

Circuit Court for Anne Arundel County
Case Nos. C-02-CR-17-001098 and 001985

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1097

September Term, 2020

MICHAEL THOMAS, II

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: June 27, 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 second degree assault of Lori Golden and Danny Bishop, illegal possession of a regulated firearm, and theft of property of a value of under \$1,000, Michael Thomas, II, appellant, presents for our review a single issue: whether the evidence is sufficient to sustain the convictions for illegal possession of a regulated firearm and second degree assault of Ms. Golden. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Mr. Bishop, who testified that he is the boyfriend of Ms. Golden, who has a daughter named E.L.. Mr. Bishop also knows Mr. Thomas as a “drug dealer” whose nickname is “King.” On April 17, 2017, Mr. Bishop and Ms. Golden were staying in a room at the Motel 6 in Laurel. During the evening, Mr. Bishop’s friend Jake Bassford knocked on the door of the room, and Mr. Bishop let Mr. Bassford in. A “couple of minutes” later, Mr. Bishop heard another knock on the door, but when he “looked out the peephole[,] there was nobody there.” A “couple of seconds” after that, Mr. Bishop heard a third knock on the door. When Mr. Bishop opened the door, a black male with “his face covered and his head wrapped up” stuck a gun in Mr. Bishop’s face. Mr. Bishop “tried to close the door,” but the gunman’s “arm was already in the door.” Mr. Bishop “got pushed,” and the gunman and a second man entered the room.

The gunman and his companion “closed the door and told [Mr. Bishop] to get down on the ground.” The gunman put his “foot on the back of [Mr. Bishop’s] head[,] told [him] to close [his] eyes and don’t look at them,” and pressed the gun against Mr. Bishop’s head. The gunman “racked the gun,” and a “bullet fell out next to” Mr. Bishop. The men asked Mr. Bishop: “[W]here is the money? Where is the medicine? Where [are] the pills? And

where is the cash?” Ms. Golden began shouting: “[L]eave him alone, leave him alone.” Mr. Bishop then heard the men “rummaging through the bedroom and dumping out [Ms. Golden’s] purse.”

When “somebody else knocked on the door[,] everybody got quiet and [the masked men] said that it was the front desk.” After “the front desk left,” the masked men departed, stating: “[D]on’t open the door or I am going to start spraying.” A “couple of seconds” later, Mr. Bassford pushed Mr. Bishop “out of the way” and departed. When Mr. Bassford “was leaving the room,” Mr. Bishop saw Mr. Thomas “outside in the parking lot.” Approximately two minutes later, Mr. Thomas knocked on the door. When Mr. Bishop opened the door, Mr. Thomas entered, threw Mr. Bishop “up against the wall,” and stated: “[Y]our f’in daughter robbed me. You know, got me robbed.” Mr. Bishop stated that the “daughter” was not his, but Ms. Golden’s. Mr. Thomas had Mr. Bishop “up against the wall [with] his finger on [Mr. Bishop’s] forehead,” and stated that “he [was] going to kick [Mr. Bishop’s] ass and whatever.” Mr. Thomas then departed. Mr. Bishop confirmed that “during the robbery,” he “recognize[d Mr. Thomas’s] voice,” because Mr. Bishop “had talked to him” and has “had conversations with him.”

The State next called Ms. Golden, who testified: “I was sitting on the bed next to the door and when [Mr. Bishop] opened the door, I saw two black males with tee shirts tied over their faces. And one had a gun and I started screaming.” Ms. Golden and Mr. Bishop “were told to get on the floor,” and Ms. Golden complied. As “[o]ne of the masked men” pointed what appeared to be a “black handgun” at the back of Mr. Bishop’s head, the men “started asking where the drugs were and where [Ms. Golden’s] money was.” The gunman

“moved the gun back and a bullet came out of the gun.” The masked men had “other conversation like go through their pockets, get their cell phones, get their IDs so we know where they live.” The men “found [Ms. Golden’s] purse” and “took all of [her] medication and . . . money out of it.” One of the men then “said don’t come out of the room until we are gone or I will kill you,” and they departed. Ms. Golden confirmed that during the robbery, one of the masked men threw an “empty bottle, . . . a plastic small bottle,” at Ms. Golden’s head. As Mr. Bassford “was leaving,” Mr. Thomas, whom Ms. Golden knew as King, “came into the room and pushed [Mr. Bishop] against the wall and started asking where [Ms. Golden’s] daughter was.” Mr. Thomas “said that [E.L.] had robbed him or had him robbed and that is why he was there.” After a “few minutes,” Mr. Thomas departed.

