Circuit Court for Baltimore County
Case No. 13-K-16-005065

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2900

September Term, 2018

ANTOINE CURTIS KING

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: January 2, 2020

*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 Baltimore County, Antoine Curtis King, appellant, was convicted of second-degree assault. His sole contention on appeal is that the State presented insufficient evidence to sustain his conviction.[1] 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) (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)).

Mr. King contends that the evidence was insufficient to sustain his conviction for second-degree assault because the victim recanted her allegations against him at trial. However, this claim is essentially an invitation for this Court to reweigh the evidence, which we will not do. It is "not a proper sufficiency argument to maintain that the [fact-finder] should have placed less weight on the testimony of certain witnesses or should have

[1] The State contends that we should not consider this claim because Mr. King failed to provide a transcript of the 911 calls made by the victim, as required by Maryland Rule 8-411(a)(3). Although we agree that transcripts of the 911 calls should have been provided, we will address Mr. Smith's contention as it can be resolved on the existing record.

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 the witnesses." *State v. Manion*, 442 Md. 419, 431 (2015) (citation omitted).

At trial, the State presented evidence that: (1) the victim called 911 and stated that Mr. King had strangled her; (2) the victim told the responding officers that Mr. King had "tried to strangle her," pinned her down on the bed, and "twisted her around from the front to the back," causing her to black out; and (3) the victim told the nurse who examined her after the incident that Mr. King had strangled her and twisted her neck multiple times, causing her to pass out. The responding officers testified that, when they arrived at the victim's home, she was "shaking and upset," the white part of her eyes was almost entirely red, and she had defecated in her bed. Moreover, the nurse who examined the victim testified that her symptoms were consistent with someone who had been strangled. That evidence, if believed, was legally sufficient to support a finding of each element of the second-degree assault charge beyond a reasonable doubt. *See Archer v. State*, 383 Md. 329, 372 (2004) ("It is the well-established rule in Maryland that the testimony of a single eyewitness, if believed, is sufficient evidence to support a conviction."). The fact that the victim later recanted her testimony does not affect the sufficiency of the evidence because, in weighing the evidence, the fact-finder "can accept all, some, or none of the testimony of a particular witness." *Correll v. State*, 215 Md. App. 483, 502 (2013).

Mr. King also asserts that the evidence was insufficient because the victim testified that she suffered from asthma and Graves' disease and his expert witness testified that the

symptoms she exhibited could have been caused by those conditions. However, the same expert also agreed that the victim's symptoms could also have been caused by strangulation. And where "two inferences reasonably could be drawn [from the evidence], one consistent with guilt and the other consistent with innocence, the choice of which of these inferences to draw is exclusively that of the fact-finding jury and not that of the court assessing the legal sufficiency of the evidence." *Ross v. State*, 232 Md. App. 72, 98 (2017).

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