UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1137

September Term, 2015

PARRISH ANTONIO KENDALL

v.

STATE OF MARYLAND

Krauser, C.J.,
Woodward,
Salmon, James P.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: September 27, 2016

On June 18, 2015, a jury sitting in the Circuit Court for Baltimore County convicted appellant, Parrish Antonio Kendall, of five counts of robbery and one count of attempted robbery. The court sentenced appellant to a total of ninety years of incarceration and suspended forty-five years of that sentence. The court placed appellant on supervised probation for five years upon release. Appellant presents the following questions for our review:

1. Did appellant sufficiently express dissatisfaction with counsel to require the trial court to comply with Rule 4-215?

2. Did the trial court err in admitting hearsay evidence?

3. Was the evidence legally insufficient to sustain four of the five convictions for robbery, and the sole conviction for attempted robbery?

For the reasons discussed below we conclude that there was no error and thus shall affirm.

BACKGROUND

Between January and July 2014, three "dollar" stores located within close proximity of each other in Baltimore County were robbed. The first robbery occurred on January 31, 2014 at the Dollar General Store located in a shopping center at 8659 Philadelphia Road in Rosedale. Kayla Grimes and Adrian Parker were working in the store around closing time when an African-American man entered the store with a scarf tied around his face. The man quickly left, but returned a short time later. When he returned he demanded the two employees give him money. He then threw them a bag and ordered them to fill it with the money. After placing over $500 in the bag the man told them that

they had five seconds to get to the back of the store or he would kill them. The employees went to the back of the store as directed, and the man then left with the money.

In the evening of June 6, 2014, Susan Witt and Felicia Long were working at the same Dollar General store on Philadelphia Road. Not noticing anyone in the store, Long locked the doors around 10:00 p.m., the store's regular closing time. As she pulled out the cash registers for the night, an African-American man wearing sunglasses and gloves approached the counter. Startled, she asked him if she could assist him, whereupon the man asked for the manager and placed a note on the counter. Responding that she was the manager, Long began to read the note when the man told her that she had ten seconds to get all of the money out of the safe or she would get hurt. The man then threw her a bag to put the money in, and Long began to open the safe and cash registers. As she was getting the money together, the man began to count down from ten. After Long gave the man around $600, the man told Long and Witt to walk to the back of the store and remain there until he exited the store.

In the evening of June 8, 2014, George Campbell and Terrell Thigpen were working at the Family Dollar store located at 8414 Philadelphia Road, which is approximately three-fourths of a mile to a mile and a half from the Dollar General store. Just before the store's closing time of 10:00 p.m., an African-American man wearing sunglasses, a baseball style hat, and one glove, walked into the store. The man, who had tattoos on one arm, walked to the first aisle of the store and called out to Campbell for assistance. Campbell approached the man who then asked Campbell if he was the manager. Campbell responded that he was the manager, whereupon the man handed him a note that read, "do not make a sound, put

the money in the bag." Campbell took the note, walked to the front where the register was located, and informed Thigpen that they were being robbed. The man followed Campbell to the register and demanded all of the money in the safe and in the "drawers." The man handed Campbell a drawstring type bag, and Campbell placed the money in the bag. While Campbell was placing the money in the bag, the man began to count down. When the man was done with the count down, Campbell gave him the bag, which now held over $1,000, and the man told Campbell and Thigpen to walk to the back of the store and remain there until he left the store.

