

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1789

September Term, 2014

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DERRICK CARZA YOUNG

v.

STATE OF MARYLAND

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Wright,  
Reed,  
Alpert, Paul E.  
(Retired, Specially Assigned),

JJ.

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Opinion by Alpert, J.

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Filed: July 21, 2015

\*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.

After a jury trial in the Circuit Court for Prince George’s County, Derrick Carza Young, appellant, was found guilty of robbery, theft, second-degree assault, and conspiracy to commit robbery. He was sentenced to a term of incarceration of twelve years, with all but six years suspended, for the robbery conviction, and a concurrent term of twelve years, with all but six years suspended, for the conspiracy conviction. The remaining convictions merged for sentencing purposes. This timely appeal followed.

### **ISSUE PRESENTED**

The sole issue presented for our consideration is whether the evidence was sufficient to sustain Young’s convictions for robbery, second-degree assault, and conspiracy to commit robbery. For the reasons that follow, we shall affirm.

### **FACTUAL BACKGROUND**

On the morning of September 6, 2013, Ryan Hunter, the assistant manager of a Self Storage Zone store, went to the Sun Trust Bank in Forestville to deposit money from the previous days’ business and pick up \$80 in change. Upon arriving at the bank, Hunter parked his white Grand Cherokee directly across from the bank’s entrance. He entered the bank, made the deposit, and obtained \$80 in change. He then placed the change into a blue or teal colored bag and placed the bag under his right arm. As Hunter exited the bank, he looked to his left and right “to check [his] surroundings,” and then proceeded to his vehicle.

Hunter noticed two men walking towards the bank from a nearby America’s Best Wings store and barber shop that were located at the end of the nearby Forestville Shopping Center. Both men had dreadlocks. One of the men proceeded toward the back of Hunter’s

vehicle. That man wore a dark-colored Polo shirt, dark jeans, and had facial hair. The other man, who wore a light colored or gray shirt with horizontal black and white stripes and jeans, proceeded toward the front of Hunter's vehicle. According to Hunter, the man who walked toward the front of his vehicle "seemed to be playing like a lookout role."

As Hunter was getting into his vehicle, the man wearing the dark-colored Polo shirt ran up to him from the rear of the vehicle and said, "Don't move. Come here, Slim, give up the bag." The man held out his left hand and "had his right hand on his waistband as if he had a gun." According to Hunter, "it looked like he was actually holding the butt of the gun." Hunter gave the man the bag containing the \$80. Both of the men who had approached Hunter's vehicle ran to a gold-colored vehicle. Hunter got in his car and called the police.

Prince George's County Police Detective Thomas Bunce responded to Hunter's call and obtained a description of the individuals involved in the robbery. Detective Bunce and Michael Coakley, an investigator with the video analysis unit of the Prince George's County Police Department, obtained and viewed video from surveillance cameras at the Sun Trust Bank and the America's Best Wings store, which was about 180 feet away from the bank. On the video recordings obtained from the America's Best Wings store, Detective Bunce observed individuals who matched the descriptions provided by Hunter.

One video showed an individual go into the bathroom at the America's Best Wings store at about 10:49 a.m., approximately twenty minutes prior to the time of the robbery.

That individual later exited the bathroom and the store and walked around the corner of the building. Detective Bunce used a still photograph obtained from the video recordings to create a wanted poster. He identified Young as the person pictured in that poster. A later portion of the video recording showed the individual Detective Bunce identified as Young speaking to the shadow of what appeared to be another individual. From other video recordings, Detective Bunce identified the getaway vehicle as a Ford Taurus.

Detective Bunce's investigation led him to Tiara Pardlow, the mother of Young's child. He showed Pardlow the wanted poster that included photographs of both the suspect and the suspected getaway vehicle. Pardlow identified the individual in the photograph as Young and stated that he had been wearing the gray shirt with the horizontal stripes that was depicted in the photograph. She also identified the vehicle, which had front rims that did not match the back rims and a rear window that was stuck half opened, as belonging to her. Pardlow told Detective Bunce that she had loaned her car to Young on the day of the incident.

### **DISCUSSION**

Appellant contends that the evidence is insufficient to sustain his convictions for robbery, second-degree assault, and conspiracy to commit robbery. The standard for reviewing the sufficiency of the evidence is "whether, after considering 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." *Jackson v. Virginia*, 443 U.S.

307, 313 (1979); *Jones v. State*, 440 Md. 450, 454-55 (2014)(quoting *Hobby v. State*, 436 Md. 526, 538 (2014)). We 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.” *Harrison v. State*, 382 Md. 477, 488 (2004)(and cases cited therein). In performing its function, the jury is free to accept the evidence it believes and reject that which it does not believe. *Muir v. State*, 64 Md. App. 648, 654 (1985). When reviewing a challenge to the sufficiency of the evidence, we “view the evidence, and all inferences fairly deducible from the evidence, in a light most favorable to the State.” *Hackley v. State*, 389 Md. 387, 389 (2005)(citations omitted). With these standards in mind, we turn to the case at hand.

