Circuit Court for Cecil County
Case No.: C-07-CR-21-000073

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1558

September Term, 2021

MARTIN EDWARD GOODWIN, JR.

v.

STATE OF MARYLAND

Reed,
Albright,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: October 11, 2023

In the early morning hours of September 5, 2020, a vehicle struck twice and killed Mark Jackson, the victim. On August 31, 2021, following a bench trial in the Circuit Court for Cecil County, the court found Martin Edward Goodwin, Jr., appellant, guilty of first-degree and second-degree murder for his role in the killing of the victim. On November 30, 2021, the court sentenced appellant to life imprisonment with all but 80 years suspended for first-degree murder.[1]

Thereafter appellant noted a direct appeal to this Court contending that the evidence of his criminal agency is legally insufficient. For the reasons stated below, we shall affirm the judgments of the circuit court.

BACKGROUND

The evidence adduced at trial shed the following light on the facts and circumstances surrounding the death of the victim and the identification of appellant as the driver of the vehicle that struck and killed him.

At around 1:50 in the morning on September 5, 2020, Zane Foley (a witness) and the victim walked together after the two had just left a Flying J truck stop where Foley bought cigarettes and the victim bought lottery tickets. Foley, who was previously unfamiliar with the victim, said that, as the two walked together, the victim, who had been talking on a cell phone, abruptly took off running in apparent reaction to a vehicle speeding up as it approached them. At that point, according to Foley, the vehicle, a silver Jeep SUV with a Delaware license tag, struck the victim. The Jeep then turned around and struck the

[1] The court merged second-degree murder for sentencing.

victim a second time, running over him as he laid in the intersection. The Jeep then fled. Foley called 9-1-1. Foley testified that he did not see the driver of the Jeep.[2] Emergency personnel then arrived at the scene and tended to the victim who, although alive at the time, died shortly thereafter.

Later that same day, police officers informed the victim's stepfather, Mark Gilbert, that the victim had been killed. Gilbert knew appellant because appellant had been to Gilbert's house a few times with the victim. He recalled that a few weeks earlier, appellant had showed him a champagne-colored older Jeep that he had just bought. He also knew appellant to drive a red colored "little foreign car." Gilbert said that appellant and the victim had recently been in a "couple" of fights and appellant had "threatened to kill" the victim. Gilbert also said that, as soon as the police told him that the victim had been killed, he told the police that "it was [appellant] who did it."

Brittany Chadwick testified that appellant and his girlfriend, Shannon Myers, had been living with her in September of 2020. She testified that appellant had two vehicles: a red four-door (usually driven by Myers); and a silver Jeep (usually driven by appellant).[3]

[2] A police officer testified that while Foley did not give a "full description" of the driver of the Jeep, he did indicate that the driver and/or occupants of the Jeep were white.

[3] Donald Dacey testified that he bought a gold Jeep Patriot with Delaware tags on it in May of 2020, which he later sold to appellant sometime in August of 2020. Dacey also accompanied appellant and Shannon Myers to purchase a black Saturn Vue from a person named Charlene Herrera.

On September 10, 2020, less than a week after the victim was killed, a Trooper from the North Carolina Highway Patrol stopped a black Saturn Vue driven by appellant for an improper lane change. Myers was the rear-seat passenger in the Saturn. The Trooper confiscated the Delaware license plate affixed to the Saturn because it belonged to some other car. The Trooper then let appellant and Myers go.

Chadwick also knew the victim. She testified that, a few weeks before the victim was killed, appellant "came over to the house after [the victim] beat him up." She said that appellant said that he was going to kill the victim. Chadwick testified that, after the victim was killed, she never saw appellant or Myers again. She said that, on the morning of September 5, 2020, the Jeep was gone but the red four-door was still there until later in the day when that car too "was gone."

Tammy Billiot, appellant's aunt, testified that appellant and Myers stayed with her in Louisiana in August or September 2020 until police officers came and arrested appellant. After some discussion at trial concerning the admissibility of certain statements, the court accepted as evidence a defense proffer that Billiot would have testified "that either at the time or shortly after the federal agents came down to Louisiana and arrested [appellant]," Myers "made a statement something to the effect that [appellant] was taking the rap for her since she was or is . . . pregnant with his child."

The police officer leading the investigation into the victim's death, Sergeant Daniel Rumaker, learned that later on the same day the victim was killed, September 5, 2020, another police officer had found an unattended "gold-ish" colored Jeep with front end damage in the parking lot of what once had been a Taco Bell restaurant. Sergeant Rumaker had the Jeep towed to the police station and sought and obtained a search warrant for it. During a search of the Jeep, the police found, among other things, a black facemask hanging from the turn signal lever. The police also lifted fingerprints and swabbed the Jeep for DNA.

A fingerprint examiner testified that only four of the fingerprint lifts were suitable for comparison. Of those four, three excluded appellant and one was inconclusive.

A DNA and serology expert testified that blood found on the underside of the Jeep matched the victim.

Another DNA expert testified that a swabbing of the black face mask revealed a major male contributor that matched appellant's DNA profile. A swab of the gearshift revealed two contributors which included a major female contributor and a minor male contributor. The female contributor was unknown, but the minor contributor profile matched appellant's DNA profile. A swabbing from the steering wheel contained a mixture of DNA from one male and one female individual. Appellant could not be excluded as a contributor to the mixed DNA profile, and the expert opined that "the probability of that DNA profile is approximately 1.7 quadrillion times more likely if it originated from [appellant] and an unknown U.S. Caucasian than from two unknown U.S. Caucasians." The three unknown female DNA profiles obtained from the swabbings of the gearshift, the steering wheel, and the facemask all came from the same unknown woman.

