UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

CONSOLIDATED CASES

No. 0188
September Term, 2015

DARRYL ANDERSON

v.

STATE OF MARYLAND

No. 0333
September Term, 2015

TIERRA FALLIN

v.

STATE OF MARYLAND

Wright,
Reed,
Sharer, J. Frederick
(Retired, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: June 14, 2016

In 2013, appellants, Darryl Anderson and Tierra Fallin, were indicted in the Circuit Court for Baltimore City on numerous charges arising out of allegations that Anderson, with the help of Fallin, shot and killed two victims and attempted to shoot and kill other victims outside a home on Elmora Avenue in Baltimore City. Following a joint jury trial that took place on January 30, 2015, through February 5, 2015, both appellants were found guilty of two counts of second-degree murder, six counts of attempted second-degree murder, and eight counts of conspiracy to commit murder. Additionally, Anderson was found guilty of eight counts of using a handgun in a crime of violence.

On March 24, 2015, both appellants were sentenced to thirty years' imprisonment for each count of second-degree murder, thirty years for each count of attempted second-degree murder, and life in prison for conspiracy to commit murder, with all periods of incarceration to run consecutively to each other. In addition, Anderson was sentenced to a consecutive twenty years' imprisonment, the first five without parole, on one count of use of a handgun in a crime of violence, and a similar concurrent sentence on the remaining seven counts. The remaining conspiracy counts for each appellant merged for the sentencing purposes.

Anderson filed an appeal on March 30, 2015, while Fallin noted hers on April 7, 2015. We consolidated the cases, wherein we are asked to determine whether the evidence was sufficient to sustain appellants' convictions. For the reasons that follow, we answer "yes" and affirm the circuit court's judgments.

Facts

The State's theory of the case was that Fallin had a dispute with Tomeka Bishop ("Bishop") and enlisted Anderson to fire a gun at Bishop's friends and family members who were on or near Bishop's front porch. The victims had known Fallin for many years but did not know Anderson.

Bishop testified that on the day of the incident, June 27, 2013, she was living at 3336 Elmora Avenue with her daughter, Kenterra Wilson, her son, Daqwane Williams ("Daqwane"), and her grandson. At around 4 p.m. on that day, Bishop was having her hair done by a friend on her porch when she heard Fallin yell, "I'm going to light this whole block up, and that bitch right there going to be the first one." Bishop did not pay attention to Fallin because, for a year and a half, Fallin had been saying she wanted to fight Bishop for allegedly telling Fallin's baby's father that he was not the father of Fallin's children.

At around 5 p.m., Bishop's friend, Michelle Hitchens, arrived and began eating crabs with Wilson on Bishop's porch. At one point, one of Fallin's friends was walking down the street carrying one of Fallin's children and Hitchens called the friend over. Fallin then came around the corner and said, "Why you got my baby over that bitch house? Get my baby from over there. I didn't want them bitches seeing my baby." In response, Wilson said, "Go ahead with all that" to Fallin, and the two of them exchanged words. Thereafter, Fallin said, "I can bring 99 bitches round here if I choose to."

While Wilson and Fallin were arguing, Bishop went in the house to call her sister, Dennell Shelly, and niece, Keina Bishop ("Keina"), and asked them to come over because she wanted "to make sure they don't bank me."[1] Fallin continued to talk and was leaving as Shelly and Keina arrived. Both Shelly and Keina spoke to Fallin before Fallin started using her phone. Soon after, Bishop saw Fallin's grandmother "come round there, try to pull [Fallin] around the corner."

Bishop described what happened next as follows:

> I saw Tierra Fallin, Mr. Anderson and [a] young man come around the corner, and then I say, 'Oh, Tierra must have come back to fight.' Next thing I know, she said, 'Do what y'all do. Air this bitch out.' At that point in time I was froze, and I seen all these shots being fired. My sister pushed me into my grass, and that way I ducked and ran next door to my next door neighbor's.

Bishop testified that when she first saw Fallin and Anderson, they were directly across the street from her house. She also stated that she did not see anyone shooting.