In the evening of June 23, 2014, Jessica Foreman and Jennifer King were working at the Dollar Tree which was located in the same shopping center as the Dollar General that had been robbed on January 31st and June 6th. Approximately ten minutes before closing, a man walked into the store. Five minutes after the pair closed the store and locked the doors, the man walked up to Foreman's register. The man, who was African-American, was wearing sunglasses, a blue latex glove on one hand, and a fitted sports sleeve on the other hand. The man, "acting real like skittish," then placed a soda and a note on the counter. The man told Foreman to read the note, which read "do not move, this is not a game." He next told Foreman to call King to the register and told her to read the note as well. The man then told Foreman and King that they had ten minutes to get the money out of the safe and cash registers. After they gave the man between $2,500 and $3,000 dollars, he told them to walk to the back of the store until they heard the front door shut. Foreman identified appellant in court as the man who robbed the store that evening,

In the evening of July 19, 2014, Frederick Boykin and Terrell Thigpen were working at the Family Dollar store that had been previously robbed on June 8, 2014. Approximately five minutes before the store's 10:00 p.m. closing time, a man wearing a cap and sunglasses walked into the store. Thigpen, who had been present during the June 8th robbery, became frightened after he observed the man come into the store in "the exact same way the last person came in, the same getup, everything." Both Boykin and Thigpen left the store and called the police. Boykin re-entered the store prior to the arrival of the police, whereupon the man inside met him at the door and said that he had been looking for the employees. The man then walked to the counter, where he had placed a soda.

Around this time, Officer Brian Rawleigh of the Baltimore County Police Department responded to the store. As he walked up to the store, he looked through the store's front windows and saw a man wearing a hat, sunglasses, and a white sleeve on his right forearm. Officer Rawleigh made eye contact with the man, who quickly turned around and walked down an aisle. Inside, Boykin too noticed the police, and heard the man say "oh shoot" as he walked away from the counter and down an aisle; the man also removed his hat, sunglasses and arm sleeve. Officer Rawleigh then approached the man as he stood in an aisle "fidgeting" with greeting cards.

After initially giving a false name, the man was identified as appellant and was eventually arrested at the scene. Officer Rawleigh identified appellant in court as the man he encountered and arrested at the store that evening. Appellant was searched and found with a "cut off" white sock covering his forearm which was later noted to have a large tattoo. A "plastic store bag" from the Downtown Locker Room store was discovered

tucked into appellant's waistband, and a Lincoln car key was also found on his person. Soon thereafter, it was discovered that the key operated a gray Lincoln Continental, which, despite numerous parking spaces sitting empty in front of the store, was parked on a side street and behind pine trees that blocked the view of the shopping center. The car, which was warm to the touch when officers arrived, was towed to police headquarters and searched. Located inside the car was a jacket with a distinctive arm patch that Detective Jeffrey Mickle of the Baltimore County Police Department testified matched the video surveillance from the January 31st robbery.[1] Crumpled and stuffed inside the jacket was a Downtown Locker Room bag. Also found inside the car was another bag, a Maryland Identification card for appellant, and six latex gloves.

DISCUSSION

Discharge of Counsel

Appellant's first allegation of error is that prior to trial, he indicated "dissatisfaction with counsel" that should have triggered a Rule 4-215(e) inquiry, but the court failed to comply with the requirements of that rule. The State responds that the "trial court was not required to conduct a rule 4-215 inquiry," because appellant "never manifested a desire to discharge counsel." We hold that appellant did not manifest a present intent to seek a

[1] Surveillance video was retrieved by the police from the January 31st, June 6th, and July 19th incidents and was admitted into evidence and shown to the jury. The video surveillance system was not working during the June 23rd robbery, and the video from the June 8th robbery was incorrectly downloaded by a store manager and therefore not recovered by police.

different legal advisor, and therefore the court was not required to conduct a Rule 4-215(e) inquiry.

Prior to starting trial, defense counsel indicated that he thought his client wished a jury trial, whereupon the following exchange occurred:

> THE COURT: Well, let's chit chat with him about that. Are you [appellant]?
>
> [APPELLANT]: Yes, sir.
>
> THE COURT: How are you doing today?
>
> [APPELLANT]: All right.
>
> THE COURT: All right. Listen, have you at some point, did you receive a copy of your charging document, which I have as approximately eighteen charges?
>
> [APPELLANT]: I never got a copy of it like from my attorney, no.
>
> THE COURT: But did he talk to you about your charges? Did your attorney talk to you about your charges?
>
> [APPELLANT]: No.

