

Circuit Court for Baltimore City
Case No.: 819163019

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 687

September Term, 2020

CHRISTOPHER TYSON

v.

STATE OF MARYLAND

Kehoe,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: October 7, 2021

*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 trial in the Circuit Court for Baltimore City, a jury found Christopher Tyson, appellant, guilty of second-degree assault. The court sentenced him to five years' imprisonment with all but eighteen months suspended in favor of four years' probation.

In this appeal, appellant claims that the trial court abused its discretion in admitting certain photographs into evidence. For the reasons that follow, we shall affirm.

BACKGROUND

The victim, Ms. Frasier, testified that, on February 15, 2019, while in a gas station to purchase cigarettes and a soda, she saw appellant arguing with a woman. After Ms. Frasier returned to her car, she heard appellant screaming at the woman. Next, she observed appellant punch the woman he had been screaming at, knocking her unconscious.

Ms. Frasier then got out of her car, approached appellant, began yelling at him, and told him to move away from the unconscious woman. She then announced that she was going to call the police. When appellant saw that Ms. Frasier was calling the police, he swung at her face, which only lightly struck her because she reacted quickly. Ms. Frasier then got back into her car and locked the doors.

Appellant then picked up the woman he knocked out and dragged her to a car and tried to wake her up. All the while, Ms. Frasier was in her car taking pictures of the situation while she was on the phone with the police. Eventually the woman regained consciousness and both she and appellant approached Ms. Frasier's car. After unsuccessfully attempting to enter Ms. Frasier's car, appellant sat on the hood of it. Ms. Frasier eventually was able to drive away a short distance until the police arrived. Appellant left the scene.

When the police arrived, Ms. Frasier told the police what had just occurred and she showed them the photographs she had taken which, among other things, depicted appellant holding the unconscious woman, appellant sitting on the hood of Ms. Frasier’s car, appellant standing next to Ms. Frasier’s passenger side door attempting to open it, and the woman, who had been knocked out, at Ms. Frasier’s passenger side door. The photographs also revealed the license plate of the car the woman had been driving. Using that information, the police were able to obtain a photograph of appellant whom Ms. Frasier positively identified.

DISCUSSION

At trial, the court admitted into evidence various photographs taken by Ms. Frasier that were offered by the State. Two of the Exhibits (4 & 5) were admitted over appellant’s objection. Ms. Frasier testified that Exhibit 4 showed appellant “holding the unconscious woman upright while staring at me through my passenger window.” She said Exhibit 5 showed “the woman who was knocked out at my passenger window attempting to talk to me.”

Appellant objected to the admission of these photographs on the basis that they were “highly prejudicial” and “prejudicial, not probative.” Regarding Exhibit 4, the court overruled the objection on the basis that the photograph was probative and non-prejudicial because appellant had argued in opening statement that Ms. Frasier “didn’t have any reason to approach, needed to mind her business and suggested that there was nothing to be done[.]”

Without explanation the court overruled appellant’s objection to Exhibit 5 after the State argued that the photograph corroborated Ms. Frasier’s testimony that “an individual came up to her car asking her to stop and that ... individual came up to her door prior to [appellant coming to her passenger door].”

Relevant evidence is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Md. Rule 5-401. Relevant evidence is generally admissible. Md. Rule 5-402. Relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice[.]” Md. Rule 5-403. In *State v. Broberg*, 342 Md. 544 (1996), the Court of Appeals noted:

As we have consistently stated, the general rule regarding admission of photographs is that their prejudicial effect must not substantially outweigh their probative value. This balancing of probative value against prejudicial effect is committed to the sound discretion of the trial judge. The trial court’s decision will not be disturbed unless plainly arbitrary, because the trial judge is in the best position to make this assessment.

Id. at 552 (cleaned up).

Under the circumstances of this case, where the photographs illustrated and corroborated Ms. Frasier’s testimony about the events that occurred, we do not believe that the decision of the trial court to admit the photographs at issue into evidence was “plainly arbitrary.” *Id.* Consequently, we shall affirm the judgments of the circuit court.

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