Circuit Court for Howard County
Case No. C-13-CR-23-000247

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 2143

September Term, 2023

DEON CHRISTOPHER MORGAN

v.

STATE OF MARYLAND

Graeff,
Kehoe, Stephen H.,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 14, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Convicted by a jury in the Circuit Court for Howard County of two counts of second degree assault, Deon Christopher Morgan, appellant, presents for our review a single issue: whether the evidence is sufficient to sustain the convictions. For the reasons that follow, we shall affirm the judgments of the circuit court.

Mr. Morgan was initially charged by indictment with first degree assault of Scarlet Graninger, first degree assault of Kaitlyn Rindos, and related offenses. At trial, the State called Ms. Graninger, who testified that in 2020, she met Mr. Morgan "online." On September 8, 2022, Mr. Morgan "came over" to the Columbia residence that Ms. Graninger shared with Ms. Rindos. While Mr. Morgan was in Ms. Graninger's room, she took a shower. As Ms. Graninger was dressing, Mr. Morgan stated: "Give me whatever you got." Ms. Graninger looked at Mr. Morgan and saw that he was "holding a gun, just straight down." Feeling "[o]verwhelmed" and "afraid," Ms. Graninger "bolted out of the room" and screamed: "Call somebody. Call somebody." Mr. Morgan followed Ms. Graninger and "openhanded pushed" her "down to [her] knee." Ms. Graninger went into Ms. Rindos's room, closed and locked the door, and went into a closet next to a bathroom. Ms. Graninger heard that Ms. Rindos was in the bathroom and told her, through the wall: "I had invited Deon over and he pulled a gun out on me and tried to rob me."

A police officer subsequently arrived at the residence and spoke with Ms. Graninger. The State played for the jury a video recording, made by the officer's body camera, of the conversation, during which Ms. Graninger stated that she "looked at [Mr. Morgan] and he was holding a gun, and he was like, '[g]ive me everything you got.'" Ms. Graninger "went running down the steps" and asked one of her sons to "[c]all somebody."

After Mr. Morgan "came running down the steps," Ms. Rindos "came out." Mr. Morgan then "smacked [Ms. Graninger] across [her] face." Ms. Graninger then locked herself in Ms. Rindos's room, and Ms. Rindos locked herself in her bathroom.

The State also called Ms. Rindos, who testified that on September 8, 2022, she "was in [her] back living room area," when she "started to hear an altercation upstairs." Ms. Graninger then "started to scream, like, Katy, I need you to call the police." Mr. Morgan "was walking down the stairs," and Ms. Rindos "saw the gun." Mr. Morgan pointed the gun at Ms. Rindos, which made her feel "[h]orrible." Ms. Rindos "went into the downstairs bathroom," "started dialing 911," and spoke with Ms. Graninger "through the wall." Ms. Rindos testified that during her call to 911, she "was afraid that [Mr. Morgan] was still in the house," and she and Ms. Graninger "were both extremely scared being in the room that [they] were in."

Following the close of the State's case, defense counsel moved for judgment of acquittal, arguing:

> There's not sufficient evidence that has been presented during the State's case in chief whereby a finder of fact could find that Mr. Morgan was guilty of the crimes alleged.
>
> At this juncture, I will, you know, come before the tribunal, this Motion is viewed in the light most favorable to Madam State at this juncture, but that does not discount the weight of the evidence that has been presented. There certainly has been suggestions that made people think there was a gun, but at no point have we been able to provide enough evidence that outside some vague description of an object, was there an actual firearm.
>
> There's been no reports of gunfire, gun account[re]ment or anything that would indicate that these witnesses and their fearful belief, which admittedly by the officers and the testimony, was a chaotic and confusing situation that to this day people are still making sense of it. There is no way

