

Circuit Court for Anne Arundel County
Case No. C-02-CR-21-000658

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 580

September Term, 2022

GERALD EDWARD HAIGIS

v.

STATE OF MARYLAND

Wells, C.J.,
Shaw,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 28, 2023

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

Convicted by a jury in the Circuit Court for Anne Arundel County of attempted first degree murder, carjacking with a dangerous weapon, robbery with a dangerous weapon, first degree assault, and second degree assault, Gerald Edward Haigis, appellant, contends that the evidence is insufficient to sustain the convictions of attempted first degree murder, carjacking with a dangerous weapon, and robbery with a dangerous weapon. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Michael Lee, who testified that in April 2021, he met Mr. Haigis in the parking lot of a “strip club.” Mr. Haigis was asking “if anybody could give him a ride,” and Mr. Lee agreed. Mr. Haigis later introduced Mr. Lee to a woman named Amber Frye so Mr. Lee could “have a sexual favor done.” The “favor never materialized,” but “it was set up for the next day that she would . . . take care of the favor.” The following day, Mr. Lee drove his van to Mr. Haigis’s residence, picked him up, and drove him to Ms. Frye’s residence. Ms. Frye entered the van, and the three went “to buy . . . drugs [to exchange] for the sexual favor.” As Ms. Frye sat in the front passenger seat and Mr. Haigis sat in the rear driver’s side seat, Mr. Lee drove to the Brooklyn Park Apartments, where the drug transaction was completed. Mr. Haigis then directed Mr. Lee to drive to a parking lot located behind a shopping center.

As the State played a video recording taken by the shopping center’s surveillance camera, Mr. Lee testified that when the three arrived at the parking lot, Mr. Haigis told Mr. Lee to park his van between two trucks. Mr. Haigis and Ms. Frye consumed some of the drugs, and Mr. Lee waited for Mr. Haigis to depart so that the “sexual favor” could take place. “[S]ome kind of rope [then] came” from “the back seat area” and “across [Mr.

Lee’s head,” “went around [his] neck,” and “started to choke” him. Mr. Lee “grabbed [the rope] and . . . threw the car in reverse to try to drive into a public area,” but Ms. Frye “threw the car in park and turned the key off.” Mr. Lee “fought out the rope” and “jumped out the car.” Mr. Lee attempted to call 911 on his cell phone, but when he “look[ed] up,” he “saw the van coming after” him. Mr. Lee “thought that if [he] went close to” an SUV, Mr. Haigis “wouldn’t come close to” Mr. Lee, but Mr. Haigis “hit the SUV and” Mr. Lee, who “land[ed] on the curb.” Mr. Lee ran “behind a bush,” but Mr. Haigis drove “the van over the bush and kind of pin[ned Mr. Lee] to the wall.” When Mr. Haigis backed the van up, Mr. Lee fled, but Mr. Haigis again drove the van into Mr. Lee, who fell to the ground and “hit [his] head.” The video recording shows that Mr. Haigis then stopped the van, obtained an object from the back seat, approached Mr. Lee, pointed the object at Mr. Lee’s head, took Mr. Lee’s cell phone and several other items, and went through Mr. Lee’s pockets. Mr. Haigis then re-entered the van and drove away.

Mr. Lee subsequently “got[] off the pavement” and “look[ed] to see where [he could] go.” As Mr. Lee “look[ed] for help,” he found his “debit card and . . . food stamp card,” and picked them up. As Mr. Lee “was thinking about climbing the fence over where the highway was,” he saw his van, driven by Mr. Haigis, coming back. As shown in the video recording, Mr. Haigis stopped the van, then attempted to back the van into Mr. Lee at a considerable speed. Mr. Lee was “able to get out of the way” and use another vehicle “[a]s protection.” Mr. Haigis turned the van around, stopped in front of Mr. Lee, and exited the van. Mr. Lee asked Mr. Haigis what he was “doing this for,” but Mr. Haigis did not respond. When Mr. Haigis re-entered the van and departed, Mr. Lee “climb[ed] underneath

one of the trucks” in the parking lot “[t]o try to get out the way” and “be safe.” Mr. Haigis returned “about two or three” times to search for Mr. Lee, but was unsuccessful. After some time, Mr. Lee emerged from under the truck and “started waiving at people trying to get them to stop.” A “couple of” drivers stopped and called 911. Mr. Lee was taken to a hospital, where it was discovered that his left elbow, wrist, and ankle were fractured, and he had suffered a cut to his head that required stitches.