Sergeant Rumaker confirmed that a search of the victim's cell phone did not reveal "any numbers associated with [appellant]" and that no phone numbers known to be associated with appellant were "in the area" at the time the victim was killed.

DISCUSSION

As noted earlier, appellant contends that the evidence is legally insufficient to support his convictions. Appellant does not contest that the evidence is insufficient to find

that a crime took place, rather, he contends that the evidence is insufficient to support his participation in that crime. As a result, we focus our attention on the evidence of appellant's involvement in the offense and not on the offense itself.

Standard of Review

Maryland Rule 8-131(c), provides that in a court trial, we "review the case on both the law and the evidence [and] will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses."

The standard of review for determining whether there is sufficient evidence to support a conviction 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.'" *State v. Coleman*, 423 Md. 666, 672 (2011) (quoting *Facon v. State*, 375 Md. 435, 454 (2003)); *see also Perry v. State*, 229 Md. App. 687, 696 (2016).

> The purpose is not to undertake a review of the record that would amount to, in essence, a retrial of the case. Rather, because the finder of fact has the unique opportunity to view the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence.

Derr v. State, 434 Md. 88, 129 (2013), *cert. denied*, 573 U.S. 903 (2014) (cleaned up).

Our concern is not whether the verdict is in accord with what appears to be the weight of the evidence, "but rather is only with whether the verdicts were supported with sufficient evidence – that is, evidence that 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 offenses charged beyond a reasonable doubt." *State v. Albrecht*, 336 Md. 475, 478–79 (1994).[4]

Evidence of Appellant's Involvement in the Offense

The State adduced the following evidence at trial supporting its position that appellant was the driver of the Jeep that killed the victim.

First, despite the fact that the Jeep was apparently not registered in his name, appellant is, or was, the owner of the Jeep that struck and killed the victim. Between the testimony of several witnesses for the State, the trial court learned of appellant's position

[4] A major component of appellant's sufficiency of the evidence argument relies on the concept found in older cases (e.g. *West v. State*, 312 Md. 197, 211–12 (1988)) that "a conviction upon circumstantial evidence alone is not to be sustained unless the circumstances are inconsistent with any reasonable hypothesis of innocence."

In *Ross v. State*, 232 Md. App. 72 (2017), this Court, after analyzing the case law addressing that "reasonable hypothesis of innocence" concept, confirmed that there is but one test for the sufficiency of the evidence. *Ross* made clear that that test is not tethered to whether the evidence adduced at trial was circumstantial or direct. *Id*. at 94–102. *Ross* concluded that the "reasonable hypothesis of innocence" concept "was an unworkable mix and it is no longer with us. R.I.P." *Id*. at 101.

Although appellant acknowledges that the case law has disfavored, if not eliminated completely, the "reasonable hypothesis of innocence" concept upon which he relies, he contends that it "survives . . . in some form." Moreover, he asserts that *Ross*'s rejection of the concept "goes too far."

We disagree with appellant. We are bound by *Ross*. Moreover, we agree with *Ross* that the single test for assessing the legal sufficiency of the evidence is the inquiry from *Jackson v. Virginia*, 443 U.S. 307 (1979), which asks "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." *Id*. at 319.

As a result, we decline appellant's invitation to explore his "reasonable hypothesis of innocence" that someone else, specifically Myers, was driving the Jeep when it ran over the victim. Instead, our analysis focuses only on the evidence of appellant's guilt.

in the provenance of the Jeep's ownership and that appellant was the usual operator of it. In addition, appellant's DNA matched DNA samples recovered from inside the Jeep. Moreover, from the evidence that the victim's DNA was found on the underside of the Jeep, a strong inference could be drawn that appellant's Jeep was the Jeep used to kill the victim.

Second, appellant disappeared the day the victim was killed. Chadwick, with whom appellant was living at the time of the offense, testified that she never saw appellant or Myers again after the victim was killed. In addition, five days after the victim was killed, appellant was pulled over in North Carolina. Finally, Billiot testified that appellant and Myers stayed with her in Louisiana in the Fall of 2020. It is well-established in Maryland that evidence of flight after a crime has been committed can be circumstantial evidence of guilt. *Decker v. State*, 408 Md. 631, 640 (2009) (and cases cited therein) See also *Sorrell v. State*, 315 Md, 224, 227-228 (1989).

Third, as independently testified to by two otherwise unrelated witnesses (Chadwick and Gilbert), appellant had previously been in a fight with the victim, and, in the weeks leading up to the killing, announced his intentions to kill him – presumably in retaliation. Thus, appellant had expressed a motive and intention to kill the victim.

Conclusion

The foregoing evidence and the rational inferences drawn therefrom, when taken together and viewed in the light most favorable to the State, are sufficient for a trier of fact to find beyond a reasonable doubt that appellant struck and killed the victim with his Jeep. That it was possible to draw the inference that some other person was driving appellant's

Jeep is of no moment to our legal sufficiency of the evidence analysis as "[c]hoosing between competing inferences is classic grist for the [fact-finder] mill." *Cerrato-Molina v. State*, 223 Md. App. 329, 337 (2015). "As we assess the legal sufficiency of the evidence, our focus . . . is not on what the [fact-finder] should have believed. It is on what the [fact-finder] could have believed." *Ross v. State*, 232 Md. App. 72, 84 (2017) (emphasis in original).

Consequently, we affirm the judgments of the circuit court.

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