The court then advised appellant of his charges and questioned him as to whether he knew "the difference between a Court trial and a jury trial." Appellant responded that he did, and the following occurred:

> THE COURT: Okay. Do you believe you've had sufficient time to discuss the, the matter of your case with your attorney?
>
> [APPELLANT]: No.
>
> THE COURT: Okay, Why not?

[APPELLANT]: Because I only see my attorney, well, I got locked up in July of last year and as far as seeing him or talking to him about the case since he was assigned to my case, I talked to him one time in, in Eastern Shore on, on, on, you know, on TV. We talked for like ten, fifteen minutes at the most and then after that, I didn't see him anymore until now.

THE COURT: Okay. Well —

[APPELLANT]: I, I wrote him letters, ask that he come see me, my family called asked if he could come and see me, you know, nobody (inaudible).

THE COURT: Without answer, without telling me what you said, did, well, you, I don't want, because I don't want to get into attorney/client privilege, but when you talked with [defense counsel], did he talk to you about your case?

[APPELLANT]: Yeah, we started to go over it.

THE COURT: Okay.

[APPELLANT]: And then —

THE COURT: Don't tell me what he said now.

[APPELLANT]: Yeah, no, I was (inaudible) started to go over it —

THE COURT: All right, but he talked about your case —

[APPELLANT]: —and then he cut it short, they cut it, they cut, they cut our conversation short, our visit short.

THE COURT: All right. [defense counsel], you believe you believe you're prepared for trial?

[DEFENSE COUNSEL]: I am.

Where a criminal defendant has expressed a desire to discharge counsel, Maryland Rule 4-215(e) provides the applicable court procedure as follows:

> **(e) Discharge of Counsel--Waiver.** If a defendant requests permission to discharge an attorney whose appearance has been entered, the court shall permit the defendant to explain the reasons for the request. If the court finds that there is a meritorious reason for the defendant's request, the court shall permit the discharge of counsel; continue the action if necessary; and advise the defendant that if new counsel does not enter an appearance by the next scheduled trial date, the action will proceed to trial with the defendant unrepresented by counsel. If the court finds no meritorious reason for the defendant's request, the court may not permit the discharge of counsel without first informing the defendant that the trial will proceed as scheduled with the defendant unrepresented by counsel if the defendant discharges counsel and does not have new counsel. If the court permits the defendant to discharge counsel, it shall comply with subsections (a)(1)-(4) of this Rule if the docket or file does not reflect prior compliance.

Where applicable, "Rule 4-215(e) demands strict compliance." *State, v. Hardy*, 415 Md. 612, 621 (2010). Departure from the provisions of the rule constitute reversible error. *Id.* Interpretation of the Maryland Rules is "a question of law; as such, we review a trial court's determinations on matters of interpretation without deference." *Pinkney v. State*, 427 Md. 77, 88 (2012).

"[A] Rule 4-215(e) inquiry is not mandated unless counsel or the defendant indicates that the defendant has a present intent to seek a different legal advisor." *State v. Davis*, 415 Md. 22, 33 (2010). The rule however, does not define what "constitutes a 'request' to discharge counsel, thereby requiring the colloquy to secure the defendant's reasons[.]" *Gambrill, v. State*, 437 Md. 292, 302 (2014). A request to discharge counsel "need not be made in writing or even formally worded*." Davis*, 415 Md. at 31. "There is

no 'talismanic phrase' that a defendant must utter to make such a request[.]" *Hardy*, 415 Md. at 622 (quoting *Leonard v. State*, 302 Md. 111, 124 (1985)). "Any statement that would reasonably apprise a court of defendant's wish to discharge counsel will trigger a Rule 4-215(e) inquiry[.]" *Davis* 415 Md. at 32. A Rule 4-215(e) inquiry is required where a defendant makes a statement that "constitutes more a declaration of dissatisfaction with counsel than an explicit request to discharge." *State v. Hardy*, 415 Md. 612, 623 (2010). A general declaration of dissatisfaction with counsel, such as a defendant complaining that counsel is not "effectively representing" him, however, will not trigger the rule. *Wood v. State*, 209 Md. App. 246, 288 (2012), *aff'd* 436 Md. 276 (2013). There must be some indication "that the defendant has a present intent to seek a different legal advisor." *Davis*, 415 Md. at 33).