> that a jury could find beyond a reasonable doubt that there was in fact a weapon there.
>
> The assaults that are alleged now, there's first degree assaults and 2nd degree assaults alleged. At no point did we hear any testimony of any assault. Now, we heard about fear, but there was no offensive contact that was made. Certainly, Ms. Rindos was very clear to testify that he never – that the man in the house never made any contact with her at all. The object in his hand, she believed, was a gun, but again, on previous argument, we can't be certain of that.
>
> The fact that she believes it was a gun does not speak to Mr. Morgan's intent, which must be specific in order to succeed on the assault, this first degree assault charge for sure.
>
> Regarding Ms. Graninger, she was very clear to testify that at no point was the gun raised, or the object that she thought was a gun was never pointed at her. We did not hear her speak of anything other than the object at the side and her fear and perception from that object.
>
> Your Honor, I don't believe there's sufficient evidence whereby a trier of fact could even find a verdict in the State's favor, and for that reason we would ask that you grant our motion for judgment of acquittal on all counts.

The court denied the motion. The jury subsequently acquitted Mr. Morgan of first degree assault and other offenses, but convicted him of second degree assault of Ms. Graninger and second degree assault of Ms. Rindos.

Mr. Morgan contends that the evidence is insufficient to sustain the conviction of second degree assault of Ms. Graninger because "[i]t was only in her statement to [the police officer] that she said that Mr. Morgan 'literally smacked' her in the face," she "declined medical attention," and she "does not appear in [the] body camera footage to be injured." Mr. Morgan further contends that the evidence is insufficient to sustain the conviction of second degree assault of Ms. Rindos because the "State did not adduce evidence sufficient to prove beyond a reasonable doubt that [she] believed she was in fear

of an imminent battery," and "there was no evidence that Mr. Morgan possessed the necessary *mens rea* for assault of the intent-to-frighten modality."[1] The State counters that "[s]ome of [Mr. Morgan's] claims are on a ground different than the grounds set forth in his motions for judgment of acquittal," and "[a]s a result, those claims are unpreserved." The State further contends that with respect to the preserved claims, "the evidence was sufficient to show a battery" of Ms. Graninger and "an intent to frighten" Ms. Graninger and Ms. Rindos.

We disagree with the State as to whether Applicant's contention is preserved for our review. Defense counsel argued with particularity that there was no "testimony of any assault," that Mr. Morgan "never made any contact with" Ms. Rindos, and that the State failed to produce sufficient evidence of "Mr. Morgan's intent." Nevertheless, we shall affirm the judgments. Ms. Graninger testified that Mr. Morgan "openhanded pushed" her

[1]As the court instructed the jury,

> Second Degree Assault. The Defendant is charged with the crime of assault, intent to frighten. Assault is an intentional frightening another person with the threat of immediate offensive physical contact. In order to convict the Defendant of assault, the State must prove (1) that the Defendant committed an act with the intent to place Kaitlyn Rindos in fear of immediate offensive physical contact; (2) that the Defendant had the apparent ability at that time to bring about offensive physical contact; and (3) that Kaitlyn Rindos is reasonably in fear, immediate offensive physical contact; and (4) that the Defendant['s] action was not legally justified.
>
> Battery. Assault is also causing offensive physical contact to another person. In order to convict the Defendant of assault, the State must prove (1) that the Defendant caused offensive physical contact with Scarlet D. Graninger; (2) the contact was a result of an[] intentional or reckless act of the Defendant, and was not accidental; and (3) the contact was not consented to by Scarlet D. Graninger.

"down to [her] knee," and the State produced evidence that she subsequently told a police officer that Mr. Morgan struck her in her face. Ms. Rindos testified that when Mr. Morgan aimed his gun at her, she felt "horrible," from which the jury could infer that she had been in fear of an imminent battery. Ms. Rindos further testified that while she was in her bathroom, she "was afraid that [Mr. Morgan] was still in the house," and was "extremely scared." Finally, Ms. Rindos explicitly testified that Mr. Morgan pointed the gun at her, from which the jury could infer that Mr. Morgan intended to place her in fear of immediate offensive physical contact. From this evidence, a rational trier of fact could conclude beyond a reasonable doubt that Mr. Morgan committed a battery upon Ms. Graninger and intended to frighten Ms. Rindos, and hence, the evidence is sufficient to sustain the convictions.

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