

Circuit Court for Anne Arundel County
Case No. C-02-CR-18-000882

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1454

September Term, 2021

TERRELL KEJAUN DOWNS

v.

STATE OF MARYLAND

Berger,
Reed,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 29, 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 bench trial in the Circuit Court for Anne Arundel County, Terrell KeJaun Downs, appellant, was convicted of second-degree assault. He raises two issues on appeal: (1) whether the trial court abused its discretion in admitting a video recording of the assault, and (2) whether the State presented sufficient evidence to sustain his conviction. For the reasons that follow, we shall affirm.

At trial, Clarence Forrester testified that he was talking to his ex-girlfriend, Tyhesha Colbert, while she was sitting in her parked car. During that conversation, appellant, Ms. Colbert’s current boyfriend, approached Mr. Forrester on the street and stabbed him in his left shoulder. During Mr. Forrester’s testimony, the State showed him a video recording of the assault that police had obtained from a surveillance camera that was maintained by the City of Annapolis.

Appellant first asserts that the video recording of the assault was not properly authenticated and, therefore, that it lacked the necessary evidentiary foundation for admission at trial. We review a trial court’s ruling on the admissibility of video evidence for abuse of discretion. *State v. Simms*, 420 Md. 705, 724-25 (2011). For the purposes of admissibility, “[a] videotape is considered a photograph . . . and is subject to the same general rules of admissibility as a photograph.” *Washington v. State*, 406 Md. 642, 651 (2008). Because videos and photographs can be “easily manipulated,” trial courts require authentication “as a preliminary fact determination, requiring the presentation of evidence sufficient to show that the evidence sought to be admitted is genuine.” *Id.* at 651-52 (citation omitted). Videotape may be authenticated under “two distinct rules.” *Id.* at 652 (quotation marks and citation omitted). Under the “pictorial testimony theory

of authentication[,]” video may be “authenticated through the testimony of a witness with personal knowledge” that the “[video] fairly and accurately represents the scene or object it purports to depict as it existed at the relevant time.” *Id.* (quotation marks and citation omitted). Under the “silent witness method of authentication[,]” video may be authenticated through “the presentation of evidence describing a process or system that produces an accurate result.” *Id.* In making an authenticity determination, “[the trial court] need not find that the evidence is necessarily what the proponent claims, but only that there is sufficient evidence that the jury ultimately might do so.” *Jackson v. State*, 460 Md. 107, 116 (2018) (quotation marks, citation, and emphasis omitted).

Here, the State showed the video to Mr. Forrester and Ms. Colbert during their testimony. Both witnesses identified themselves and appellant in the video. Moreover, Mr. Forrester testified that he had reviewed the video and that it “fairly and accurately” depicted the assault. While watching the video, Mr. Forrester also verified the events depicted therein, including the point in the video wherein he believed he “got stabbed” by appellant. We hold that testimony was sufficient to authenticate the video under the pictorial testimony theory of authentication. Therefore, the court did not abuse its discretion in admitting the video into evidence.

Appellant next contends that the State presented insufficient evidence to sustain his conviction. Again, we disagree. 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) (quoting *Abbott v. State*, 190 Md. App. 595, 616 (2010)). 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) (quoting *Harrison v. State*, 382 Md. 477, 487-88 (2004)).

In challenging the sufficiency of the evidence, appellant asserts that (1) Mr. Forrester’s credibility was undermined by contradictions in his trial testimony and the fact that he had prior convictions; (2) he did not attempt to flee after the incident; (3) and the police immediately focused on him as the suspect and did not test droplets of blood found at the scene to determine if they actually belonged to Mr. Forrester. However, these claims are essentially an invitation for this Court to reweigh the evidence, which we will not do. That is because it is “not a proper sufficiency argument to maintain that the [fact-finder] should have placed less weight on the testimony of certain witnesses or should have disbelieved certain witnesses.” *Correll v. State*, 215 Md. App. 483, 502 (2013). Rather, any inconsistencies or weaknesses in the testimony of the State’s witnesses affects the weight of the evidence, and not its sufficiency. *Owens v. State*, 170 Md. App. 35, 103 (2006) (“[A] witness’s credibility goes to the weight of the evidence, not its sufficiency.”).

At trial, Mr. Forrester testified that appellant approached him on the street and stabbed him in the shoulder. That evidence, if believed, was legally sufficient to support

a finding of each element of second-degree assault beyond a reasonable doubt. *See Archer v. State*, 383 Md. 329, 372 (2004) (“It is the well-established rule in Maryland that the testimony of a single eyewitness, if believed, is sufficient evidence to support a conviction.”). Consequently, we hold that there was sufficient evidence to sustain appellant’s conviction.

**JUDGMENT OF THE CIRCUIT
COURT FOR ANNE ARUNDEL
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**