On the night of the incident, Bishop was taken to the police station, where she identified a picture of Fallin. Bishop testified that she later contacted police because she saw Anderson's picture. On July 9, 2013, the police showed her a photographic array, from which she selected Anderson's picture. On cross-examination, Bishop testified that she sees Fallin "fairly often" in her neighborhood, but had never seen Anderson before the incident.

[1] According to Bishop, "banked" means being "jump[ed]," which means to be assaulted or beat up by multiple people.

Shelly, Bishop's sister, testified that on June 27, 2013, she received a call from Bishop around 6:45 p.m. and, as a result, she and her daughter, Cierra Williams ("Cierra"), went to Bishop's house. When Shelly arrived, she tried to speak with Fallin to tell her to stop arguing with Bishop. While Shelly and her other daughter, Keina, were trying to calm Fallin down, Fallin took out her phone and said, "They're around here trying to bank me." Shelly then told Fallin, "Nobody's trying to bank you," before walking to Bishop's porch. At that point, Fallin left.

Shelly testified that she was on the porch with Bishop; Cierra; Keina; Keina's girlfriend, Gennie Shird; Hitchens; Wilson; Daqwane; and another young man, when one of Fallin's friends walked by the house, picked up her son at the house next door, and "mugged at" Shelly. No more than ten minutes later, Shelly saw Fallin and Anderson standing across the street, and Fallin said, "Do what you do. Air this motherfucker out." According to Shelly, Anderson then "did his head like in a nod motion. He lift up his shirt. He pulled out the gun . . . . He just started shooting." After the gunshots ended, Shelly looked up to see Fallin and Anderson "running around the corner," then saw that Cierra and Shird were both non-responsive.

Later that night, Shelly spoke to the police and described the shooter as a "[b]rown, husky male" with "dreads," a white hat, white shirt, "pug nose and something on his forehead." Sometime after the incident, the police showed Shelly a photo array while she was at Johns Hopkins Hospital, where Cierra was being treated. Shelly did not make an identification on that day because the shooter "wasn't there." On July 9, 2013,

the police showed Shelly another photo array, from which she selected a picture and identified the man in the picture as the one whom she saw pull a "silver pistol" from "his dip." Like Bishop, Shelly testified that she had never seen Anderson before the incident.

Daqwane, Bishop's son, testified that he lives with his mother at 3336 Elmora Avenue and that he was with his friend, Brian,[2] and other people in front of his mother's house on the day of the incident. Daqwane recalled seeing Shelly, Cierra, and Keina talking to Fallin before Fallin got on her phone and said, "We banking." Afterwards, Daqwane and others were sitting on the steps of his house and the vacant house next door when he saw Fallin and Anderson come around the corner. Daqwane then heard Fallin say, "Do what you do. Air this B out." Anderson then started shooting. Specifically, Daqwane testified that he saw Anderson pull a silver gun out of the front of his pants, and that he heard approximately eight gunshots. According to Daqwane, there was another male with Anderson and Fallin, and he saw all three run away.

On June 28, 2013, Daqwane identified Fallin in a photo array. On July 10, 2013, he identified Anderson in a photo array as "the man who was shooting." Daqwane testified that he had never seen Anderson before this event. On cross-examination, he admitted that, in his tape recorded statement to police, he never said that Fallin stated, "Do what you do." Instead, Daqwane acknowledged that the first time he testified to Fallin saying those words was at trial.

[2] Brian's last name does not appear in the record.

Keina testified that she went to her aunt's house on June 27, 2013, with Shird, because her aunt called and asked her to come. When Keina arrived, she saw her aunt on the front porch and Fallin on the side of the street backing up and talking on the phone. Keina stated that she approached Fallin, asked her what was going on, and advised her to "[l]eave it alone." While they were talking, Fallin's grandmother came and pulled Fallin away. Thereafter, Keina proceeded to Bishop's house.

A few minutes later, Fallin and two men, whom Keina had never seen before, came walking down the street. According to Keina, Fallin was talking to one of the men who had dreadlocks pulled back and wore a hat and a white T-shirt. Keina testified that she heard Fallin say, "Do what you do," after which the man lifted his shirt, pulled out a gun, and started shooting. Keina stated that Shird died as a result of being shot that day. Subsequently, Keina identified Fallin from a photo array, and identified Anderson from a separate array as "[t]he person I identify shot at my aunt house while people were on the porch and steps. My sister Cierra was shot and Gennie was shot and killed."

