOMERSET COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.