

Circuit Court for Baltimore City
Case No. 116152002

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 605

September Term, 2017

EMMETT PULLIAM

v.

STATE OF MARYLAND

Woodward C.J.,
Eyler, Deborah S.,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned)

JJ.

PER CURIAM

Filed: February 7, 2018

*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.

Appellant, Emmett Pulliam, was charged in the shooting death of Quincey Carlos Waymon.¹ He was subsequently tried by a jury sitting in the Circuit Court for Baltimore City. On March 23, 2017, the jury convicted him of second-degree murder and use of a handgun in the commission of a crime of violence. He was sentenced on May 12, 2017 to thirty years of incarceration for second-degree murder and a consecutive twenty years of incarceration on the handgun offense, the first five years of which to be served without parole. Appellant appeals and argues that the evidence was legally insufficient to sustain his convictions. His claim is without merit.

BACKGROUND

At trial, the State called Jada Atkinson who testified that on May 3, 2016, she was with appellant, her boyfriend, at the Home Depot located at Reisterstown Plaza in Baltimore City. While there, she went into the women’s restroom whereupon Waymon, her ex-boyfriend, came into the restroom. Appellant then joined Atkinson and Waymon in the women’s restroom. Delroy Collette, a Home Depot loss prevention associate, testified that he was working that day and that he heard loud arguing coming from the restroom. When he entered it, he observed appellant, another man, and a woman. He observed appellant arguing loudly with the other man. Collette then ordered all three individuals to leave the Home Depot, and escorted them outside. Once outside the store, he was joined by Captain Ronald Alford, an officer with the Maryland Transportation Authority Police,

¹ Appellant’s brief, State’s brief, and the transcript spell the deceased name as “Quincy Wegman.” The statement of charges, indictment, and autopsy all spell the name of the deceased as “Quincey Carlos Waymon.”

who was working secondary employment at the Home Depot that day. Both Collette and Alford testified that they then observed appellant pick up a rock that was on the Home Depot property, and threaten the other man with it. Alford ordered appellant to drop the rock and leave the property. Appellant dropped the rock, and all three individuals then left the property. Both Alford and Collette were later shown photo arrays and positively identified appellant as one of the individuals whom they escorted from the Home Depot property that day. At trial both Alford and Collette also positively identified appellant as one of the individuals whom they escorted from the Home Depot property that day.

Atkinson testified that, after they left Home Depot, she and appellant walked to an apartment complex that is located behind the Home Depot store. They then stayed outside of the apartment complex for about an hour. She and appellant then walked back towards the shopping center whereupon Waymon came up behind appellant and struck him in the back of the head with a brick. Waymon immediately fled after striking appellant. As Waymon was fleeing, appellant took out a gun, which he had concealed in his pants, and shot Waymon in the back.

Alford and Collette, who were inside the store, both heard a loud noise and exited the store to investigate. Alford went towards the parking lot area where the sound had come from and observed a number of people running away. All but one were running towards Alford. One individual, a man whose face they could not see, was running away from the scene and towards the apartment complex. Both Alford and Collette testified that this man was wearing clothing which matched the clothing worn by appellant earlier in the store, and had a skin complexion which matched appellant's. Collette testified that as this

person ran from the scene, he motioned his hands near his waist, as though he was trying to hide something. Collette and Alford then came upon the victim who was lying in the parking lot suffering from a gunshot wound. Among the onlookers at the scene, was Atkinson who appeared upset and was crying.

Atkinson was taken to police headquarters and interviewed. She initially identified the shooter as a person named “Mdot.” Later, during the same interview, however, she positively identified appellant through a photo array as the person who had shot Waymon. On the photo array she wrote that she had seen appellant shoot Waymon in the chest. When confronted by her earlier testimony, that she had seen appellant shoot Waymon in the back, Atkinson explained that after the shooting she had seen Waymon bleeding from the chest. At trial she testified that she had not initially identified appellant because she was scared.

Waymon was transported to Sinai Hospital where he was declared deceased. Dr. Carol Allen, assistant medical examiner at the Office of the Chief Medical Examiner, performed an autopsy on Waymon’s body and discovered that he had one “through-and-through” gunshot wound which had entered his back and exited his chest. Dr. Allen testified as an expert in forensic pathology that the cause of death was a gunshot wound to the torso, and the manner of death was homicide.

At the close of the State’s case, the following exchange occurred:

[DEFENSE COUNSEL]: I’ll make a motion for judgment of acquittal.
Insufficient is the argument. I’ll submit.

[COURT]: Is that on all counts?

[DEFENSE COUNSEL]: Yes, ma’am.

Appellant did not present any evidence, and renewed his motion for judgment of acquittal, stating:

[DEFENSE COUNSEL]: You Honor, for the record, I'm going to renew my motion for judgment of acquittal and I'm going to submit on insufficiency involving all the counts. I'm going to submit.

DISCUSSION

Appellant argues that the “evidence underlying his convictions is legally insufficient and that his convictions should be reversed.” Appellant’s claim does not satisfy Maryland Rule 4-324 however, and therefore is not preserved for appellate review.

Md. Rule 4-324(a) requires that a criminal defendant “state with particularity all reasons why” a motion for judgment of acquittal should be granted. “[A] motion which merely asserts that evidence is insufficient to support a conviction, without specifying the deficiency, does not comply with the rule [4-324] and thus does not preserve the issue for sufficiency of appellate review.” *Garrison v. State*, 88 Md. App. 475, 478 (1991), *cert. denied*, 325 Md. 249 (1992) (citation omitted). Where a defendant simply chooses to “submit” and does not articulate the particularized reasons why the motion should be granted, “he has waived any complaint with respect to the sufficiency of the evidence.” *Id.*

Nevertheless, even had he properly preserved the issue for review, the evidence was sufficient to support appellant’s convictions. Appellant argues that, “if Ms. Atkinson’s testimony was not credible, in a case in which there was no forensic evidence linking Appellant to the shooting, then he should not have been convicted.” Appellant questions Atkinson’s credibility by pointing out that Atkinson initially told the police that Waymon

had been shot in the chest, but at trial testified that he had been shot in the back. Appellant also refers to Atkinson's initial statement to the police that an individual by the name "Mdot" shot Waymon, and that she was kept at the police station a number of hours before she identified appellant as the shooter.

We review for sufficiency by determining "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." *Donati v. State*, 215 Md. App. 686, 718 (2014) (internal quotations omitted). "Weighing the credibility of witnesses and resolving any conflicts in the evidence are tasks proper for the fact finder." *State v. Stanley*, 351 Md. 733, 750 (1998). The testimony of a single eyewitness, if believed, is sufficient to sustain a conviction. *Branch v. State*, 305 Md. 177, 183 (1986).

Here, Atkinson testified that she saw appellant shoot Waymon. Her credibility is for the factfinder to assess, not the reviewing court. Defense counsel argued at closing the ways in which her testimony was inconsistent, as he does here. The jury had ample opportunity to judge her credibility. The testimony of Atkinson was corroborated by Collette and Alford, who testified that they saw appellant with Atkinson in the Home Depot that day, and that appellant had gotten into an argument with Waymon approximately an hour before the shooting. Further, a man matching the description of appellant was seen running from the crime scene. The evidence was sufficient for any rational trier of fact to have found appellant guilty.

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