Cierra testified that Bishop is her aunt and that she and her mother went to her aunt's house on June 27, 2013, because her aunt called her mother and said that some girls were trying to fight her. When they arrived, Cierra greeted the people on her aunt's porch then went across the street with her mother and sister, who both talked to and argued with Fallin until Fallin's grandmother came to get her. Cierra stated that they returned to the porch and after a few minutes, she saw Fallin come down the street with Anderson. Cierra then heard Fallin say, "Do what you do," and then "the gun went off."

Cierra did not see the gun and heard only one shot fired. She was shot in both legs and her head, and required surgery, physical therapy, occupational therapy, and speech therapy. The police later showed Cierra a photo array from which she identified Anderson as "the person that shot me." Cierra testified that prior to the incident, she had never seen Anderson.

Peggy Martin ("Mrs. Martin"), Fallin's grandmother, testified that on one evening in June of 2013, she heard that Fallin was arguing with people in the street so she went to get Fallin and bring her back to her house. Mrs. Martin estimated that there were thirty people out in the street. Upon returning, Mrs. Martin went back into her house, but Fallin stayed outside. At that time, Mrs. Martin; her husband; her son, Maurice; and a man named Kendell Bell were present at her house. Mrs. Martin described Maurice as five-feet-ten-inches tall and bald, and Bell as short and heavy with short hair and no dreadlocks.

Mrs. Martin testified that she rented a house at 913 North Streeper Street for Fallin, and that she may have seen Anderson before at that residence. Mrs. Martin was certain, however, that she had seen Anderson once before when he asked her for some water on the porch of her home.

Leroy Martin ("Mr. Martin"), Fallin's grandfather, testified that in June of 2013, Fallin was living on Streeper Street while he lived in a separate residence with his wife, Maurice, and two of Fallin's daughters. Martin described Maurice as bald and forty-six years old and stated that Bell, who was visiting them at the time, was heavy set with light

skin and fifty years old. Mr. Martin's testimony was consistent with his wife's testimony that Anderson had come to his porch to ask for some water. On cross-examination, Mr. Martin testified that he had never seen Anderson and Fallin together.

Detective Gordon Carew of the Baltimore City Police Department testified that he was the primary detective assigned to investigate the shooting on Elmora Avenue. The description of the shooter given to Det. Carew was a black male with a medium build, dreadlocks, wearing a white T-shirt, and armed with a handgun. Det. Carew testified that he began his investigation with the fathers of Fallin's children, Gerard Guilliam and Gerald Tyler. According to Det. Carew, Guilliam does not have dreadlocks, is five-feet-seven-inches tall, and weighs 170 pounds, and Tyler was incarcerated at the time of the shooting.

Det. Carew testified that on July 1, 2013, he showed a photo array to Shelly that included a picture of Guilliam in which Guilliam had dreadlocks and matched the general description of the shooter. Shelly, however, did not make an identification from that array and "was very adamant that [the shooter] wasn't in that array." As a result, Det. Carew "was satisfied that that was not the person that we were looking for" and "continued the investigation to see if I could identify someone else." Subsequently, Det. Carew showed a different photo array to witnesses, from which Bishop, Shelly, Daqwane, Cierra, and Keina all identified Anderson as the shooter. Det. Carew showed an array that included Anderson's picture to Wilson, Bishop's daughter, but Wilson did not make an identification.

On cross-examination, Det. Carew testified that a man named Tavon Gwynn came up in his investigation while monitoring Gerald Tyler's jail phone calls. According to Det. Carew, someone who called Tyler identified himself as Tavon. Gwynn is Tyler's brother, has a history with guns, and fit the description of the shooter.

Officer Kweisa Gaskew of the Baltimore City Police Department testified that she was the first patrol officer to respond to 3336 Elmora Avenue on June 27, 2013, at which time she observed 15-20 people outside. Ofc. Gaskew recalled that people were "banging chairs, throwing things," "yelling, screaming," and were "distraught" and "confused."