The State also produced evidence that when police responded to the Motel 6, a crime scene technician recovered a live “cartridge” and a “miniature liquor bottle.” Printed on the back of the cartridge were the words “R-P .380 auto.” Police subsequently obtained a search warrant for the residence of Mr. Thomas’s girlfriend, where Mr. Thomas was believed to be staying at the time. When police executed the warrant, they discovered Mr. Thomas on a couch in the living room, and further discovered, on the side of the couch, a loaded .380 handgun. The cartridge was later found to be compatible with the handgun. Finally, the parties stipulated that Mr. Thomas has “previously been convicted of a disqualifying offense . . . that prohibited him from possessing a regulated firearm at the time of this incident.”

Mr. Thomas first contends that the evidence is insufficient to sustain the conviction for illegal possession of a regulated firearm, because “there was insufficient evidence that [he] had actual or indirect possession over the firearm.” (Quotations omitted.) We disagree. “In order for the evidence supporting [a] handgun possession conviction to be sufficient, it must demonstrate either directly or inferentially that [the defendant] exercised some dominion or control over the prohibited item[.]” *Parker v. State*, 402 Md. 372, 407 (2007) (internal citations, quotations, and brackets omitted). Here, Mr. Bishop recognized Mr. Thomas by his voice as one of the men who used a handgun to assault and rob Mr. Bishop and Ms. Golden. Within minutes of the masked men’s departure, Mr. Thomas re-entered the motel room and again assaulted Mr. Bishop. When police discovered the handgun, it was located on the side of a couch on which Mr. Bishop had been discovered. The handgun was later found to be compatible with a bullet discovered inside Mr. Bishop and Ms. Golden’s motel room. We conclude that this evidence demonstrates either directly or inferentially that Mr. Thomas exercised dominion or control over the handgun, and hence, the evidence is sufficient to sustain the conviction for illegal possession of a regulated firearm.

Mr. Thomas next contends that the evidence is insufficient to sustain the conviction for second degree assault of Ms. Golden, because “the State [did] not prove[] beyond a reasonable doubt that [Mr. Thomas] was one of the masked robbers, or that he had conspired with those robbers,” and “there was no . . . testimony[] whatsoever[] that after the masked robbers left the motel room, [Mr. Thomas] threatened or did anything that could constitute any type of physical assault or verbal threat of violence upon [Ms.] Golden.”

We disagree. The State presented evidence that during the robbery, Mr. Bishop recognized the voice of one of the masked men as that of Mr. Thomas. When Ms. Golden saw that one of the men had a handgun, she began to scream. When the gunman put a handgun to Mr. Bishop's head and demanded property, Ms. Golden shouted at the men to leave Mr. Bishop alone. During the robbery, one of the masked men threw an object at Ms. Golden. When the men departed, they ordered Mr. Bishop and Ms. Golden not to open the door, or the men would "start spraying." When Mr. Bassford left the room, Mr. Bishop saw Mr. Thomas in the motel's parking lot. Mr. Thomas then entered the room, assaulted Mr. Bishop, and demanded to know the location of Ms. Golden's daughter, on the ground that she had arranged for Mr. Thomas to be robbed. Finally, when Mr. Thomas was arrested, a handgun compatible with the bullet obtained from the scene of the assaults was discovered near where Mr. Thomas was located. We conclude that this evidence could convince a rational trier of fact beyond a reasonable doubt that Mr. Thomas was one of the "masked robbers," and intentionally frightened Ms. Golden with the threat of immediate physical harm. *See Jones v. State*, 440 Md. 450, 455 (2014) (a "defendant commits second-degree assault of the intent-to-frighten type where: (1) the defendant commits an act with the intent to place a victim in fear of immediate physical harm; (2) the defendant has the apparent ability, at the time, to bring about the physical harm; and (3) the victim is aware of the impending physical harm" (internal citation, quotations, and brackets omitted)). Hence, the evidence is sufficient to sustain the conviction for second degree assault of Ms. Golden.

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