In the present case, there was no indication from appellant's comments to the trial court regarding a jury trial that he wished to discharge counsel. Although appellant stated that he did not get a copy of his charges or talk to his attorney about his charges, he did not indicate that he wished to discharge his attorney on that basis. Although appellant lamented the limited time that he had with his attorney to prepare for trial, he indicated that he spoke with his attorney regarding the case, but that "they cut our conversation short, our visit short." It is unclear from the record, who he felt limited his time with his attorney. It appears however, that his complaint was not with defense counsel's representation, but rather regarding the time that he had to prepare with counsel. Nothing in appellant's statements indicated that he had "a present intent to seek a different legal advisor," and therefore a Rule 4-215(e) inquiry was not mandated. *See Davis*, 415 Md. at 33.

Admission of Witness Statement

Appellant next asserts that the trial court committed error when it admitted a witness's statement containing inadmissible hearsay regarding the July 19th attempted robbery. The State responds that the statement did not constitute hearsay as it was not offered to prove the matter asserted therein. The State further argues that, "[e]ven if this Court determines that Mr. Boykins' statement was hearsay, it still was admissible as falling within the "state of mind" exception to the hearsay rule." Finally, the State argues that, "even if the trial court erred in admitting Mr. Boykin's statement, any error was harmless because it merely repeated Mr. Thigpen's testimony." We hold that the statement did not constitute hearsay and therefore was properly admitted. Further, even if the statement did contain hearsay, it was properly admitted under the "state of mind" exception.

Boykin testified that he was the store manager of the Family Dollar store and was working with Thigpen on July 19, 2014.

> [STATE]: What, tell us what happened?
>
> MR. BOYKIN: On that night, we were about to close, I think it was probably about like five minutes before we were about to close and then a guy walks in and my cashier and I, we were up front. I think he was doing the cigarette count and I was doing something, I don't remember what I was doing but a guy comes in and he had on a cap and sunglasses and I spoke to him, he walked straight, straight ahead into the pet aisle because the pet aisle is right in front of the door and I turned to Terrell and I said it's kind of odd, you know, he comes in with a cap and sunglasses. Then that's when, I don't know if the guy like came back up to the front area where we were able to see him but **my cashier got kind of scared and he said that –**

[DEFENSE COUNSEL]:	Objection.
THE COURT:	Overruled. It's not offered for the truth of the matter asserted. You may continue your answer.
MR. BOYKIN:	**Okay and I don't know how we got on the topic of the robbery but he said that it seemed as the same guy that robbed us a couple weeks before and then that's when, I believe my cashier, like was ready to leave, like he was scared so he was ready to leave out of the store –**
	* * *
	And I think we were, excuse me, I think we both exit the store at the same time and just to be safe …

(Emphasis added).

Hearsay "is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Md. Rule 5-801(c). Hearsay is generally not admissible unless it falls within one of the exceptions to the rule. Md. Rule 5-802. "Whether evidence is hearsay is an issue of law that we review *de novo*, as is whether hearsay evidence properly was admitted under an exception to the rule against hearsay." *Muhammad v. State*, 223 Md. App. 255, 265-66 (2015).

"[A] relevant extrajudicial statement is admissible as nonhearsay when it is offered for the purpose of showing that a person relied on and acted upon the statement and is not introduced for the purpose of showing that the facts asserted in the statement are true." *Graves v. State*, 334 Md. 30, 38 (1994). While such extrajudicial statements are admissible, "the probative value of that evidence must be weighed against its undue prejudice to the defendant in determining its admissibility[.]" *Id.* at 39. We "will not find reversible error

on appeal when objectionable testimony is admitted if the essential contents of that objectionable testimony have already been established and presented to the jury without objection through the prior testimony of other witnesses." *Yates v. State*, 429 Md. 112, 120 (2012) (emphasis omitted) (citation omitted).

