UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0492

September Term, 2015

CHARLES HENRY HALL

v.

STATE OF MARYLAND

Wright,
Graeff,
Eyler, James R.
(Retired, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: March 22, 2016

Following a jury trial in the Circuit Court for Prince George's County, Charles Henry Hall, appellant, was convicted of robbery with a dangerous weapon and related offenses. The court sentenced appellant to an aggregate term of 40 years, all but 25 years suspended.

On appeal, appellant presents the following question for this Court's review:

Was the evidence sufficient to establish [appellant]'s criminal agency?

For the reasons set forth below, we shall affirm the judgments of the circuit court.

FACTS AND PROCEDURAL HISTORY

On December 6, 2012, at approximately 9:30 p.m., Daniel Williams and Christopher Wokocha met two men at Mr. Williams' house in Beltsville, Maryland. Mr. Wokocha had placed an ad on Craig's List to sell two pairs of Air Jordan sneakers that belonged to Mr. Williams.[1] Mr. Wokocha had arranged this meeting by exchanging text messages with someone having a 202 area code. Neither Mr. Wokocha nor Mr. Williams had met the two men before.

Mr. Wokocha and Mr. Williams showed the two men the more expensive pair of shoes, before taking that pair inside Mr. Williams' house and bringing out the other pair of shoes. Mr. Wokocha and Mr. Williams discussed price with the shorter of the two men, who did most of the talking. The two men said they had cash in their vehicle and went to go retrieve it. When they returned, however, the taller man pointed a gun at Mr. Wokocha

[1] Craig's List is a website of "[l]ocal classifieds and forums" where users can find postings for "[j]obs, housing, goods, services, romance, local activities, advice – just about anything really." *Factsheet*, CRAIGSLIST, available at https://perma.cc/U5UW-DSNF.

and demanded that he and Mr. Williams hand over "everything." Mr. Williams described the gun as a black semiautomatic handgun.

While the taller man held the gun on Mr. Wokocha and Mr. Williams, the shorter man patted them down, taking Mr. Wokocha's wallet, which contained $400 in cash and his credit cards, Mr. Williams' cell phone, and the one pair of shoes. The taller man then told Mr. Wokocha to get the other pair of shoes from inside the house. Mr. Wokocha went inside Mr. Williams' house, but he did not return. Meanwhile, the shorter man put the stolen items in their vehicle and told the taller man to leave. The two men left in an older model, white Monte Carlo. Mr. Wokocha estimated that the whole transaction took approximately 25 minutes.

Mr. Wokocha called 911.[2] He reported a robbery and described the suspects to the dispatcher. Corporal Michael Anis arrived at approximately 10:00 p.m. and spoke with Mr. Wokocha and Mr. Williams.[3] Mr. Wokocha described the shorter attacker as African-American, approximately 5 feet 8 inches tall, 24-28 years old, with fuzzy facial hair and silver shoes. He described the taller man as African-American, approximately 6 feet 1 inch tall, 25-29 years old, with fuzzy facial hair and a black pea coat.

[2] The 911 call was played for the jury.

[3] All law enforcement officers in this case are members of the Prince George's County Police Department, unless otherwise noted.

Mr. Williams estimated that the shorter man was 5 feet 11 inches tall, and he was wearing "black on white racer pants" and a black fleece. The taller man wore a black hat, green cargo pants, and Nike "Air Rookies" shoes.

Corporal Andrew Batavik was the lead investigator on the case. Mr. Wokocha provided the cell phone number that one of the men used to arrange the meeting, and Corporal Batavik was able to identify Rodney Graham as the owner of the cell phone. Both Mr. Williams and Mr. Wokocha separately identified Mr. Graham in photographic arrays as the shorter man.

A few days after the incident, metropolitan police stopped a white Chevrolet Monte Carlo, owned by Mr. Graham, in Washington, D.C. Mr. Graham was wearing the shoes stolen in the robbery. The police also recovered Mr. Graham's cell phone, which was the same phone used to set up the meeting with Mr. Wokocha and Mr. Williams.

After the vehicle had been delivered to Prince George's County Police, Detective Kelvin Scruggs searched the vehicle for evidence. He recovered a black .45 caliber semiautomatic handgun, which had been stored in a "Jordan" shoebox in the trunk. Detective Scruggs also discovered a black Raiders hat in the vehicle. Detective Scruggs processed the vehicle and the handgun for fingerprints and DNA evidence. There was no forensic evidence linking appellant to the vehicle or the gun.[4]

[4] Detective Kelvin Scruggs testified that he had received no lab reports concerning this evidence at the time of the trial.

