Circuit Court for Anne Arundel County
Case No. C-02-CR-17-000406

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2136

September Term, 2018

STACEY ERIC WILBURN

v.

STATE OF MARYLAND

Kehoe,
Gould,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 30, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Anne Arundel Court, Stacey Eric Wilburn, appellant, was convicted of robbery with a dangerous weapon, robbery, first-degree assault, second-degree assault, reckless endangerment, use of a firearm during the commission of a crime of violence, wearing and carrying a handgun, and theft. He raises two issues on appeal: (1) whether the circuit court erred in denying his motion to suppress the statements that he made to the police, and (2) whether there was sufficient evidence to sustain his convictions for robbery with a dangerous weapon, robbery, and theft. For the reasons that follow, we shall affirm.

I.

Mr. Wilburn first contends that the circuit court erred in denying his motion to suppress the incriminating statements that he made to the police because, he claims, he did not voluntarily waive his *Miranda*[1] rights.[2] Specifically, he asserts that his *Miranda* waiver was involuntary because the "police did not disclose to [him] right away" that he was being detained as a suspect in a robbery and instead "told him, incorrectly, that they detained him because of an outstanding warrant in Baltimore County." We disagree.

In reviewing the grant or denial of a motion to suppress, this Court must view the evidence "in the light most favorable to the prevailing party, and the trial court's fact findings are accepted unless clearly erroneous." *Williamson v. State,* 413 Md. 521, 531

[1] *Miranda v. Arizona*, 384 U.S. 436 (1966)

[2] Mr. Wilburn only asserts that the waiver was involuntary under the Due Process Clause of the Fourteenth Amendment. He does not contend that it was involuntary under Maryland non-constitutional law.

(2010). "The ultimate determination of whether there was a constitutional violation, however, is an independent determination that is made by the appellate court alone, applying the law to the facts found in each particular case." *Belote v. State*, 411 Md. 104, 120 (2009) (citations omitted).

As an initial matter, Mr. Wilburn's claim that he was unaware of the reason for his detention is not supported by the record as the video of his interrogation demonstrates that, prior to waiving his *Miranda* rights, the detective specifically told him that "the reason you're here is because I'm working a robbery investigation in Pasadena and your name came up[.]"[3] Moreover, even if we assume that Mr. Wilburn was not aware that he was going to be questioned about a robbery, that would not render his waiver involuntary because the law does not require a defendant to be advised about the subject of the interrogation before he can voluntarily waive his *Miranda* rights. *See Colorado v. Spring*, 479 U.S. 564, 576-77 (1987) ("[T]he failure of the law enforcement officials to inform [the defendant] of the subject matter of the interrogation could not affect [his] decision to waive his Fifth Amendment privilege in a constitutionally significant manner."); *Ratchford v. State*, 141 Md. App. 354, 365-66 (2001) (holding that the failure of a detective to advise the defendant that the subject of the interrogation was a triple murder did not invalidate his *Miranda* waiver as a matter of law); *Alston v. State*, 89 Md. App. 178, 184-85 (1991) ("[T]he question whether the appellant knew of all the subjects about which he was to be

[3] That video was introduced as exhibit at the suppression hearing.

questioned is irrelevant to the question of whether his *Miranda* waiver was made knowingly, intelligently, and voluntarily.").

Mr. Wilburn also asserts that the detective's misleading comments "very likely exacerbated the stress that caused [him] . . . to have increased anxiety and panic attacks" prior to the interrogation, which resulted in "psychological pressures" that "nullified the *Miranda* warnings." However, this issue is not preserved because, at the suppression hearing, Mr. Wilburn did not contend that his waiver was invalid for this reason. And, in any event, after viewing the interrogation video, the suppression court specifically found that there was no indication Mr. Wilburn was suffering from anxiety issues or that the detective used any anxiety that Mr. Wilburn might have felt against him, a finding that is not clearly erroneous. Consequently, the suppression court did not err in finding that Mr. Wilburn's *Miranda* waiver was voluntary and in denying his motion to suppress.

II.

Mr. Wilburn also asserts that there was insufficient evidence to sustain his convictions for robbery with a dangerous weapon, robbery, and theft because the State failed to prove "an intent to deprive or actual permanent deprivation of [the victim's] property." 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) (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) (quoting *Harrison v. State*, 382 Md. 477, 487–88 (2004)).

At trial, the victim testified that Mr. Wilburn approached her in her driveway while holding a gun, grabbed her, and told her to give him her purse. He then took her purse and drove away in a white minivan. And when questioned by the police, Mr. Wilburn admitted that he took the victim's purse because he was "looking for money." That evidence, if believed, was legally sufficient to prove each element of the offenses of robbery with a dangerous weapon, robbery, and theft beyond a reasonable doubt. Although Mr. Wilburn contends that there was insufficient evidence that he intended to take the purse because it was recovered on the roadside the next day and nothing inside it had been taken, the fact that he ultimately discarded the purse without removing its contents does not negate his intent to steal the purse at the time he took it from the victim. Similarly, Mr. Wilburn's claim that he did not permanently deprive the victim of the purse because it was eventually returned to her lacks merit as the offenses of robbery and theft are completed when an assailant acquires complete possession and control of the property for even "an instant." *Williams v. State*, 101 Md. App. 408, 427 (1994).

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