

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0324

September Term, 2014

DALLAS DAVIS

v.

STATE OF MARYLAND

Krauser, C.J.,
Zarnoch,
Reed,

JJ.

Opinion by Krauser, C. J.

Filed: May 20, 2015

*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.

Convicted, by a jury, in the Circuit Court for Wicomico County, of the felony of attempting to influence a witness in a proceeding related to the commission of a crime of violence,¹ Dallas Davis, appellant, contends that the evidence was not sufficient to sustain his conviction for that offense. We disagree and affirm.

FACTS AND PROCEEDINGS

The evidence when viewed in a light most favorable to the prevailing party – the State – shows that on February 7, 2013, Davis broke into the home of his ex-girlfriend, Latanya Christopher, and assaulted her. He was, thereafter, charged with, among other offenses, first-degree assault and first-degree burglary. Davis’s trial on those charges was scheduled for September 10, 2013, and Christopher was subpoenaed by the State to appear at that proceeding. On September 7, 2013, three days before Davis’s trial was to begin, Christopher received a handwritten letter in the mail, which read:

Hey Tanya it seems my worst fears are coming true, Sept[ember] 10. I’ve heard enough . . . to know that your [*sic*] going [with] this. I just [want to] take this time to say I’m sorry. I’m sorry for my actions and what they have put you through. I’ve asked and begged of you not to show up for court. But you seem to not want to hear my cries. You cannot get on the stand and plead the 5th. The State will turn on you to force [you] to testify. So let me say this agin [*sic*]. You must not show up. Answer the house phone and I’ll pay for your day at whatever you want to do just don’t do what you think is right. I asked my lawyer. LaTanya please! If you love me or ever loved me please let me help you and work things out. Remember I still love you and this . . . is killing me also. Answer the house phone!! Please!

Love, xoxox

¹Davis was also convicted of the misdemeanor of attempting to influence a witness; however, that conviction merged with the felony conviction for sentencing purposes. For clarity, we shall refer only to Davis’s conviction on the felony count.

Christopher recognized that the letter was in Davis’s handwriting, which she was familiar with, having corresponded with Davis, while he was incarcerated. The return address on the letter’s envelope was the address of a Maryland Department of Corrections facility.²

Davis, ultimately, pleaded guilty to the charge of first-degree assault, whereupon the State nolle prossed the remaining charges against him. But, thereafter, Davis was charged with attempting to influence a witness in a proceeding related to the commission of a crime of violence, based on the letter he sent to Christopher. At the conclusion of Davis’s trial for that offense, he was found guilty.

DISCUSSION

Davis contends that his “conviction[] must be vacated because the State failed to prove that he was guilty of attempting to influence a witness – Ms. Christopher – through corrupt means.” His offer to ““pay for [Christopher’s] day at whatever [she] want[ed] to do”” was, he insists, merely “a non-violent, non-threatening, and non-coercive offer to Ms.

²No testimony was offered which confirmed that the Department of Corrections facility noted as the return address for the letter received by Christopher, was the facility where Davis was imprisoned when that letter was sent. However, a letter stipulated to have been sent by Davis several weeks later, featured the same return address as the letter sent to Christopher.

Christopher to resolve the pending criminal action amicably.” Accordingly, Davis requests that this Court reverse his conviction.³

As this Court has explained:

The test of appellate review of evidentiary sufficiency is 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. The Court’s concern is not whether the verdict is in accord with what appears to be the weight of the evidence, but rather is only with whether the verdicts were supported with sufficient evidence – that is, evidence that either showed directly, or circumstantially, or supported a rational inference of facts which could fairly convince a trier of fact of the defendant’s guilt of the offense charged beyond a reasonable doubt. We must give deference to all reasonable inferences [that] the fact-finder draws, regardless of whether [the appellate court] would have chosen a different reasonable inference.

Kyler v. State, 218 Md. App. 196, 214 (2014) (quoting *Donati v. State*, 215 Md. App. 686, 716, *cert. denied*, 438 Md. 143 (2014)) (internal quotation and citation omitted).

³In his brief, Davis presents two other arguments. The first is that because, per Maryland Rule 5-408(a)(1)&(3), evidence of offers to compromise are inadmissible in civil matters, the non-threatening offer he made to Christopher should not have been criminalized in this case. And the second is that because evidence of an attempt to influence a witness is admissible to show consciousness of guilt with respect to charges on which an accused is being tried, *see Washington v. State*, 293 Md. 465, 468 n.1 (1982), his communication with Christopher should have been used only to sustain the charges which were pending against him and should not have been the subject of additional charges. These two contentions were not preserved for our review, however, because they were not raised at trial. Md. Rule 8-131(a) (“Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]”). Consequently, we will decline to address them.

Davis’s conviction was under Md. Code Ann. (2002, 2012 Repl. Vol.), § 9-305(a) of the Criminal Law Article (“C.L.”), which provides:

§ 9-305. Intimidating or corrupting juror.

(a) *Prohibited.* – A person may not, by threat, force, or corrupt means, try to influence, intimidate, or impede a juror, a witness, or an officer of a court of the State or of the United States in the performance of the person’s official duties.

The statute covers “the action of [an accused] . . . intended to influence, intimidate, or impede [a witness] from testifying against him,” *Lee v. State*, 65 Md. App. 587, 592 (1985), which is exactly what occurred here.⁴

Davis had been charged with a number of offenses, including first-degree burglary and first-degree assault, stemming from an incident in which he was alleged to have broken into Christopher’s home and assaulted her. Christopher was to testify, for the State, at Davis’s trial on those charges. Days before the trial was scheduled to take place, Christopher received a letter in Davis’s handwriting. In the letter, Davis repeatedly “begged” Christopher “not to show up for court[,]” and offered to “pay for [Christopher’s] day at whatever [she] want[ed] to do.”

⁴At the time *Lee* was decided, the statute prohibiting acts meant to influence witnesses was found at Maryland Code (1957, 1982 Repl. Vol.) Article 27, § 27. (“If any person by corrupt means or by threats or force endeavors to influence, intimidate, or impede any juror, witness, or court officer of any court of this State in the discharge of his duty . . . he is liable to be prosecuted . . .”). The relevant language in that statute was substantively the same as the language currently found in C.L. § 9-305(a).

In that letter, it was clear that Davis was attempting to persuade Christopher not to testify against him, by appealing to her sympathy and to her pocketbook. This act amounted to an action intended to “influence . . . [a witness] from testifying against him[.]” *Id.* Accordingly, we conclude that the evidence in this record was sufficient to sustain Davis’s conviction for attempting to influence a witness in a proceeding related to the commission of a crime of violence.

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