A couple of months later, on February 28, 2013, Corporal Batavik asked Mr. Wokocha and Mr. Williams to come to the police station for another photographic array. Mr. Williams and Mr. Wokocha independently identified appellant as the taller man – the one who had held a gun on them in the attack. Appellant was arrested and charged for his role in the December robbery.

A jury convicted appellant of two counts of robbery with a dangerous weapon, two counts of robbery, two counts of theft of property under $1,000, two counts of first-degree assault, two counts of second-degree assault, two counts of conspiracy to commit robbery with a dangerous weapon, two counts of use of a firearm in the commission of a crime of violence, possession of a firearm following a conviction of a crime of violence, and possession of a firearm following a disqualifying crime. This appeal followed.

DISCUSSION

Appellant contends that the evidence was not sufficient to sustain his convictions because there was insufficient evidence that he had participated in the robbery. He asserts that the in-court identifications of appellant by Mr. Wokocha and Mr. Williams were entitled to "minimal weight" given discrepancies in their identifications.

The State contends that this argument is not preserved. In any event, it asserts that the argument is without merit.

We address the State's preservation argument first. Rule 4-324(a) provides that a "defendant may move for judgment of acquittal . . . at the close of the evidence offered by the State and, in a jury trial, at the close of all the evidence. The defendant **shall state with**

particularity all reasons why the motion should be granted." (Emphasis added). This Court has explained that "'[t]he language of the rule is mandatory, and review of a claim of insufficiency is available only for the reasons given by appellant in his motion for judgment of acquittal.'" *Albertson v. State*, 212 Md. App. 531, 570 (quoting *Whiting v. State*, 160 Md. App. 285, 308 (2004)), *cert. denied*, 435 Md. 267 (2013).

"'A defendant may not argue in the trial court that the evidence was insufficient for one reason, then urge a different reason for the insufficiency on appeal in challenging the denial of a motion for judgment of acquittal.'" *Hobby v. State*, 436 Md. 526, 540 (2014) (quoting *Tetso v. State*, 205 Md. App. 334, 384 (2012)). The rule's particularity requirement mandates that defendants present a particularized argument.

Here, appellant made no particularized argument that the evidence was insufficient to show his agency in the robbery. At the conclusion of the State's presentation of evidence, counsel for appellant stated: "The defense does make a motion for judgment of acquittal. At this point **we will submit on the evidence**, given that it is an identification case, not a case of whether or not it occurred." (Emphasis added). This was insufficient to preserve the claim presented on appeal. *Peters v. State*, 224 Md. App. 306, 353 (2015) ("Choosing to 'submit' without articulating reasons to support acquittal is a waiver of any appellate challenge to the sufficiency of the evidence.") (citing *Garrison v. State*, 88 Md. App. 475, 478 (1991)), *cert. denied*, 445 Md. 127 (2015).

At the conclusion of all the evidence, appellant renewed the motion for a judgment of acquittal, stating: **We will submit on the evidence provided.** (Emphasis added).

Counsel then argued that there was insufficient evidence of a meeting of the minds to support the conspiracy charge, a claim the circuit court rejected, and which is not raised on appeal.

The record reflects that appellant did not present a particularized statement challenging the sufficiency of the evidence as to his agency in the robbery. Under these circumstances, appellant's current challenge to the sufficiency of the evidence as to his identity is not preserved for this Court's review.

Even if the issue were preserved for review, we would find it to be without merit. "The standard for our review of the sufficiency of the evidence is '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.'" *Neal v. State*, 191 Md. App. 297, 314 (2010) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)), *cert. denied*, 415 Md. 42 (2010). "Factual determinations, such as the resolution of conflicting evidence and weighing the credibility of witnesses, are always matters for the fact finder." *Abbott v. State*, 190 Md. App. 595, 615 (2010).

Here, appellant contends that Mr. Wokocha's and Mr. Williams' in-court identifications of appellant should not have been given much weight because both witnesses' descriptions of their assailant contained discrepancies. Appellant argues that in-court identifications are highly suggestive, and eyewitnesses often incorrectly identify people.

Appellant fails to acknowledge that Mr. Wokocha and Mr. Williams not only identified him in-court, but they independently identified appellant as the taller assailant in photographic arrays prior to trial. These pre-trial identifications of appellant, as well as the in-court identifications, provided a rational trier of fact with sufficient evidence to support appellant's convictions. *See Chambers v. State*, 81 Md. App. 210, 221 (1989) ("[I]dentification by a single witness of the accused as the person who committed the offense is, if believed, sufficient to sustain a conviction.").

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.