## I.

Appellant first contends that the evidence is insufficient to sustain his conviction for robbery because “the State failed to demonstrate the exercise of constructive force by the (unnamed) man who approached Mr. Hunter” and “[a] demand for money, alone, cannot be sufficient to create apprehension that the person making the demand is about to apply force.” He argues that the oral demand for the bag containing the cash did not constitute a threat of force because it was not accompanied by the suggestion of bodily harm, the indication of a weapon, or both. We disagree.

Robbery is defined as “the felonious taking and carrying away of the personal property of another from his person by the use of violence or putting in fear.” *Metheny v.*

*State*, 359 Md. 576, 605 (2000)(quoting *Williams v. State*, 302 Md. 787, 792 (1985)). The force or violence element may be satisfied either by actual physical force or by constructive force, which is also referred to as intimidation. *Spencer v. State*, 422 Md. 428-29 (2011); *Coles v. State*, 374 Md. 114, 126 (2003). Intimidation is sufficient if it excites reasonable apprehension of danger causing the owner to surrender his property. *Spence v. State*, 51 Md. App. 359, 361 (1982)(and cases cited therein). “[P]ossession of an undisclosed weapon may be inferred from the surrounding facts and circumstances.” *Coles*, 374 Md. at 129 (where defendant wore jacket or heavy shirt that could have concealed a weapon).

In the case at hand, Hunter observed two men who appeared to be acting together. Those men surrounded him and one of them made an unequivocal demand for the bag containing the money. The man who approached Hunter and demanded the bag of money held his hand on his waistband as if he was holding the butt of a gun. From these facts, the jury could reasonably infer that Hunter felt threatened, intimidated, and in fear for his life. As a result, the evidence was sufficient to establish the requisite use of force or intimidation to support a robbery conviction.

## II.

Young next challenges the sufficiency of the evidence to sustain his conviction for second-degree assault. The trial court instructed the jury only as to the “intent to frighten” variety of second-degree assault, which “requires that the defendant commit an act with the intent to place another in fear of immediate physical harm, and the defendant had the

apparent ability, at that time, to bring about the physical harm.” *Snyder v. State*, 210 Md. App. 370, 382 (2013). Young argues, as he did with respect to the robbery charge, that “the State failed to demonstrate that the man who approached Mr. Hunter made any threat of physical contact or harm.” We disagree.

As with robbery, “the element of force or violence may be satisfied by constructive force[,]” which is also referred to as intimidation or an intent to put the victim in fear. *Fetrow v. State*, 156 Md. App. 675, 688 (2004); *Coles*, 374 Md. at 126-29. Constructive force or intimidation may be established by circumstances or the inferences drawn therefrom. *Dixon*, 302 Md. at 459-463.

In the instant case, Hunter testified that the man who approached him “had his right hand on his waistband as if he had a gun[,]” and “looked like he was actually holding the butt of the gun.” This evidence could be reasonably construed by the jury as a purposeful and deliberate gesture or threat of force intended to place Hunter in fear of immediate physical harm and induce a lack of resistance. This was sufficient evidence to sustain Young’s conviction for second-degree assault.

### III.

Young’s final contention is that the evidence is insufficient to sustain his conviction for conspiracy to commit robbery because the State did not prove that a robbery was committed. Again, we disagree.

Criminal conspiracy is the “agreement between two or more people to achieve some unlawful purpose or to employ unlawful means in achieving a lawful purpose.” *State v. Payne*, 440 Md. 680, 712-13 (2014); *State v. Johnson*, 367 Md. 418, 424 (2002). The agreement need not be formal or spoken, as long as there is a meeting of the minds “reflecting unity of purpose and design.” *Mitchell v. State*, 363 Md. 130, 145 (2001). The crime is complete when the agreement is made. *Id.* A criminal conspiracy may be shown by “circumstantial evidence from which an inference of common design may be drawn.” *McMillan v. State*, 325 Md. 272, 292 (1992). Concurrent actions by a defendant and a co-conspirator on a “material point” is sufficient to allow a jury to infer a conspiracy. *Hill v. State*, 231 Md. 458, 461, *cert. denied*, 375 U.S. 861 (1963); *Acquah v. State*, 113 Md. App. 29, 50 (1996).

As we have already stated, there was sufficient evidence of intimidation to sustain Young’s conviction for robbery. With respect to the conspiracy, there was sufficient evidence of concurrence of action from which the jury could infer that Young and his accomplice unlawfully agreed to commit the robbery. The video recordings showed that after the man with the striped shirt left the America’s Best Wings store, he engaged in what appeared to be a conversation with another person who appeared only as a shadow on the recording. Shortly thereafter, two men approached Hunter together, one at the rear of his vehicle and the other at the front of his vehicle, thereby surrounding him. According to



Hunter, one of the men played a “lookout role.” From these facts, the jury could have inferred that Young and his accomplice unlawfully conspired to commit the robbery.

**JUDGMENTS AFFIRMED; COSTS TO BE  
PAID BY APPELLANT.**