Circuit Court for Cecil County
Case No. CR-17-230

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2115

September Term, 2018

IKIEM SMITH

v.

STATE OF MARYLAND

Nazarian,
Wells,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 8, 2019

*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 Cecil County, Ikiem Smith, appellant, was convicted of first-degree assault, second-degree assault, resisting arrest, two counts of fleeing and eluding, negligent driving, and reckless driving. On appeal, Mr. Smith contends that the evidence was not sufficient to support the conviction for first-degree assault. We shall affirm.

At trial, Corporal Michael Cox of the Maryland State Police testified that he and Sergeant Sean Harris initiated a stop of a vehicle driven by Mr. Smith because there was an open warrant for Mr. Smith's arrest. Corporal Cox approached the vehicle on the driver's side and asked Mr. Smith to turn the vehicle off. Mr. Smith complied and took the keys out of the ignition. Corporal Cox then asked Mr. Smith to step to the rear of the vehicle. Mr. Smith did not comply with that order, and Corporal Cox repeated the order two more times. Mr. Smith still did not comply, but instead, put the keys back into the ignition, started the vehicle and "attempted to pull away, revving the vehicle." The vehicle did not move, however, because it was not in gear.

Corporal Cox then leaned into the open driver's side window, up to his waist, and tried to prevent Mr. Smith from accessing the vehicle's gear controls on the center console. Mr. Smith resisted, attempting to push Corporal Cox out of the vehicle with his left forearm and elbow while simultaneously trying to put the car into gear. Mr. Smith succeeded in putting the vehicle into gear, while Corporal Cox was still partially inside the vehicle, and the vehicle "lurched forward." Corporal Cox "disengaged" from the vehicle as Mr. Smith "took off[,]" at a high rate of speed. Mr. Smith then led police in a high-speed chase that ended with Mr. Smith's apprehension by several police units.

To convict Mr. Smith of first-degree assault, the State was required to prove that Mr. Smith intentionally caused or attempted to cause serious physical injury to another. Md. Code (2002, 2012 Repl. Vol.), Criminal Law Article, § 3-202(a)(1). Mr. Smith contends that the evidence was insufficient to sustain his conviction because the State did not establish that he had the specific intent to cause or attempt to cause serious physical injury to Corporal Cox. We disagree.

"The test of appellate review of evidentiary sufficiency is 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.'" *Donati v. State*, 215 Md. App. 686, 718 (citation and some internal quotation marks omitted), *cert. denied*, 438 Md. 143 (2014). "[T]he test is 'not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded *any* rational fact finder.'" *Anderson v. State*, 227 Md. App. 329, 346 (2016) (quoting *Painter v. State*, 157 Md. App. 1, 11 (2004)) (emphasis in *Painter*). In reviewing the sufficiency of the evidence, "[w]e 'must give deference to all reasonable inferences [that] the fact-finder draws, regardless of whether [we] would have chosen a different reasonable inference.'" *Donati*, 215 Md. App. at 718 (citation omitted).

"Given the subjective nature of intent, the trier of fact may consider the facts and circumstances of the particular case when making an inference as to the defendant's intent." *State v. Manion*, 442 Md. 419, 434 (2015) (citations omitted), *reconsideration denied* (Apr. 17, 2015). Moreover, for purposes of showing that the defendant had the specific intent to cause serious physical injury, a fact finder may infer, from the conduct of

a defendant, that the defendant "intends the natural and probable consequences" of the defendant's actions." *Chilcoat v. State*, 155 Md. App. 394, 403 (2004).

Viewed in the light most favorable to the State, the evidence at trial was sufficient for the court, as factfinder, to conclude that Mr. Smith was aware that Corporal Cox's body was half inside and half outside his vehicle at the time he put the vehicle into gear; that serious physical injury was a "natural and probable consequence" of Mr. Smith putting his vehicle into gear and then driving off at a high rate of speed while Corporal Cox was still partially inside the vehicle; and, therefore, that Mr. Smith intended to cause serious physical injury to Corporal Cox.

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