Circuit Court for Prince George's County
Case No. CT161462B

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 3183

September Term, 2018

DURAN CARRINGTON

v.

STATE OF MARYLAND

Nazarian,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 4, 2020

Convicted by a jury in the Circuit Court for Prince George's County of felony murder and attempted armed robbery of Taiwo Oduwole, armed robbery of Savienne Mitchell, and related offenses, Duran Carrington, appellant, presents for our review two questions: whether the court erred or abused its discretion in denying his motion to sever, and whether the evidence is sufficient to sustain the convictions. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Abimbol Boyejo, who testified that on August 20, 2016, he was working with Mr. Oduwole at a 7-Eleven. At approximately 4:45 a.m., a masked person entered the store and "demanded that [Mr. Boyejo] open the cashier drawer." Mr. Boyejo "went to hide . . . by the shelf that was close by," and heard "the person demand[ing] for the drawer to be opened." After "some time," Mr. Boyejo "heard gunshots, like twice." Mr. Boyejo waited until "it was quiet enough," then "went out front of the store and . . . saw the police [and an] ambulance."

The State also called Ms. Mitchell, who testified that on August 20, 2016, she was working at her job as a night auditor at a Comfort Inn. Just after 5:00 a.m., an African-American male with dark brown eyes, long eyelashes, and a broad nose, wearing a jacket with a red stripe and jeans, and carrying a backpack, approached Ms. Mitchell and told her to "get behind the counter." When the man "came around," Ms. Mitchell saw that he was holding a silver gun. Ms. Mitchell stated, "you want the money, don't you," and the man replied, "yes." Ms. Mitchell and the man "bantered back and forth for a couple of seconds," after which the man grabbed Ms. Mitchell by her shirt. Ms. Mitchell took the man to the "back office," where he opened a register, took all of the cash that was inside, and departed.

The State also called Deandre Davis, who testified pursuant to a plea agreement. Mr. Davis stated that at 2:00 a.m. on August 20, 2016, he left his job at a Checkers and "picked up" Mr. Carrington, whom Mr. Davis had known for approximately six years. Mr. Davis "wanted to meet up with [Mr. Carrington] because he had a gun," and the two "started talking about robberies" because they "both needed money." Mr. Davis drove to a 7-Eleven and "parked [his] car on the side of the road, so [he] wouldn't be on camera footage." The "plan was for [Mr. Carrington] to commit a robbery and for [Mr. Davis] to stay in the car." Mr. Carrington "grabbed his coat, which was red and black[,] and he grabbed the gun and [a] ski mask[,] and went inside the 7-Eleven." Mr. Davis "heard two gunshots," after which Mr. Carrington "came back running," and the two "drove off." Mr. Carrington stated that "he didn't get any money," and that "he shot his gun but he didn't know if he shot the person that had died." As Mr. Davis "was driving back to [his] house," he stopped at a hotel so the two could "commit another robbery." Mr. Carrington "put his coat on, grab[bed] the ski mask and . . . gun," and walked to the hotel. Mr. Carrington then "came back to the car running," and had "some money." Mr. Davis drove to his home, where he and Mr. Carrington "counted the money up and split it evenly."

Approximately three days later, Mr. Davis saw, at a "gas station by [his] house," a poster requesting information regarding the murder of Mr. Oduwale and containing photographs of a person inside the 7-Eleven. Mr. Davis recognized the person as Mr. Carrington, because the person was wearing "the same exact coat and ski ma[s]k" that Mr. Carrington was wearing when he exited Mr. Davis's car. The two agreed that they "should get rid of the jacket and the gun because that's the only thing[s] linking [them] to the crime

scene." The two subsequently took the jacket to an abandoned house and "burned it." In August 2017, Mr. Davis "told . . . police about the jacket," and took police "to the area where it was."

Mr. Carrington first contends that the court erred or abused its discretion in denying his motion to sever. Following his arrest, Mr. Carrington was charged with felony murder of Mr. Oduwale and related offenses, and armed robbery of Ms. Mitchell and related offenses. Prior to trial, Mr. Carrington moved to sever the two sets of counts on the grounds that "there is evidence as to the offenses alleged in the [first set of counts] which would not be mutually admissible at a separate trial of the" second set of counts, and "to permit the State to try the [first set of counts] with the [second set of counts] would be unduly prejudicial to [Mr. Carrington] and . . . fundamentally unfair, in violation of Due Process of Law." Following a hearing, the court denied the motion on the ground that the State was "attempting to introduce evidence from each distinct crime to prove a theory of continuing course of conduct and to prove motive."