The State also called Anne Arundel County Police Detective Raymond Smythe, who testified that he was the “lead investigator on” Mr. Lee’s case. During his investigation, Detective Smythe met with Mr. Haigis’s brother, who gave the detective a letter from Mr. Haigis and in which Mr. Haigis gave “detailed instructions” on where to find Mr. Lee’s cell phone and wallet. Detective Smythe followed the directions and discovered Mr. Lee’s cell phone and wallet. The detective also discovered an “airsoft gun,” which is “a replica gun that people can shoot each other without injuring each other,” a “long piece of rope,” and a “dog leash-type rope.”

Mr. Haigis first contends that the evidence is insufficient to convict him of attempted first degree murder, because “if [Mr.] Haigis had intended for [Mr.] Lee to die, [Mr.] Lee would not have survived the assault,” and hence, “the evidence does not show beyond a reasonable doubt that [Mr.] Haigis had a specific intent to kill Mr. Lee.” We disagree. The Supreme Court of Maryland (formerly known as the Court of Appeals of

Maryland)¹ has stated that “a finder of fact may . . . infer that the defendant intended the natural and probable consequences of the defendant’s actions.” *Jones v. State*, 440 Md. 450, 457 (2014) (emphasis omitted). Here, Mr. Haigis used a rope to choke Mr. Lee, then struck Mr. Lee three times with his van. A natural and probable consequence of being choked with a rope, and being struck by a van, is death. The jury was permitted to infer that Mr. Haigis intended this natural and probable consequence of his actions, and hence, the evidence was sufficient to convict him of attempted first degree murder.

Mr. Haigis next contends that the evidence is insufficient to convict him of robbery with a dangerous weapon and carjacking with a dangerous weapon, because “there was insufficient evidence that a deadly or dangerous weapon was used in the commission of these crimes.” We disagree. The Supreme Court of Maryland has stated that

[f]or an instrument to qualify as a dangerous or deadly weapon . . . , the instrument must be (1) designed as anything used or designed to be used in destroying, defeating, or injuring an enemy, or as an instrument of offensive or defensive combat; (2) under the circumstances of the case, immediately useable to inflict serious or deadly harm (*e.g.*, unloaded gun or starter’s pistol useable as a bludgeon); or (3) actually used in a way likely to inflict that sort of harm (*e.g.*, microphone cord used as a garrote).

Brooks v. State, 314 Md. 585, 600 (1989) (internal citation, quotations, and footnote omitted).

¹At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See also* Rule 1-101.1(a) (“[f]rom and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland”).

Here, the State produced evidence that Mr. Haigis employed a rope to strangle Mr. Lee, and when Mr. Lee put his van “in reverse to try to drive into a public area,” Ms. Frye put the van in park and turned the engine off. From this evidence, the jury could reasonably conclude that Mr. Haigis used the rope in a way likely to inflict serious or deadly harm as part of an attempt to obtain unauthorized possession or control of Mr. Lee’s van. Also, the State produced evidence that after Mr. Haigis struck Mr. Lee three times with the van, Mr. Haigis exited the van and took from Mr. Lee his cell phone and several other items. From this evidence, the jury could reasonably conclude that Mr. Haigis used the van in a way likely to inflict serious or deadly harm as part of an attempt to rob Mr. Lee. Hence, the evidence is sufficient to convict Mr. Haigis of carjacking with a dangerous weapon and robbery with a dangerous weapon.

**JUDGMENTS OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**