Circuit Court for Baltimore County
Case No. 03-K-19-000028

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1677

September Term, 2019

BRANDON JOSEPH BYRNE

v.

STATE OF MARYLAND

Fader, C.J.,
Ripken,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 9, 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 a bench trial in the Circuit Court for Baltimore County, Brandon Joseph Byrne, appellant, was convicted of five counts of second-degree assault; four counts of malicious destruction of property; and one count each of failure to immediately stop a vehicle at the scene of an accident involving bodily injury, failure to return to and remain at the scene of an accident involving bodily injury, and failure to provide information in connection with an accident involving bodily injury. He raises a single issue on appeal: whether there was sufficient evidence to sustain his convictions. For the reasons that follow, we shall affirm.

In analyzing the sufficiency of the evidence admitted at a bench trial to sustain a defendant's convictions, we "review the case on both the law and the evidence," but will not "set aside the judgment . . . on the evidence unless clearly erroneous." Maryland Rule 8–131(c). "We review sufficiency of the evidence to determine 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." *White v. State*, 217 Md. App. 709, 713 (2014) (internal quotation marks and citation omitted).

Viewed in the light most favorable to the State, the evidence at trial established that Mr. Byrne fled in his vehicle after he was approached by several undercover officers who were wearing vests that identified them as being police. During his flight, Mr. Byrne ran a stoplight, drove down the wrong side of the road, and hit four different police cars, injuring two officers. That evidence, if believed by the court, was sufficient to sustain his convictions.

In claiming otherwise, Mr. Byrne first asserts that the court should have credited his testimony that he did not know the people who approached him were police officers and that, in fleeing, he was "acting in self-defense [to] avoid detention and what he considered eventual assault by these individuals in [the] cars bent on trapping him." However, in *Hennessy v. State*, 37 Md. App. 559 (1977), we rejected an identical argument stating:

> [Hennessy] . . . argues that, because the State did not affirmatively negate his self-defense testimony, he was entitled to what amounts to a judicially declared holding of self-defense as a matter of law. That is, of course, absurd. The factfinder may simply choose not to believe the facts as described in that, or any other, regard[.]

Id. at 561-62 (internal citations omitted).

The court, as the finder of fact, was "free to believe some, all or none of the evidence presented." *Sifrit v. State*, 383 Md. 116, 135 (2004). And it found that Mr. Byrne's testimony was a "self-serving version of events that [had] evolved [from the date of the incident] until the time he stepped off the witness stand." Here, as the trier of fact, it was the court's task "to measure the weight of the evidence and to judge the credibility of the witnesses." *State v. Manion*, 442 Md. 419, 431 (2015) (citation omitted). Consequently, we cannot say the court abused its discretion in rejecting Mr. Byrne's testimony that he acted in self-defense.

Mr. Byrne next asserts that the court's decision to credit the officers' version of events was clearly erroneous because "each of the officers testified that the front of [Mr. Byrne's vehicle] collided with their various cars," whereas photographs taken after the incident demonstrated that his vehicle had only been damaged on the front driver's side

and front passenger side. As an initial matter, the State correctly notes that several officers did in fact testify that their vehicles were struck by either the "front passenger side" or "front driver's side" of Mr. Byrne's vehicle. Moreover, even if the officers were mistaken about the precise impact point between the vehicles, that does not mean that the evidence against Mr. Byrne was insufficient. Rather, inconsistencies or weaknesses in the testimony of the State's witnesses affects the weight of the evidence, not its sufficiency, and was for the court to resolve. *Owens v. State*, 170 Md. App. 35, 103 (2006) ("A witness's credibility goes to the weight of the evidence, not its sufficiency.").

Finally, Mr. Byrne contends that the court's verdicts were legally and factually inconsistent. Specifically, he claims that, because the court acquitted him of two counts of assault on a law enforcement officer, it must have "found as a matter of fact that [he] did not recognize that the individuals in the cars . . . were undercover police officers." Mr. Byrne claims that having made that finding "the court was required to find that [his] actions in avoiding [the unmarked cars] was reasonable and that [he] was properly acting in self-defense and legally justified[.]"

As an initial matter, this claim is not preserved because Mr. Byrne did not object after the court rendered its verdict. *See Travis v. State*, 218 Md. App. 410, 452, 471 (2014) (discussing the "ironclad preservation requirement" with respect to claims of inconsistent verdicts and finding that the appellant's claim of an alleged inconsistent verdict in a bench trial was "not preserved for appellate review"). But even if the issue had been preserved it lacks merit. In acquitting Mr. Byrne of the two charges of assault on a law enforcement officer, the court did not indicate, implicitly or otherwise, that it

believed his testimony that he did not know the persons trying to stop him were police officers. Rather, it specifically stated that it was not convinced beyond a reasonable doubt that Mr. Byrne had intended to injure the officers when he struck them with his vehicle. *See generally Britton v. State*, 201 Md. App. 589, 600 (2011) (noting that to prove the offense of assault on a law enforcement officer the State must prove that the officer received a physical injury and that the defendant intended to cause the injury). The offenses for which Mr. Byrne was convicted, second-degree assault and malicious destruction of property, did not require proof of a specific intent to cause injury. Consequently, the court's verdict was neither factually nor legally inconsistent.

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