

Circuit Court for Baltimore City
Case No. 116061011

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2672

September Term, 2016

TAVON THOMPSON

v.

STATE OF MARYLAND

Woodward, C.J.,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 7, 2017

*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 Baltimore City, Tavon Thompson, appellant, was convicted of possession of a regulated firearm by a disqualified person and wearing, carrying and transporting a handgun. On appeal, Thompson raises two issues: (1) whether the trial court abused its discretion in granting the State’s motion to strike a prospective juror for cause, and (2) whether the evidence was sufficient to sustain his convictions. For the reasons that follow, we affirm.

Thompson first contends that the trial court abused its discretion in striking prospective Juror 6122 for cause during *voir dire*. A prospective juror may be struck for cause when he or she “displays a predisposition for or against a party ‘because of some bias extrinsic to the evidence to be presented.’” *Wyatt v. Johnson*, 103 Md. App. 250, 264 (1995) (citation omitted). Whether a prospective juror harbors any bias is a question of fact, *Dingle v. State*, 361 Md. 1, 15 (2000), and the “court is well equipped to make such factual determinations and, in fact, is required to do so.” *Id.* at 19 (citation omitted). “Because the task of the trial [court] is to impanel a fair and impartial jury . . . [the court decides] whether, and when, a prospective juror is dismissed for cause.” *Id.* at 14. This Court reviews a trial court’s decision to strike a juror for cause for abuse of discretion. *State v. Cook*, 338 Md. 598, 607 (1995).

During *voir dire* Juror 6122 indicated that she had strong views or feelings about the charges in this case. She was then questioned extensively by the court, the State, and defense counsel about her potential bias. During that questioning, she stated that she would “excuse some crimes” a person might commit because of their background, even if that person was guilty of a crime. She further indicated that she might “be inclined to dismiss

certain things [appellant] might [have done]” if “facts came out during the trial that [appellant] had been disadvantaged in the past . . . or had a bad upbringing[.]” These comments provided a reasonable basis for the court to conclude that she could not be fair and impartial.

Despite these statements, Thompson asserts that Juror 6122 should not have been struck because she “announced clearly and unequivocally that she could convict [him] if the State proved him guilty beyond a reasonable doubt.” However, the fact that the juror stated that she could be fair and impartial does not mean that “the court [was] bound by [her] answers or [was] relieved of its responsibility to make the ultimate decision as to the effect of [her] answer or of [her] fitness to serve.” *Dingle*, 361 Md. at 19. The court ultimately determined that Juror 6122’s “perceived ability to be fair and impartial” was not “objectively based” in light of the “content” and “manner of delivery” of her answers. Because the issue of bias is a question of fact and the trial court had the “opportunity to question the juror and observe . . . her demeanor[.]” *see Cook*, 338 Md. at 615, we cannot say that its decision to strike her from the panel constituted an abuse of discretion.

Thompson also asserts that there was insufficient evidence to support his convictions. “The standard for our review of the sufficiency of the evidence is ‘whether, after reviewing 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.’” *Neal v. State*, 191 Md. App. 297, 314 (2010) (citation omitted). “The test is ‘not whether the evidence *should have or probably would have* persuaded the majority of the fact finders but only whether it *possibly could have* persuaded any rational fact finder.’”

Painter v. State, 157 Md. App. 1, 11 (2004) (citations omitted). In applying the test, “[w]e defer to the fact finder’s ‘opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence.’” *Neal, supra*, 191 Md. App. at 314 (citation omitted).

Viewed in a light most favorable to the State, the evidence demonstrated that the police found a gun in Thompson’s waistband during a search incident to arrest. Although Thompson’s ex-girlfriend testified that the gun was not recovered from Thompson’s person but had fallen out of a plastic bag that Thompson was holding, it is for the jury to weigh the credibility of the witnesses and to resolve any conflicts in their testimonies. We are persuaded that none of the evidentiary conflicts in this case were such that a rational trier of fact could not have found the essential elements of possession of a regulated firearm by a disqualified person and wearing, carrying and transporting a handgun beyond a reasonable doubt. Consequently, the State presented sufficient evidence to sustain Thompson’s convictions.

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