In the present case, Boykin testified that, after appellant entered the store, Thigpen became scared and told Boykin that appellant "seemed to be the same guy" that had robbed the store previously. Boykin testified that he and Thigpen then left the store "just to be safe." In this instance, Thigpen's statement to Boykin was not hearsay in that it explained why Boykin suddenly left the store after appellant entered. Further, although the statement was prejudicial, it was not unduly so, as Thigpen, who testified before Boykin, stated, without objection, that appellant "came in in the exact same way as the last person came in, the same getup, everything and I felt something was a little off so I left out and, me and the manager left out." Therefore, the contents of Thigpen's statement to Boykin had already been admitted and established before Boykin's testimony. Assuming arguendo that the statement constituted hearsay, it was properly admitted pursuant to the "state of mind" exception to the general prohibition against hearsay. Md Rule 5–803(b)(3) sets forth a hearsay exception for "then existing mental, emotional, or physical condition." The rule provides for the admission of the following:

> A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), offered to prove the declarant's then existing condition or the declarant's future action …

The statement in the present case is similar to that in *Copeland v. State*, 196 Md. App. 309 (2010). In *Copeland*, a police officer testified that an assault victim told him "she was afraid that the defendant was going to hurt—... was going to hurt her family.... She said she was fearful for her family and for herself that the defendant was—would come back and in retaliation if she spoke to me." *Id. a*t 314 (alteration in original). We held that the statement fell within the hearsay exception provided within Md. Rule 5-803(b)(3) as "the testimony was admissible to prove the witness's then existing state of mind, i.e., fear, to prove the truth of the stated reason for the fear, *i.e*., a threat by appellant." *Id.* at 315. Here, the testimony was admissible to prove Thigpen's state of mind, *i.e*., fear that the man who entered the store was the same man who robbed the store on June 8th.

Sufficiency of Evidence

Lastly, appellant contends that "the evidence was legally insufficient to sustain the conviction for attempted robbery, and for four of the five convictions of robbery." Noting that the June 23rd robbery was the only robbery for which appellant was positively identified by a witness at trial, appellant argues that the evidence was insufficient to show that "the same person who committed the June 23rd robbery also committed the other four." The State responds that the evidence was legally sufficient to sustain the convictions for robbery because "[w]itnesses in every instance provided consistent details regarding the identity of the suspect, the time of the robbery, [appellant's] efforts to change his appearance, his orders that employees go to the back of the store, and the bag he used to hold the money he took."

Appellant also argues that there was legally insufficient evidence to "sustain the conviction for attempted robbery," because "[n]one of the elements of robbery [were] present" in the July 19th incident. The State responds that "[t]he evidence sufficed to show that [appellant] had taken substantial steps toward robbing the store on July 19th." We conclude that, after viewing the evidence in the light most favorable to the State, a rational trier of fact could find that appellant committed each robbery and the attempted robbery on July 19th.

We review for sufficiency of evidence by determining "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." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). "The reviewing court is not concerned with 'whether the trial court's verdict is in accord with the weight of the evidence, but only with whether the verdict was supported by sufficient evidence ....'" *Raines v. State*, 142 Md. App. 206, 216 (2002) (quoting *State v. Pagotto*, 361 Md. 528, 534 (2000)). In *Chisum v. State*, 227 Md. App. 118, 129-30 (2016), we said:

> The issue of legal sufficiency of the evidence is not concerned with the findings of fact based on the evidence or the adequacy of the factfindings to support a verdict. It is concerned only, at an earlier pre-deliberative stage, with the objective sufficiency of the evidence itself to permit the factfinding even to take place.

"We 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).