Karen Sullivan, a firearms and toolmark examiner with the Baltimore City Police Department, testified as an expert in firearms and toolmark identification and stated that she examined two bullet cores, a lead fragment, a bullet jacket, and a bullet jacket fragment for this case. Sullivan opined that the items she tested were fired from a .38 caliber or a .357 caliber gun but, because they were too damaged, she was not able to match them to a gun. She added, however, that this type of ammunition is most commonly used with revolvers.

Dr. James Locke, an Assistant Medical Examiner with the Office of the Chief Medical Examiner, testified as an expert in forensic pathology and stated that he performed the autopsy of Shird.[3] Dr. Locke testified that Shird had a gunshot wound in

[3] Dr. Locke was accepted as an expert witness without objection from appellants.

her back which, he opined, was the cause of her death. According to Dr. Locke, the manner of Shird's death was homicide.

Dr. Locke also performed the autopsy of Hitchens, who suffered a gunshot wound to her arm. Dr. Locke opined that Hitchens's cause of death was "pulmonary thromboemboli, which is essentially blood clots due to deep vein thrombosis occurring in association with a gunshot wound to the arm," and that the manner of death was homicide. On cross-examination, Dr. Locke testified that pulmonary embolisms can happen for a variety of reasons including genetics, clotting disorders, and obesity. He also stated that Hitchens was shot on June 27, 2013, had surgery on July 2, 2013, and was released on July 5, 2013.

Deputy U.S. Marshall Tim Burks testified that he arrested Anderson in Birmingham, Alabama, on July 17, 2013, pursuant to an arrest warrant. Following the trial, the jury found appellants not guilty of two counts of first-degree murder and six counts of attempted first-degree murder. The jury, however, found both appellants guilty of the second-degree murder of Shird and Hitchens; attempted second-degree murder of Bishop, Wilson, Keina, Cierra, Shelly, and Daqwane; and eight counts of conspiracy to kill. Lastly, the jury found Anderson guilty of eight counts of use of a handgun in the commission of a crime of violence, but acquitted Fallin of those charges.

Additional facts will be included as they become relevant to our discussion, below.

Discussion

Anderson and Fallin both argue that the evidence was insufficient to sustain their convictions on all charges. Specifically, Anderson contends that the State was unable to demonstrate a connection between him and Fallin, the lead detective abandoned other leads without pursuing them, the witnesses' identifications were "vague" and their accounts of the shooting were inconsistent, and the State failed to prove that Hitchens "was a victim of murder." Fallin repeats the same contentions and adds that "[t]here was simply no evidence presented that [she] had any specific intent to commit the murder of the . . . victims who happened to be in the area at the time of the incident," with the exception of Bishop.

In response, the State first argues that several arguments raised by the appellants are not preserved for review because they were either not raised below, or not raised with sufficient particularity. If preserved, the State contends that there was sufficient evidence for the jury to convict both Anderson and Fallin. Assuming without deciding that all issues were preserved, we agree with the State that appellants' convictions should stand.

"The standard of review for appellate review of evidentiary sufficiency is whether any rational trier of fact could have found the essential elements of the crimes beyond a reasonable doubt." *Moye v. State*, 369 Md. 2, 12 (2002) (citations omitted). "It is not our role to retry the case" and "we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence." *Smith v. State*, 415 Md. 174, 185 (2010) (internal citations omitted). Instead, we review the evidence in a light most favorable to the State

and "defer to any possible reasonable inferences the jury could have drawn from the admitted evidence and need not decide whether the jury could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence." *State v. Mayers*, 417 Md. 449, 466 (2010) (citations omitted).

I. Second Degree Murder

In this case, the circuit court instructed the jury regarding second-degree murder as follows:

> Second-degree murder is the killing of another person with either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result. Second-degree murder does not require premeditation or deliberation.
>
> In order to convict the defendants of second-degree murder, the State must prove that the defendants caused the [death] of Gennie Shird and Michelle Hitchens. And that the defendant[s] engaged in the deadly conduct either with the intent to kill or with the intent t[o] inflict such serious bodily harm that death would be the likely result.

