

Circuit Court for Baltimore City
Case No. 119227005

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 204

September Term, 2020

HAKIM ZAN LAWRENCE

v.

STATE OF MARYLAND

Nazarian,
Ripken,
Alpert, Paul E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: February 9, 2022

* 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 stabbing, Hakim Lawrence was charged in the Circuit Court for Baltimore City with attempted first-degree murder and related charges. The State's evidence was the testimony of the victim and one eyewitness. After a jury trial, Mr. Lawrence was convicted of first-degree assault and acquitted of attempted first-degree murder, attempted second-degree murder, and attempted voluntary manslaughter. He argues on appeal that the eyewitness testimony was insufficient to support his conviction for first-degree assault. We disagree and affirm.

I. BACKGROUND

On July 12, 2019, Ciro Pesantes was stabbed with a knife as he was sitting on the front steps of the home of his friend, Soren Al-Kaki. At trial, Mr. Pesantes and Mr. Al-Kaki were the State's two eyewitnesses. Both had limited English proficiency and testified through interpreters. Both men identified Mr. Lawrence as the assailant.

A. Mr. Pesantes's Identification Testimony.

Mr. Pesantes testified that on the night of the stabbing, he went over to Mr. Al-Kaki's house, where they watched television, ate dinner, drank, and went outside to spend some time on the front steps of Mr. Al-Kaki's house. Mr. Pesantes admitted that he was drunk, but said that he "was aware of everything that was going on." While they were outside on the steps, Mr. Pesante said a man came up to them and asked for some money, refusing to move for "about five minutes." Mr. Pesantes told the man he didn't have any money, but the man kept insisting and came closer, knocking Mr. Pesantes's hat off his head and throwing it to the ground. Mr. Pesantes stood up, but the assailant pushed him back down. Mr. Pesantes added that "we were going back and forth like that. And then he

pulled out a knife, and he stabbed me.” Mr. Pesantes testified that he had seen his assailant before “on the corner” and that he recognized him when he saw him, although they had never interacted before. In court, Mr. Pesantes identified Mr. Lawrence as his assailant.

After the stabbing, Mr. Pesantes was taken to the hospital, where he had surgery for his injury and was released two days later. He recalled speaking with police at the hospital and telling them “everything that had happened,” but did not disclose that he and the assailant had been in a physical altercation. In court, Mr. Pesantes could not recall describing his assailant as clean shaven, stating that the officers only asked him about his assailant’s hair and age and did not ask him about his clothing. But in a recorded police interview, Mr. Pesantes described his assailant as a black man with an Afro wearing a red shirt, black Khaki pants, that he had no facial hair, and that he was carrying a big knife. When confronted with the body camera footage of his interview, Mr. Pesantes didn’t remember telling the officers what his assailant was wearing, and attempted to explain the inconsistencies by stating he didn’t remember much of what he told the officers and the questions were coming at him quickly.

B. Mr. Al-Kaki’s Identification Testimony.

In court, Mr. Al-Kaki identified the assailant as someone he’d seen in the neighborhood more than ten times and knew as “Hakim.” The assailant was someone with whom Mr. Al-Kaki occasionally interacted, but this evening when they asked him to move on, the man identified as “Hakim” started a fight before stabbing Mr. Pesantes. Mr. Al-Kaki called the police and the assailant walked away to a nearby store. Mr. Al-Kaki

admitted that he had issues with his eyesight and that he did not have a good memory; in court, when asked to point to the assailant, Mr. Al-Kaki stated “[p]robably this one,” referring to Mr. Lawrence.

At the scene, Mr. Al-Kaki told the police that the assailant had big bushy hair and was wearing a red shirt and black shorts, and he told the officers that “I know him. He’s in the corner.” In the body camera footage, Mr. Al-Kaki is heard describing the assailant as a black Muslim guy who hung out at the corner store, wearing a red shirt and black shorts. Four days later, on July 16, 2019, Mr. Al-Kaki was brought to the police station and shown an array of photographs in a “double blind” procedure from which he selected Mr. Lawrence’s photo. At trial, Mr. Lawrence tried to discredit Mr. Al-Kaki’s identification due to Mr. Al-Kaki’s limited knowledge of English. The detective read instructions saying, “The person who committed the crime may or may not be in the set of photographs you are about to view.” Mr. Al-Kaki asked for clarification, and the detective explained that law enforcement “had a person in mind who may have committed the crime and . . . we are asking him to view the photographs to find out whether . . . [it] is correct or not, and that the person may be in there or they may not be in there” After this clarification, Mr. Al-Kaki had no further questions, but he wrote down something in Arabic that was never translated. Mr. Lawrence attacked the reliability of the photo identification, suggesting that Mr. Al-Kaki misunderstood the purpose of the photo identification.

C. Mr. Lawrence’s Actual Appearance The Two Consecutive Days After The Crime.

Mr. Lawrence had two interactions with police in the consecutive days after the

stabbing that showed his actual appearance in body camera footage. On July 13, 2019, Mr. Lawrence had a full beard with his hair in braids. The jury also was shown body camera footage of Mr. Lawrence from July 14th where Mr. Lawrence again had a beard, but his hair was cut shorter and he was wearing a red shirt.