January 31st, June 6th, and June 8th Robberies

In the present case, witness Foreman identified appellant in court as the man who robbed the Dollar Tree on June 23, 2014. Appellant does not argue the sufficiency of the State's evidence as to this robbery, conceding that Foreman's testimony "establishes a prima facie showing both that a robbery took place, and that [a]ppellant wa [sic] the criminal agent." Instead, appellant argues that the State failed to show that the other three robberies were tied to the June 23rd robbery, and were the "handiwork of a single individual."**]** We disagree.

The evidence connecting appellant to the January 31st, June 6th, and June 8th robberies was largely circumstantial. The State's case against appellant was based upon linking each crime to each other, including the June 23rd robbery and July 19th attempted robbery where appellant was apprehended at the scene. Our focus, while reviewing the evidence in a light most favorable to the State, is whether any rational jury could have drawn the inference that the same person committed each robbery, and that it was appellant in each instance.

The witnesses to each robbery provided consistent details regarding the timing of the robbery, the physical description of the robber, the way in which the store was robbed, and the manner in which the robber fled the store. Further, video tapes from the January 31st, June 6th, and July 19th incidents were admitted and shown to the jury.

The witness descriptions of the robber were remarkably consistent. The robber was described as a black male in each robbery**.** He was wearing sunglasses at night, during the June 6th, June 8th, 23rd, and July 19th robberies. He was wearing a hat during the

January 31st, June 6th, June 8th, June 23rd, and July 19th robberies. He was wearing gloves during the June 6th, June 8th, June 23rd robberies, and gloves were found in a vehicle linked to appellant after the attempted robbery on July 19th. Witnesses described seeing a "fitted sleeve," "white thing" or "sport thing" on one of his arms during the June 23rd and July 19th robberies. When appellant was apprehended on July 19th he was wearing a cut-up white sock on his right forearm that covered a tattoo on that arm. Notably, although the witnesses to the June 8th robbery did not describe seeing a sports sleeve on either of the robber's arms, one witness described seeing a tattoo on one of the robber's arms. Also, although the witnesses to the June 6th robbery did not describe seeing a sports sleeve on either of the robber's arms, one witness testified that the robber was wearing a long sleeved sweatshirt, despite the evening of the robbery being hot. Finally, Detective Mickle testified that the jacket found in appellant's car after the July 19th robbery matched the jacket worn by the robber during the January 31st robbery as depicted in the surveillance video of that incident.

The locations of each robbery were remarkably similar, and two locations were robbed twice. Each store was a "dollar store," and each was located on the same road and within three-fourths of a mile to a mile and half of each other. Two of the stores were located in the same shopping center. Each robbery took place at nearly the same time of day. The first robbery took place around 9:00 p.m. In the remaining four robberies, the robber came in just before each store's 10:00 p.m. closing time.

During the June 6th, June 8th, and June 23rd robberies, the robber handed the victims a note that demanded that they give him money. During the June 6th and June 8th robberies, the robber told the victims that they had a certain amount of time to open the registers and

give him the money. Then he counted down from ten while the victims were collecting the money. The robber threw or handed the victims a bag and told them to place the money inside the bag during the January 31st, June 6th, and June 8th robberies. A plastic bag was discovered concealed and tucked in appellant's waistband after the attempted robbery on July 19th. Finally, after the victims in each of the completed robberies handed the robber money from the safe and/or cash registers, the robber told the victims to walk to the back of the store and then he left.

The similarities in all of the robberies helped tie each robbery together, and Foreman's in-court identification of appellant as the robber on June 23rd helped to tie appellant to the other robberies. Further, appellant's apprehension at the scene of the July 19th attempted robbery, which bore remarkable similarities to the earlier robberies, helped connect appellant to the other robberies.