The jury was also instructed on the theory of accomplice liability:

> The defendant may be guilty of the crime of murder as an accomplice even though the defendant did not personally commit the acts that constitute that crime.
>
> In order to convict the defendant of murder as an accomplice, the State must prove that the murder occurred and that defendant with the intent to make the crime happen knowingly aided, counselled, commanded or encouraged the commission of the crime, or communicated to a primary actor in the crime that he or she was ready, willing and able to lend support if needed.

> . . . The mere presence of the defendant at the time and place of the commission of a crime is not enough to prove that the defendant is an accomplice.
>
> If presence at the scene of the crime is proven, the fact may be considered along with all the surrounding circumstances in determining whether the defendant intended to and was willing to aid the primary actor. For example, by standing by as a lookout to warn the primary actor of danger, and whether the defendant communicated that willingness to the primary actor.

Here, several witnesses testified to seeing Anderson pull out a gun and start shooting at the crowd on Elmora Avenue.[4] Based on that evidence, a rational trier of fact could have found that by firing a handgun into a crowd of people where Hitchens and Shird were present, Anderson intended to kill them, or inflict such serious bodily harm upon them that death would be the likely result. *See Harrison v. State*, 382 Md. 477, 492 (2004) ("Where the means employed to commit the crime against a primary victim create a zone of harm around that victim, the factfinder can reasonably infer that the defendant intended that harm to all who are in the anticipated zone." (Citation omitted)). Thus, his convictions for second-degree murder were supported by sufficient evidence.

Similarly, several witnesses testified to seeing Fallin come to the scene of the incident with Anderson, and to hearing Fallin say "Do what you do,"[5] just before

[4] Appellants note that some witnesses testified to seeing another man with Anderson and Fallin, thus creating "contradictory evidence." We disagree. Even if a third person had been present, the State's witnesses at trial identified Anderson – and not the third person – as the shooter.

[5] In addition, some of those witnesses testified to hearing Fallin say "Air this [] out." We disagree with Fallin's contention that the witnesses' testimonies were "entirely inconsistent" simply because some recalled her saying only the first (continued…)

Anderson started shooting. As such, a rational juror could draw a reasonable inference that Fallin, "with the intent to make the crime happen knowingly . . . counselled, commanded or encouraged the commission of the crime," and was acting as Anderson's accomplice. *See Elmer v. State*, 119 Md. App. 205, 220 (1998) ("Accomplice liability is established when the defendant has knowingly aided, commanded, counseled, or encouraged the actual perpetrator." (citing *Pope v. State*, 284 Md. 309, 331 (1979)), *rev'd on other grounds*, 353 Md. 1 (1999). Under that theory of liability, there was sufficient evidence to sustain her conviction for second-degree murder. *See Harvey v. State*, 111 Md. App. 401, 413 (1996) ("If directing a deadly weapon at a vital part of the human anatomy can give rise to a permitted inference of an intent to kill, which it most assuredly can, then, by parity of reasoning, aiding and abetting the directing of a deadly weapon at a vital part of the human anatomy can give rise to the same permitted inference.").

Appellants argue that the medical examiner's testimony left open the possibility that the blood clots that caused Hitchens's death could have been the result of something other than the gunshot wound to the arm that she suffered that day. For example, they fault Dr. Locke for failing to perform a body mass index analysis, failing to obtain a

sentence and two others differed in their recollection of the third word in the second sentence. *Bailey v. State*, 16 Md. App. 83, 93-94 (1972) ("Trial testimony frequently is replete with contradictions and inconsistencies, major and minor" but it is "at the very core of the common law trial by jury . . . to trust in its fact finders, after full disclosure to them, to assess the credibility of the witnesses and to weigh the impact of their testimony.").

social history report regarding whether Hitchens smoked or took oral contraceptives, or failing to research whether she had any kind of clotting disorder. Appellants, however, disregard the portion of Dr. Locke's testimony wherein he opined that Hitchens's cause of death was "pulmonary thromboemboli . . . occurring *in association with a gunshot wound to the arm*," and that the manner of death was *homicide*. (Emphasis added). We reiterate that when reviewing evidentiary sufficiency, "[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 . . . . We do not re-weigh the evidence, but we do determine whether the verdict was supported by sufficient evidence, direct or circumstantial, which could convince a rational trier of fact of the defendant's guilt of the offenses charged beyond a reasonable doubt." *Pinkney v. State*, 151 Md. App. 311, 326 (2003) (internal citations omitted). Here, there was sufficient evidence from which a juror could find that the blood clots that caused Hitchens's death resulted from the gunshot wound she suffered on that day.

