Circuit Court for Baltimore County
Case No. C-03-CR-22-000870

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 2013

September Term, 2022

BRANDON GREGORY

v.

STATE OF MARYLAND

Arthur,
Tang,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 27, 2023

*This is a per curiam opinion. Consistent with 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 Baltimore County, Brandon Gregory, appellant, was convicted of one count of second-degree assault. On appeal, he contends that there was insufficient evidence to sustain his conviction. 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) (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) (citation omitted).

Appellant first contends that there was insufficient evidence to sustain his conviction for second-degree assault because the State failed to prove that he touched the victim. At trial, the victim testified that he was punched in the face by both appellant and appellant's brother while he was attempting to tow a car that belonged to appellant's mother. The assault was also witnessed by two employees who worked for the apartment complex where the assault occurred. And one of those employees testified that she saw appellant kick the victim in the shoulder and the rib cage while he was on the ground.

We are persuaded that the foregoing evidence, if believed by the jury, was more than sufficient to sustain appellant's conviction. *See Reeves v. State*, 192 Md. App. 277, 306 (2010) ("It is the well-established rule in Maryland that the testimony of a single eyewitness, if believed, is sufficient evidence to support a conviction."). Appellant asserts that the testimony of these witnesses was unreliable because the victim's glasses "were knocked off and he was unable to see much of what happened" and the employees who observed the assault were standing "seventy-five feet away." However, it is "not a proper sufficiency argument to maintain that the jurors 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). That is because "it is the [trier of fact's] task, not the court's, to measure the weight of the evidence and to judge the credibility of witnesses." *State v. Manion*, 442 Md. 419, 431 (2015) (quotation marks and citation omitted).

Appellant alternatively asserts that, even if he hit the victim, the "State did not overcome the[ ] lawful justifications" of self-defense or defense of others. To support this claim, he notes that (1) his mother testified at trial that the victim spit at her family, and (2) the victim admitted that, prior to the assault, he had threatened to kill anyone who tried to get in his tow truck to stop him from towing the vehicle.

As an initial matter, appellant does not attempt to explain why these facts were sufficient to establish a viable claim of self-defense or defense of others. But even if we assume that the evidence at trial was sufficient to generate those defenses, appellant's claim of error is not that the court refused to consider them. In fact, the record

demonstrates that the court allowed appellant to argue these defenses in closing. Instead, appellant essentially asserts that the evidence was insufficient because the State failed to disprove those defenses as a matter of law.

However, in *Hennessy v. State,* 37 Md. App. 559 (1977), we rejected a similar argument stating:

> [Hennessy] concedes by silence that there was sufficient evidence to sustain a manslaughter verdict, but argues that because the State did not affirmatively negate this self-defense testimony, he was entitled to what amounts to a judicially declared holding of self-defense as a matter of law. That is of course, absurd. The factfinder may simply choose not to believe the facts as described in that, or any other, regard[.]

Id. at 561 (internal citations omitted).

Appellant's contention is equally meritless. Although appellant was allowed to argue self-defense and defense of others at trial, the court was "free to believe some, all, or none of the evidence presented" that supported those defenses. *Sifrit v. State*, 383 Md. 116, 135 (2004). And here, the court, as the trier of fact, could reasonably find that appellant did not have reasonable grounds to believe that he or any of his family members were in danger of death or serious bodily harm; that he used excessive force; or that the evidence in support of those defenses was simply not credible. *See, e.g., Rajnic v. State,* 106 Md. App. 286, 291-93 (1995) (finding that sufficient evidence existed from which a jury could reject appellant's claim of self-defense despite the undisputed testimony that the victims were larger than appellant, intoxicated, threatened to beat up appellant, and charged into his bedroom on the heels of those threats). Because the evidence did not establish that appellant acted in self-defense or defense of others as a

matter of law, the court did not err in denying appellant's motion for judgment of acquittal.

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