

Circuit Court for Montgomery County
Case No.: 133971C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 347

September Term, 2019

KEVIN OSCAR RODRIGUEZ

v.

STATE OF MARYLAND

Fader, C.J.,
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 3, 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 Montgomery County, Kevin Oscar Rodriguez, appellant, was convicted of robbery and sentenced to fifteen years' imprisonment with all but eighteen months suspended in favor of five years' probation for the forceful taking of money from a taxi cab driver. Appellant's sole contention on appeal is that the verdict was not supported by legally sufficient evidence. We disagree and shall affirm.

At trial the State produced evidence that appellant and his companion, Johnathan Cifuentes-Gomez, hired the victim for a taxi cab ride. At the conclusion of the ride, after both appellant and his companion refused to pay, a struggle broke out between the men. Appellant, who was sitting in the front passenger seat grabbed the victim by the throat, and Gomez grabbed the victim by the shoulders. Appellant got out of the car and grabbed some money that the victim kept in a pocket in a door of the taxi cab while he stood outside of the taxi cab. The victim was able to recover some of the money during a further struggle between the men.

Eventually, appellant and Gomez ran away and entered a nearby house. The victim called the police, who arrived shortly thereafter. The victim made a positive show-up identification of two men that the police brought out of the house. After the police called the taxi cab dispatcher to obtain the phone number that had been used to hail the victim's taxi cab, they called that number and appellant's cell phone rang.

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.” *Pinheiro v. State*, 244 Md. App. 703, 711 (2020) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

Under Maryland law, robbery is defined as “the felonious taking and carrying away of the personal property of another from his person by the use of violence or by putting in fear.” *Hall v. State*, 233 Md. App. 118, 138 (2017) (quoting *Metheny v. State*, 359 Md. 576, 605 (2000)). “Put another way, robbery is a larceny or theft accompanied by violence or putting in fear.” *Allen v. State*, 158 Md. App. 194, 240 (2004), *aff’d*, 387 Md. 389 (2005) (citing *West v. State*, 312 Md. 197, 202 (1988)). A robbery conviction is proper “if there be force followed by a taking with intent to steal as part of the same general occurrence or episode.” *Stebbing v. State*, 299 Md. 331 (1984)). So long as “the force precedes the taking, the intent to steal need not coincide with the force.” *Id.* at 356; *see Allen*, 158 Md. App. at 241.

The gravamen of appellant’s argument appears to be that the evidence was legally insufficient because he was not personally applying force to the victim at the very moment that he took the money.

Appellant’s argument fails for two reasons. First, as explained above, it is sufficient that the application of force used to accomplish a robbery be part of the same general occurrence or episode, and appellant applied force to the victim by choking him just prior to when he took the money.

Second, even if appellant never applied any force to the victim, his accomplice, Gomez applied force when he held the victim by the shoulders while appellant took the money. Under Maryland law, “[a]n accomplice who knowingly, voluntarily, and with

common interest with the principal offender, participates in the commission of a crime is a guilty participant, and in the eye of the law is equally culpable with the one who does the act.” *Owens v. State*, 161 Md. App. 91, 99-100 (2005). Moreover, “[w]hen two or more persons participate in a criminal offense, each is ordinarily responsible for the acts of the other done in furtherance of the commission of the offense and the escape therefrom.” *Id.* at 105 (quoting *Sheppard v. State*, 312 Md. 118, 119-20 (1988), *abrogated on other grounds by State v. Hawkins*, 326 Md. 270, 604 A.2d 489 (1992)).

We therefore hold that the evidence was legally sufficient to support appellant’s conviction for robbery.

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