

Circuit Court for Prince George's County
Case No. CT170770X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 199

September Term, 2019

WILLIAM GEORGE MOORE, JR.

v.

STATE OF MARYLAND

Berger,
Leahy,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 14, 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 Prince George’s County, William George Moore, Jr., appellant, was convicted of first-degree murder, armed robbery, attempted armed robbery, conspiracy to commit armed robbery, first-degree assault, and two counts of use of a handgun in the commission of a crime of violence. On appeal, Mr. Moore contends that there was insufficient evidence to sustain his convictions.¹ Specifically, he claims that Ronald Summer, the witness who identified him as the perpetrator, was so unreliable that his testimony lacked the probative value necessary to support a finding of guilt beyond a reasonable doubt. We disagree and shall affirm.

In support of his claim, Mr. Moore cites several civil cases for the proposition that a witness’s testimony can be so contradictory as to lack probative value. However, the relevant criminal case addressing this issue, which he does not acknowledge, is *Kucharzyk v. State*, 235 Md. 334 (1964). In *Kucharzyk*, the prosecuting witness, an intellectually disabled 16-year-old boy with an I.Q. of 56, gave contradictory testimony about whether the crime allegedly committed by the petitioner had occurred. *Id.* at 336-37. The Court of Appeals reversed the petitioner’s conviction for assault and battery because of insufficient evidence, holding that, “where a witness testifies to a critical fact and then gives directly contradictory testimony regarding the same critical fact, the fact finder should not be allowed to speculate and select one or the opposite version.” *Id.* at 337-38.

¹ In his brief, Mr. Moore also claimed that the court plainly erred in admitting a photograph that, he claimed, was highly prejudicial. However, after his brief was filed, Mr. Moore filed a line dismissing that argument.

However, both this Court and the Court of Appeals have made clear that “[t]he doctrine set forth in *Kucharczyk* is extremely limited in scope.” *Smith v. State*, 302 Md. 175, 182 (1985); *Vogel v. State*, 76 Md. App. 56, 59-60 (1988) (“Some appreciation of the limited utility of the so-called *Kucharczyk* doctrine may be gathered from the fact that it was never applied pre-*Kucharczyk* in a criminal appeal and it has never been applied post-*Kucharczyk* in a criminal appeal”) (citation omitted). In fact, we have recently noted that: “[T]he so-called *Kucharczyk* Doctrine, if it ever lived, is dead. It has been dead for a long time. Forget it. Damaged credibility is not necessarily inherent incredibility.” *Rothe v. State*, 242 Md. App. 272, 285 (2019).

Here, there were no internal inconsistencies in Mr. Summer’s testimony that rise to the level of those at issue in *Kucharczyk*. Mr. Moore contends that Mr. Summer was not reliable because he had been smoking marijuana prior to witnessing the murder, he had previously been convicted of possession with intent to distribute CDS, and he had not been able to identify Mr. Moore in a photo array that was shown to him by the police. However, those issues, affected the reliability of Mr. Summer’s identification, not its sufficiency, and were ultimately for the jury to resolve. We hold that Mr. Summer’s testimony identifying Mr. Moore as the perpetrator was sufficient to sustain Mr. Moore’s convictions. Consequently, the trial court did not err in submitting the case to the jury.

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