

Circuit Court for Montgomery County
Case No. 132291

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2450

September Term, 2017

WILLIAM WOODROW WINSTON, JR.

v.

STATE OF MARYLAND

Friedman,
Beachley,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 2, 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 jury trial in the Circuit Court for Montgomery County, William Woodrow Winston, Jr., appellant, was convicted of armed robbery and conspiracy to commit armed robbery. On appeal, Mr. Winston contends that the evidence was insufficient to prove that he was the man who, armed with a handgun, robbed the victim of her money and phone. Specifically, Mr. Winston claims that (1) the victim was unable to identify him as one of her assailants; (2) there was no direct evidence linking him to the crime scene; (3) the items taken in the robbery were not recovered; (4) no confessions or incriminating statements linked him to the crime; and (5) the evidence offered to place him at the crime scene was circumstantial. For the reasons that follow, we affirm.

On March 20, 2017, Sara Kessem arranged to meet “Marcus,” who was later identified as Haden Xavier Allen, to purchase an iPad mini that Mr. Allen had advertised for sale on the “Offer Up” app. After Ms. Kessem and Mr. Allen agreed that she would pay \$220 for the iPad and an iPhone 7, Ms. Kessem drove to Germantown to meet Mr. Allen. When Ms. Kessem arrived at the agreed upon location, Mr. Allen approached her vehicle and then called an unknown individual and said, “I think we’re set. Bring the phone and come here.” Mr. Allen stood next to Ms. Kessem’s driver’s side window as she remained seated inside her vehicle. Shortly thereafter, a male wearing sunglasses with bandanas covering his hair and the lower part of his face appeared and physically attacked Mr. Allen. Ms. Kessem testified that the robbery of Mr. Allen appeared staged, however, because Mr. Allen did not fight back and the masked man did not threaten or point his gun at Mr. Allen. The gunman then reached into Ms. Kessem’s open driver’s side window and grabbed her phone from between her legs. Pointing the gun at Ms. Kessem’s forehead, the

masked man demanded her wallet, and, fearing for her life, Ms. Kessem gave the gunman her wallet with \$500 cash inside. The gunman then ran toward the woods and Mr. Allen followed

At trial, Ms. Kessem described the gunman as a light-skinned black male who was shorter than Mr. Allen, and said that he appeared to be “younger than [Mr. Allen] ... no more than 18 years old.” Mr. Winston challenged Ms. Kessem’s description of the gunman, arguing that she had not previously described the man as a light-skinned black male, and, in body-worn camera footage immediately following the incident, she described the gunman as being her height, or approximately five feet, two inches. The State introduced evidence, however, that Ms. Kessem had previously described the gunman as having an average height and build.

“When reviewing the sufficiency of the evidence, we view the evidence and any reasonable inferences therefrom in the light most favorable to the State and determine whether ‘any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *Sewell v. State*, 239 Md. App. 571, 607 (2018) (quoting *Donati v. State*, 215 Md. App. 686, 718 (2014)). Accordingly, “[w]e do not reweigh the evidence but simply ask whether there was sufficient evidence—either direct or *circumstantial*—that could have possibly persuaded a rational jury to conclude that the defendant was guilty of the crime(s) charged.” *Id.* (citations omitted) (emphasis in original). Rather, in reviewing evidentiary sufficiency, “[w]e defer to the fact finder’s ‘opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence[.]’” *Id.* (quoting *Neal v. State*, 191 Md. App. 297, 314 (2010)).

Viewed in a light most favorable to the State, the evidence demonstrated that Mr. Winston and Mr. Allen conspired to commit armed robbery, and, in fact, did commit armed robbery. Ms. Kessem testified that in addition to communicating with Mr. Allen using the Offer Up chat function, she received a text message from a telephone number that police later matched to Mr. Winston’s AT&T subscriber information. The State’s cellular data mapping expert testified that, based on network event location service data, Mr. Winston’s phone was within a mile-and-a-half of the crime scene at the time the robbery occurred. In a recorded telephone call introduced at trial, Mr. Allen referred to the “Offer Up” robbery and, before describing the facts alleged in the statement of charges, instructed Mr. Winston to not respond because “they’re listening.” Mr. Winston then responded affirmatively when Mr. Allen asked, “you know what I’m talking about, right

In addition to her trial testimony, the State introduced several of Ms. Kessem’s previous descriptions of the gunman, in which she consistently stated that he was a black male who appeared very young. Mr. Winston’s arguments that Ms. Kessem’s descriptions of the gunman were inconsistent and that the State lacked physical evidence linking him to the crime ultimately go to the weight and credibility of the evidence, not the sufficiency. *See Correll v. State*, 215 Md. App. 483, 502 (2013) (noting that “it is the jury’s task to resolve any conflicts in the evidence and assess the credibility of

witnesses.”). We hold that the evidence was sufficient to sustain Mr. Winston’s convictions.

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