July 19th Attempted Robbery

Robbery is "the felonious taking and carrying away of the personal property of another, from his person or in his presence, by violence, or by putting him in fear." *Coles v. State*, 374 Md. 114, 123 (2003) (citation omitted). Robbery is a specific intent crime and requires the intent to steal. *Metheny v. State*, 359 Md. 576, 605-06 (2000) (citing *Hook v. State*, 315 Md. 25, 30-31 (1989)). "A person is guilty of an attempt when, with intent to commit a crime, he engages in conduct which constitutes a substantial step toward the commission of that crime whether or not his intention is accomplished." *Townes v. State*, 314 Md. 71, 75 (1988) (citing *Cox v. State*, 311 Md. 326, 329-31 (1988), and *Young v. State*, 303 Md. 298, 311, (1985)). That "intent need not be proved by direct evidence," but

"may be inferred as a matter of fact from the actor's conduct and the attendant circumstances." *Young v. State*, 303 Md. 298, 306 (1985).

The facts in *Young* are similar to those in the present case. Young was discovered and apprehended while casing a bank in an area where several bank robberies had recently occurred. *Id.* at 305. The Court of Appeals upheld his conviction for attempted armed robbery, noting:

> [The police] watched his preparations. [The police] were with him when he reconnoitered or cased the banks. His observations of the banks were in a manner not usual for law-abiding individuals and were under circumstances that warranted alarm for the safety of persons or property. Young manifestly endeavored to conceal his presence by parking behind the Bank which he had apparently selected to rob. He disguised himself with an eyepatch and made an identification of him difficult by turning up his jacket collar and by donning sunglasses and a knit cap which he pulled down over his forehead. He put on rubber surgical gloves. Clipped on his belt was a scanner with a police band frequency. Except for the scanner, which he had placed on his belt while casing the Bank, all this was done immediately before he left his car and approached the door of the Bank. As he walked towards the Bank he partially hid his face behind his left hand and ducked his head. He kept his right hand in the pocket of his jacket in which, as subsequent events established, he was carrying, concealed, a loaded handgun, for which he had no lawful use or right to transport. He walked to the front door of the Bank and tried to enter the premises. When he discovered that the door was locked, he ran back to his car, again partially concealing his face with his left hand. He got in his car and immediately drove away. He removed the knit hat, sunglasses, eyepatch and gloves, and placed the scanner over the sun visor of the car. When apprehended, he was trying to take off his jacket. His question as to how much time he could get for attempted bank robbery was not without significance.
>
> It is clear that the evidence which showed Young's conduct leading to his apprehension established that he performed the necessary overt act towards the commission of armed robbery, which was more than mere preparation. Even if we assume that all

> of Young's conduct before he approached the door of the Bank was mere preparation, on the evidence, the jury could properly find as a fact that when Young tried to open the bank door to enter the premises, that act constituted a "substantial step" toward the commission of the intended crime. It was strongly corroborative of his criminal intention.

Id. at 313-14.

In the present case, appellant entered the store, which had been previously robbed just a month prior, at approximately five minutes before the store's 10:00 p.m. closing. He took steps to conceal his identity by wearing a hat and sunglasses, despite it being dark outside. On his arm a white sock concealed a large tattoo. One of the employees, who had been present during the previous robbery, became fearful and exited the store after noting that appellant had come in "in the exact same way as the last person came in, the same getup, everything." When the police arrived a short time thereafter, they first observed appellant in the store wearing his hat, sunglasses, and white arm sleeve, and walking towards the front counter. After appellant made eye contact with a police officer, however, he said "oh shoot" and quickly turned around and walked towards the back of the store. By the time the officer entered the store and walked back to where the appellant was standing, appellant had pushed his arm sleeve down, turned his hat backwards and taken off his sunglasses. Appellant then gave a false name to the police officer and was eventually discovered to have a plastic bag concealed in his waistband. His car was located parked on a "side street, behind several pine trees that blocked the view of the shopping center," despite there being a parking lot with open spaces in front of the store. A jacket

matching the jacket worn by the robber in a previous robbery was found in his vehicle, along with several latex gloves.

There was sufficient evidence to connect appellant with the previous robberies. Further, a rational jury could have found that, when appellant entered the store on July 19th, that act of entering the store constituted a "substantial step" toward the commission of a robbery.

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