Mr. Carrington now contends that although "evidence of a failed robbery attempt at the 7-Eleven may have been admissible to prove motive for the robbery at the Comfort Inn," this "reasoning does not necessarily . . . make evidence from the Comfort Inn incident relevant or probative to the 7-Eleven incident." *Solomon v. State*, 101 Md. App. 331 (1994), is instructive. The "case involve[d] one consummated carjacking and two attempted carjackings, all of which occurred within a tight geographic radius . . . and . . . narrow time frame[.]" *Id.* at 333-34. On appeal, Solomon contended that the trial court "erroneously denied his motion for separate trials of the charges with respect to each of the

three adult victims," because "the State failed to establish" that "the evidence with respect to each of the three sets of charges would be mutually admissible if the three sets of charges were tried separately[.]" *Id.* at 334. We concluded "that the evidence with respect to each of the three adult victims was mutually admissible at the trial of all," because "Assault A and Assault B were helpful to prove the motive for and intent with which Assault C was carried out," and "Assault A and Assault C were helpful to prove the intent with which Assault B was carried out." *Id.* at 368-69.

We reach a similar conclusion here. Evidence relating to the attempted armed robbery and murder of Mr. Oduwale was helpful to prove the motive for and intent with which the armed robbery of Ms. Mitchell was carried out, and evidence relating to the armed robbery of Ms. Mitchell was helpful to prove the intent with which the attempted armed robbery and murder of Mr. Oduwale were carried out. Hence, the evidence with respect to each of the victims was mutually admissible at the trial of both.

Alternatively, Mr. Carrington contends that because "none of the eyewitnesses were able to identify [him] as the robber/gunman, trying the charges together ran a high risk of leading the jury to convict merely because of the quantity . . . of circumstantial evidence," and "[s]uch potential for unfair prejudice dwarfed any considerations of judicial economy." But, the Court of Appeals has stated that "once a determination of mutual admissibility has been made, any judicial economy that may be had will usually suffice to permit joinder," *Conyers v. State*, 345 Md. 525, 556 (1997), and we have stated that such economy may include "the conservation of judicial resources and public funds" and "reduced delay on disposition of criminal charges." *Cortez v. State*, 220 Md. App. 688, 697 (2014). These

economic benefits were served by joining the charges against Mr. Carrington, and hence, the court did not err or abuse its discretion in denying the motion to sever.

Mr. Carrington next contends that the "evidence is legally insufficient to sustain [the] convictions because the prosecution failed to sufficiently corroborate" Mr. Davis's testimony.[1] We disagree. Mr. Boyejo confirmed Mr. Davis's testimony regarding the approximate time of the robbery, and that the assailant was in possession of a mask and seeking money, and that two gunshots were fired. Ms. Mitchell confirmed Mr. Davis's testimony regarding the approximate time of the robbery and the jacket worn by her assailant, and that the assailant was in possession of a gun and obtained money during the robbery. The State also produced the following:

- Testimony by Prince George's County Police Officer David Sisson that at approximately 4:53 a.m. on August 20, 2016, he arrived at the 7-Eleven and discovered a person "suffering from multiple gunshot wounds."
- A surveillance camera video recording showing an individual walking toward, and subsequently fleeing, the 7-Eleven.
- Evidence regarding blood spatter, a "bullet strike," and a bullet fragment discovered inside the 7-Eleven.
- A bullet fragment obtained from Mr. Oduwale's person during surgery.
- Testimony from an eyewitness named Dent that at approximately 4:45 a.m. on August 20, 2016, he was exiting the 7-Eleven when he saw a person with a "gray coat" with "black stripes on the sleeves" enter the store. Mr. Dent subsequently "heard shots fired," after which the person "exited the store" and ran.
- Expert testimony that Mr. Oduwale died of a "[g]unshot wound to the torso."
- Evidence that at 5:19 a.m. on August 20, 2016, police received a call reporting a robbery at the Comfort Inn.

[1]Mr. Carrington recognizes that in *State v. Jones*, 466 Md. 142 (2019), "the Court of Appeals abrogated the accomplice corroboration rule," but contends that because he was tried and sentenced "well before the opinion in . . . *Jones* and . . . accompanying mandate were issued," the "former rule requiring corroboration of the accomplice testimony is fully applicable to the present case." The State agrees, as do we.

- A surveillance camera video recording showing an individual walking toward, entering, and subsequently exiting the Comfort Inn.
- Testimony by former Prince George's County Police Detective Darin Bush that the person displayed in the video recordings "appear[ed] to wear the exact same clothing, [and] be of the same height, weight, [and] stature."
- Additional surveillance camera video recordings from "different establishments" showing Mr. Davis's vehicle in the area of the 7-Eleven and Comfort Inn at the time of the offenses.
- Expert testimony and evidence that from 12:00 a.m. to 3:18 a.m. on the day of the offenses, there were approximately eight to twelve phone calls between Mr. Davis and Carrington's phones, zero calls between the phones from 3:18 a.m. to 5:55 a.m., and 66 calls between the phones after 5:55 a.m.
- Testimony by Prince George's County Police Detective Paul Dougherty that in August 2017, Mr. Davis directed the detective to where Mr. Davis "believed evidence was placed during a crime."

This evidence was more than sufficient to corroborate Mr. Davis's testimony, *see Ayers v. State*, 335 Md. 602, 638 (1994) ("only slight corroboration is required" (citations omitted)), and hence, the evidence is legally sufficient to sustain the convictions.

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