

Circuit Court for Anne Arundel County
Case No.: C-02-CR-15-000504

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3335

September Term, 2018

COREY RYAN KNAPP

v.

STATE OF MARYLAND

Beachley,
Shaw Geter,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 7, 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 one-day bench trial in the Circuit Court for Anne Arundel County, Corey Ryan Knapp, appellant, was convicted of second-degree assault and sentenced to eight years' imprisonment with all but four years suspended in favor of five years' probation for punching his then girlfriend in the face after she threw his phone out of the window of her car when she learned that he had been cheating on her.

Appellant's sole contention on appeal is that the trial court erred in finding him guilty based, in part, on the "unsubstantiated assumption" that he punched the victim with his right hand. The gist of appellant's argument appears to be that, had the court not made that finding, the evidence would have been legally insufficient. We disagree and affirm the judgments of the trial court.

Maryland Rule 8-131(c) governs the scope of this Court's review of a case tried to a judge rather than a jury:

When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

In reviewing the sufficiency of the evidence we review the record to determine 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). With respect to the trial court's factual findings, "[i]f any competent material evidence exists" in support of those findings, they "cannot be held to be clearly erroneous." *Spencer v. State*, 450 Md. 530, 548 (2016) (citations omitted).

The fundamental premise of appellant’s argument is that the trial court made a clearly erroneous factual finding when finding that appellant punched the victim with his right hand. According to appellant, there was no competent material evidence supporting that finding. Appellant is wrong. There was evidence adduced at trial that appellant wrote with his right hand. We believe that evidence, when coupled with common sense, permitted the fact-finder to draw, with high confidence, the inference that, if appellant wrote with his right hand, he likely punched with his right hand too.

In any event, whether the trial court arrived at its verdict partly on the basis of an erroneous factual finding is beside the point because:

...when the issue after a bench trial conviction is the legal sufficiency of the evidence, the question is not what the particular trial judge in that particular case did with the evidence but whether the evidence itself was sufficient to permit “any rational trier of fact” to return a verdict of guilty based on that evidence[.]

Chisum v. State, 227 Md. App. 118, 130, fn.1 (2016) (citing *State v. Albrecht*, 336 Md. 475, 479 (1994)). Thus, “[i]n the most basic of terms, the critical issue ... is whether the State has satisfied its burden of production.” *Chisum*, 227 Md. App. at 129. Although second-degree assault can be carried out in a variety of ways, it is clear in the instant case that appellant was convicted of the battery variety. Under Maryland law, a second-degree assault of the “battery variety is committed by causing offensive physical contact with another person.” *Nicolas v. State*, 426 Md. 385, 403 (2012).

In the instant case, the victim testified that, after she figured out that appellant had been cheating on her, she threw his telephone out of her car. Then, appellant pulled her out of the car and punched her in the face hard enough to require hospitalization for a

fractured orbital bone. Moreover, when the victim's father approached the car, appellant ran away, which suggested his consciousness of his guilt. In summary, there was plenty of evidence that appellant punched the victim aside from the trial court's observation that, from looking at the photographs of her bloodied face, it appeared that she was hit with a right hand, which was consistent with the evidence showing that appellant is right-handed. We therefore hold that the evidence was legally sufficient to support appellant's conviction for second-degree assault.

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