

Circuit Court for Allegany County
Case No. 01-K-16-17630

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1976

September Term, 2016

ANTOINE ASKINS

v.

STATE OF MARYLAND

Woodward, C.J.,
Beachley,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 2, 2017

*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 bench trial in the Circuit Court for Allegany County, Antoine Askins, appellant, was convicted of theft of property with a value of less than one thousand dollars. Askins raises a single question: Is the evidence sufficient to sustain the conviction? For the reasons that follow, we affirm.

At trial, the State called Josephine Guthrie, a receptionist for the YMCA Family Center. Guthrie testified that, when she arrived for work on the morning of May 4, 2016, she placed under her desk her “Thirty-One” bag, which contained, among other property, approximately \$380 in cash and a teal “Tupperware” water bottle “sticking out the front pocket.” At approximately 1:00 p.m., Guthrie left the center to attend a class. When she returned, she noticed that her “bag wasn’t sitting where [she] had left it.” Guthrie “went to the [center’s] housing staff,” where her co-worker, Mechelle Lee, “pulled the video up” from the center’s “cameras.” Guthrie watched the recording and “watched [her] bag walk out.” The bag was later located in a parking lot, with “[e]verything . . . in it, except for the money.”

The State next called Guthrie’s co-worker, Angela Radcliff, and the following colloquy occurred:

[PROSECUTOR:] [O]n this particular day, were you an active role in watching the desk area while Ms. Guthrie was at class?

[RADCLIFF:] . . . I was, we were all finished lunch and I was waiting for a class that I needed to teach, so I went ahead and waited there.

* * *

[PROSECUTOR:] [D]o you recall other than [Askins], anyone else that would have come in around that time?

[RADCLIFF:] There was another, another young gentleman that came and asked for . . . the men’s unit director.

* * *

[PROSECUTOR:] So, was he the only other person that you had any interaction with other than [Askins]?

[RADCLIFF:] Yes.

[PROSECUTOR:] [I]s this the man that you saw that day?

[RADCLIFF:] . . . I believe so, if I can remember correctly.

[PROSECUTOR:] Okay, the man you spoke to, was he an African American male?

[RADCLIFF:] Yes, yes.

[PROSECUTOR:] What did he, what did he ask you about?

[RADCLIFF:] He asked to also speak with the men’s unit director[.]

Radcliff told the man that the director was not available, but “he could wait or give . . . his name.” The man “stay[ed] in the lobby area,” and Radcliff “went back into [her] office.” During cross-examination, Radcliff stated that she was “not certain” that Askins was “the man [she] saw.”

The State next called Lee, who testified that, on the day of the offense, Askins “had come in to drop off a housing application.” After reviewing the video recording with Guthrie, Lee called Askins and “told him what [she] saw on the footage.” Lee told Askins: “[Y]ou have two options. You can bring that bag back with all of its contents within it, or I am going to call the police.” Askins “said he didn’t know what [Lee] was talking about,”

and “hung up.” The State subsequently played the video recording, which the court admitted into evidence.

The State next called Cumberland City Police Sergeant Anthony Tringler, who testified that, on the afternoon of May 4th, he responded to the YMCA “for a report of a theft.” Sergeant Tringler watched the video recording and recognized Askins, whom the sergeant knew “from previous contacts with him through [the sergeant’s] employment.”

Following the close of the State’s case, Askins moved for judgment of acquittal.

Denying the motion, the court stated:

The [c]ourt notes that in the testimony of Ms. Guthrie, she testified that she reviewed the video tape and . . . “she watched her bag walk out the door” while looking at the video. In addition to that [Askins] has been identified as coming in. . . . He has nothing in his hands. He leaves with a bag, . . . it is a dark bag, it is a large bag, and it has some type of a water bottle, certainly consistent with the description of . . . a Tupperware water bottle. It is . . . as Ms. Guthrie describes it, it is teal. I think that based upon the evidence as submitted in this matter, the [c]ourt concludes that there is evidence from which it can be concluded that a reasonable person can conclude that [Askins] committed this crime.

Testifying in his defense, Askins stated that he came to the YMCA “to do a follow-up” with “a guy named Dave” for a “re-entry program.” Askins brought with him a bag containing his “hygiene, . . . towels, [and] change of clothes,” and “sat the bag down in [one of the] chairs that sit right in front of the reception desk.” When the receptionist stated that Dave was “in the building, but . . . not at his desk,” Askins “walked outside through a side entry,” “smoked a cigarette for . . . five or six minutes,” and “came back in.” Because Dave “still wasn’t no where to be found and [Askins] didn’t feel like waiting any more,” he “grabbed [his] bag and . . . left.”

During cross-examination, the prosecutor stated: “So, you saw the video. You walk in the front door. There is nothing in your hands.” Askins replied:

That was the second time I came, that was after I smoked a cigarette. That was when I left and I smoked a cigarette and came back in, because I went, I went . . . where the reception is, the bathrooms has a ramp and it goes down. There’s a little side door that can lead out to the outside. . . . They were doing some construction there, I knew one of the people. I went down there and I talked to them for a few minutes while I smoked a cigarette, then I came back around because that door locked, so I couldn’t get back in. So I had to come back around and come back inside. That’s when you seen me, that was, the second time I was coming in.

When the prosecutor asked Askins “why are we not seeing the tape of you coming in earlier that day,” Askins replied: “I don’t know.”

Following the close of the evidence, the court “review[ed] the video again.” The court subsequently convicted Askins of the offense, concluding that his “testimony is inconsistent with the video,” and noting that Guthrie “had an opportunity to review the same video” and “testified that it was her bag that was in [Askins’s] hands at the time he left the” center.

Askins contends that the evidence is insufficient to support the conviction because “the State failed to show any more than that [he] was one of several persons,” including “the other young, African American male” described by Radcliff, and “various [YMCA] employees and members of the public,” who “could have committed the crime.” We disagree. Guthrie testified that the bag shown in the video recording belonged to her. Sergeant Tringler testified that the individual shown carrying the bag was Askins. The court, which watched the recording, noted that Guthrie’s description of the teal “Tupperware” water bottle matched the bottle shown in the recording. Finally, Askins

admitted that he visited the center on the day of the offense, that he walked out of the center carrying a bag, and that he is the individual shown in the recording. We conclude that this evidence was sufficient to sustain the conviction.

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