

Circuit Court for Baltimore County
Case No. C-03-CR-21-001484

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1086

September Term, 2021

NAHUN ERNESTO FUNES COTO

v.

STATE OF MARYLAND

Berger,
Reed,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 5, 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.

Following a jury trial in the Circuit Court for Baltimore County, Nahun Ernesto Funes Coto, appellant, was convicted of driving while impaired by alcohol. His sole claim on appeal is that there was insufficient evidence to sustain his conviction. For the reasons that follow, we shall affirm.

Section 21-902(b)(1)(i) of the Transportation Article provides that “[a] person may not drive or attempt to drive any vehicle while impaired by alcohol.” A person driving a vehicle is “impaired” if the alcohol or controlled substance that they have consumed “has impaired normal coordination to some extent.” *Turner v. State*, 181 Md. App. 477, 490 (2008) (citation omitted). 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) (quoting *Harrison v. State*, 382 Md. 477, 487-88 (2004)).

Viewed in a light most favorable to the State, the evidence demonstrated that, at approximately 3 a.m., Maryland State Trooper John Kennedy responded to a call for a single vehicle accident on the exit ramp to Belair Road from Interstate 695. When

Trooper Kennedy arrived, he observed that a truck had “r[u]n off the road and took out a couple trees” that were located in the median area “separat[ing] the two opposite going ramps.” Trooper Kennedy did not observe anything that indicated another vehicle had been involved in the crash. And the only damage he noticed was to the front of the truck where it had struck the trees.

Appellant and another man were standing outside the truck when Trooper Kennedy arrived, and appellant admitted that he had been driving the vehicle. Appellant also told Trooper Kennedy that he had consumed “four Corona beers” and Trooper Kennedy smelled an odor of alcohol emanating from appellant’s breath. During their interaction, Trooper Kennedy noted that appellant “wasn’t really making any sense” when answering his questions, was acting “confused, kind of disoriented” and “was stumbling over while [they] were just standing up talking.” Appellant also refused Trooper Kennedy’s request to participate in field sobriety tests. Based on his observations, Trooper Kennedy believed that appellant was impaired by alcohol and placed appellant under arrest. Appellant then refused a breath alcohol test following his arrest, which permitted the jury to infer that he evidenced a consciousness of guilt of driving while impaired. *See Harding v. State*, 223 Md. App. 289, 299 (2015). Based on this evidence, we are persuaded that the jury could reasonably find that appellant drove a vehicle while his normal coordination was impaired to “some extent” by alcohol. Consequently, the State presented sufficient evidence to sustain his conviction.

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