II. Attempted Second-Degree Murder

"To be guilty of the crime of attempt, one must possess a specific intent to commit a particular offense and carry out some overt act in furtherance of the intent that goes beyond mere preparation." *Harrison*, 382 Md. at 488 (citations omitted). For second-degree murder, "the State has the burden to prove a specific intent to kill." *Id.* (citations omitted). In sum, a defendant has committed second-degree attempted murder "when he

or she harbors a specific intent to kill the victim and has taken a substantial step toward killing the victim." *Id.* at 489.

In this case, a juror could find that Anderson had the specific intent to kill each victim and took a substantial step beyond mere preparation in furtherance of that intent when he fired a hail of bullets into the crowd gathered on Elmora Avenue. As for Fallin, there was evidence presented that she argued with several people near Bishop's house that evening and threatened to "light this whole block up." Thus, we reject Fallin's contention that "[t]here was simply no evidence presented that [she] had any specific intent to commit the murder of the other victims," aside from Bishop. *See Harvey*, 111 Md. App. at 434 (where appellant commanded her male companion to shoot and an unintended victim was struck, "there nonetheless could have been on [appellant's] part, under the theory of concurrent intent . . . a specific intent to kill anyone and everyone in the 'kill zone' closely surrounding the intended target").

III. Conspiracy to Commit Murder

"A criminal conspiracy consists of the combination of two or more persons to accomplish some unlawful purpose, or to accomplish a lawful purpose by unlawful means." *Khalifa v. State*, 382 Md. 400, 436 (2004) (citation omitted). To be found guilty of conspiracy, the defendant "must have a specific intent to commit the offense which is the object of the conspiracy." *Alston v. State*, 414 Md. 92, 114-15 (2010). With regard to a conspiracy to murder, we determine whether there was "a malicious intent to kill with deliberation and premeditation . . . as the conspiracy necessarily supplies the elements of

deliberation and premeditation." *Id.* at 117 (citing *Mitchell v. State*, 363 Md. 130 (2001)). In making that determination, we may infer conspiracy from the actions of the accused. *See Cooper v. State*, 128 Md. App. 257, 267 (1999) (explaining that "a conspiracy can be inferred from the actions of the accused") (citing *Townes v. State*, 314 Md. 71, 75 (1988)). We have previously stated:

> In conspiracy trials, there is frequently no direct testimony, from either a co-conspirator or other witness, as to an express oral contract or an express agreement to carry out a crime. It is a commonplace that we may infer the existence of a conspiracy from circumstantial evidence. If two or more persons act in what appears to be a concerted way to perpetrate a crime, we may, but need not, infer a prior agreement by them to act in such a way. From the concerted nature of the action itself, we may reasonably infer that such a concert of action was jointly intended. Coordinated action is seldom a random occurrence.

Jones v. State, 132 Md. App. 657, 660 (2000).

In this case, witnesses testified to seeing Anderson and Fallin walk around the corner to Bishop's house, where Fallin told Anderson to "[d]o what you do. Air this [] out." Anderson then fired as many as eight shots at the victims, before fleeing with Fallin. The concerted nature of these actions was sufficient to prove an agreement between Anderson and Fallin to commit murder.

Furthermore, the fact that Anderson had previously been on the porch of Fallin's grandparents' home, and that Mrs. Martin "might have" seen Anderson at Fallin's house sometime in the past, established a prior connection between the two. Accordingly, there was sufficient evidence to sustain appellants' convictions for conspiracy.

IV. Use of a Handgun in a Crime of Violence

Md. Code (2002, 2012 Repl. Vol.), § 4-204(b) of the Criminal Law Article prohibits a person from "us[ing] a firearm in the commission of a crime of violence." In this case, Shelly, Daqwane, and Keina all testified to seeing Anderson pull out a gun and begin shooting at the crowd on Elmora Avenue. Such evidence was sufficient to support his conviction for use of a handgun in a crime of violence.

Thus, for all of the foregoing reasons, we affirm both appellants' convictions.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.