Circuit Court for Baltimore City
Case No. 121187003

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 566

September Term, 2022

DEVANTE STEWARD

v.

STATE OF MARYLAND

Kehoe,
Beachley,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 30, 2022

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Following a jury trial in the Circuit Court for Baltimore City, Devante Steward, appellant, was convicted of voluntary manslaughter; use of a handgun in the commission of a felony or crime of violence; fourth-degree burglary; wearing, carrying, or transporting a handgun in a vehicle; and wearing, carrying, or transporting a handgun on his person. His sole argument on appeal is that there was insufficient evidence to sustain his convictions for voluntary manslaughter and use of a handgun in the commission of a felony or crime of violence. For the reasons that follow, we shall affirm.

BACKGROUND

Viewed in the light most favorable to the State, the evidence at trial established that Lee Johnson was shot nine times at the 1000 block of Granby Street, resulting in death. Two witnesses, including Detective Anthony Austin, heard gunshots coming from the area of the shooting. Approximately 10 to 15 seconds later, Detective Austin observed a man, later identified as appellant, leaving the area where the victim's body was later found. Appellant appeared to be concealing something in his waistband. When Detective Austin asked appellant to stop, he fled. Appellant then got into a car belonging to Joshua Jackson and drove away at a high rate of speed. Mr. Jackson indicated that he got out of his car and let appellant take it because he had heard gunshots and then saw appellant approaching the rear of his vehicle with a gun "in his dip."

The police followed the vehicle, which eventually struck a curb. Appellant then exited the vehicle and ran into an apartment building located at 404 Aisquith Street. Once inside the apartment building, appellant entered an occupied apartment and stated that he was not going to hurt the occupants but needed to come inside. One of the

occupants told appellant that he could not be in the apartment and pushed appellant outside. Appellant was then arrested inside the apartment building.

The police subsequently found a .40 caliber Glock handgun located in the ceiling rafters of the apartment building's maintenance room. The handgun was in the "lock back" position, which indicated that all of the rounds in the handgun had been fired. Notably, the maintenance room was near the door where appellant had first entered the apartment building. The State's firearms expert testified that fourteen of the cartridge cases that were recovered from the scene of the shooting had been fired from the Glock handgun that was found in the maintenance room of the apartment.

Appellant did not testify or present any evidence. However, he requested, and received, a jury instruction on perfect self-defense based on evidence that: (1) a handgun was found underneath the body of the victim; (2) four cartridges recovered at the scene of the shooting were determined to have been fired from that handgun; and (3) appellant told one of the arresting officers that "someone was shooting me."

DISCUSSION

Appellant challenges the sufficiency of the evidence to sustain his convictions for voluntary manslaughter and use of a firearm in the commission of a felony or crime of violence. In reviewing the sufficiency of the evidence, we ask "whether, after reviewing 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." *Ross v. State*, 232 Md. App. 72, 81 (2017) (quotation marks and citation omitted). Furthermore, we "view[ ] not just the facts, but 'all rational inferences that arise from the evidence,' in the

light most favorable to the" State. *Smith v. State*, 232 Md. App. 583, 594 (2017) (quoting *Abbott v. State*, 190 Md. App. 595, 616 (2010)). In this analysis, "[w]e 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.'" *Potts v. State*, 231 Md. App. 398, 415 (2016) (citation omitted).

Appellant specifically contends that the evidence was insufficient because the State failed to disprove that he acted in perfect self-defense. Specifically, he asserts that "no rational trier of fact could have found that [he] did not act in perfect self-defense" because the State did not demonstrate that he "was the aggressor" or present any "evidence as to the circumstances surrounding firing of the shots." However, in *Hennessy v. State*, 37 Md. App. 559 (1977), we rejected an identical argument stating:

> [Hennessy] concedes by silence that there was sufficient evidence to sustain a manslaughter verdict, but argues that because the State did not affirmatively negate his self-defense testimony, he was entitled to what amounts to a judicially declared holding of self-defense as a matter of law. That is of course, absurd. The factfinder may simply choose not to believe the facts as described in that, or any other, regard[.]

Id. at 561-562 (internal citations omitted).

Appellant's contention is equally meritless. Although, he was entitled to, and received, a jury instruction on perfect self-defense, *see Dykes v. State*, 319 Md. 206, 211 (1990) (stating the requirements for perfect self-defense), the jury was "free to believe some, all, or none of the evidence presented" that supported that defense. *Sifrit v. State*, 383 Md. 116, 135 (2004). For example, the jury could reasonably find that appellant used excessive force by firing fourteen rounds from his handgun or that his statement to

the police that "someone was shooting at [him]" was not credible. *See, e.g., Rajnic v. State*, 106 Md. App. 286, 291-93 (1995) (finding that sufficient evidence existed from which a jury could reject appellant's claim of self-defense despite the undisputed testimony that the victims were larger than appellant, intoxicated, threatened to beat up appellant, and charged into his bedroom on the heels of those threats). Because the evidence did not establish that appellant acted in self-defense as a matter of law, the court did not err in denying appellant's motion for judgment of acquittal.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.