The jury convicted Mr. Lawrence of first-degree assault and acquitted him of all of the other charges. This timely appeal follows.

II. DISCUSSION

On appeal, Mr. Lawrence argues that the eyewitness testimony was inherently unreliable and insufficient as a matter of law to support his conviction of first-degree assault. The issue is whether the two identifications of Mr. Lawrence were sufficient to support his conviction.¹ As Mr. Lawrence acknowledges, the standard of review for an evidentiary sufficiency challenge is whether, “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.” *State v. Suddith*, 379 Md. 425, 429

¹ Mr. Lawrence frames his Question Presented as follows:

Were the two identifications of Appellant as *Ciro Pesantes*’ assailant sufficient to support Appellant’s conviction of first degree assault where the testimony of the two individuals making these identification [sic] was so inherently inconsistent and inconsistent with Appellant’s appearance that this sole evidence was in and of itself incapable of supporting a conviction beyond a reasonable doubt?

The State framed its Question Presented as: “Was the testimony of two witnesses identifying Lawrence as the assailant sufficient to support Lawrence’s conviction of first-degree assault?”

(2004) (citations omitted). Weighing the credibility of witnesses and resolving any conflicts in the evidence are tasks for the fact finder. *Id.* Accordingly, we give “due regard to the fact finder’s findings of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses.” *Id.* at 430 (cleaned up).

Mr. Lawrence argues, and the State concedes, that the only evidence linking Mr. Lawrence to the assault was the eyewitness identifications of Mr. Pesantes and Mr. Al-Kaki. Mr. Lawrence states further that their descriptions were “inconsistent with [Mr. Lawrence’s] fully bearded presence less than a day after the assault” and that their testimony otherwise was so inconsistent as to “render their entire testimony not worthy of belief.” Mr. Lawrence points out that the identifications given to police at the time of the assault “included either that the assailant was beardless or made no mention of any facial hair” which was inconsistent with Mr. Lawrence’s “fully bearded presence less than a day after the assault” in the subsequent body camera footage.

Notwithstanding a witness’s inconsistent descriptions, the identification testimony of a single witness, if believed, is enough to convict. *Branch v. State*, 305 Md. 177, 183–84 (1986). In *Branch*, a robbery victim told police that she was robbed by “a black male, approximately 5 feet 7 inches tall, 15 to 16 years of age, weighing 110–125 pounds, wearing a dark jacket, and carrying a silver handgun.” *Id.* at 178. The victim viewed a photograph of Mr. Branch and identified him as the robber, even though he was actually “19 years of age, 6 feet 3 inches tall, and weighed 185 pounds.” *Id.* at 179. The photograph

didn't show that Mr. Branch was missing two front teeth, and the victim failed to note that the robber was missing front teeth. *Id.* Nevertheless, the victim positively identified Mr. Branch at trial as the man who robbed her. *Id.* In his defense, Mr. Branch “claimed to have an alibi which was corroborated by his girlfriend, his aunt, and a ticket from a pawn shop for the day in question” *Id.* at 181. Aside from the identification, the State introduced no other evidence linking the defendant to the robbery. *Id.* at 186 (Eldridge, J., dissenting).

The Court of Appeals in *Branch* held that the eyewitness evidence was sufficient to sustain the conviction for armed robbery. *Id.* at 183–84. The Court stated the “substantial discrepancy between the description given by the victim of the crime almost immediately after the incident and the actual description of the accused . . . [goes] to the weight and not to the sufficiency of the evidence.” *Id.* at 184. The victim’s identifications were “enough for a rational trier of fact to conclude beyond a reasonable doubt that [the defendant] was the culprit.” *Id.*

So too here. Although the eyewitness testimony in this case suffered from inconsistencies, Mr. Pesantes’s identification alone was enough to sustain Mr. Lawrence’s conviction. Mr. Pesantes testified that he observed his assailant standing in front of him for five minutes before the stabbing and recognized him as someone he’d seen before in the neighborhood. Although he identified Mr. Lawrence as clean shaven the night of the crime and failed to initially tell police about the physical altercation that led to his stabbing, Mr. Pesantes’s identification was not any weaker than the identification made by the victim in *Branch*. Mr. Al-Kaki’s identification testimony arguably was weaker, but he also identified

Mr. Lawrence as someone he knew and with whom occasionally interacted and testified that he was the person who committed the stabbing. Both witnesses were cross-examined on these inconsistencies at trial, the fact of the inconsistencies was argued fully to the jury, and the differences were for the finder of fact to resolve. As a rational trier of fact could have resolved the inconsistencies in favor of the prosecution to conclude Mr. Lawrence was the assailant, the evidence was sufficient to support Mr. Lawrence's conviction for first-degree assault.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
APPELLANT TO PAY COSTS.**