

Circuit Court for Baltimore City
Case Nos. 119231005-06

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 86

September Term, 2023

CHRISTIAN NIKIA BAILEY

v.

STATE OF MARYLAND

Friedman,
Zic,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 5, 2024

*This is a per curiam opinion. Consistent with 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 Baltimore City of conspiracy to commit armed carjacking, conspiracy to commit carjacking, and related offenses, Christian Nikia Bailey, appellant, presents for our review two issues, which for clarity we reduce to one and rephrase: whether the evidence is sufficient to sustain the convictions. For the reasons that follow, we shall affirm the judgments of the circuit court.

Mr. Bailey was initially charged in circuit court case number 119231005 with committing conspiracy to commit armed carjacking and related offenses against Joyce Eltringham, and in circuit court case number 119231006 with committing conspiracy to commit carjacking and related offenses against Oliver Rose. At trial, the State produced evidence that at approximately 1:30 a.m. on August 8, 2019, Mr. Rose was driving his Nissan Altima when he was flagged down by two women. One of the women asked Mr. Rose for a ride, and when he agreed, the woman stated that “her brothers [were] coming.” Three “black guys” subsequently entered the Altima. After Mr. Rose made a right turn, one of the men grabbed Mr. Rose by his neck, and another one of the men “pushed a gun in [Mr. Rose’s] side.” The men told Mr. Rose to stop, and he complied. When Mr. Rose told the men to “just take everything,” one of the men exited the Altima and opened the driver’s door. Mr. Rose then exited the Altima and ran.

At approximately 7:15 a.m., Ms. Eltringham drove her Honda Odyssey down Pratt Street, parked the vehicle, and approached the front door of a property where she operates a business. As Ms. Eltringham “was putting the key into the padlock” on the door, she “heard . . . somebody running up and then . . . heard this is a stick up.” Ms. Eltringham “turned around and [saw] two . . . young men [wearing] ski masks.” One of the men had a

gun. When one of the men said, “give me your stuff,” Ms. Eltringham “threw [her] car keys and . . . wristlet purse.” After one of the men said, “hurry[,] we’ve got to go,” they entered the Odyssey and drove onto Collington Avenue. During Ms. Eltringham’s testimony, the State played for the jury, and entered into evidence, a video recording of the incident made by the business’s surveillance cameras.

At approximately 7:45 a.m., Baltimore City Police Officer Freddie Talbert was “working patrol” when he observed a Honda Odyssey “flying by” and “driving erratically.” Officer Talbert and his partner followed the Odyssey, which “blew [a] red light” and “struck a bunch of vehicles.” The officer then saw a “younger black male” exit the Odyssey and flee.

At approximately 10:00 a.m., Baltimore County Police Detective Justin Warnick, who was working in the 1700 block of East 25th Street for the “Regional Auto Theft Task Force,” “performed a routine tag check on a parked and unoccupied Nissan Altima,” and discovered that it had been “stolen earlier in the morning in an armed carjacking.” After the Altima went “mobile,” the police’s “Foxtrot” helicopter watched and followed the car. “With the assistance of Foxtrot,” Baltimore City Police Officer Creinton Goodwin and other officers followed the Altima to the 900 block of North Spring Street. Arriving at the location, Officer Goodwin exited his vehicle and approached a person, whom the officer identified in court as Mr. Bailey. During Officer Goodwin’s testimony, the State played for the jury, and entered into evidence, a video recording made by the officer’s “body worn camera.” The recording reflects that when Officer Goodwin exited his vehicle, Mr. Bailey

ran for approximately six seconds before lying down on the sidewalk. Officer Goodwin subsequently searched Mr. Bailey and discovered, in his pockets, “various cards and ID’s.”

The Altima was subsequently determined to belong to Mr. Rose, and was transported to the police’s Northern District station. The Odyssey was determined to belong to Thomas Eltringham, and was transported to the police’s Northwest District station. Baltimore City Police Crime Lab Technician Jessica Noratel “processed” the Altima and recovered a credit card in Mr. Rose’s name, two credit cards in Ms. Eltringham’s name, a credit card in the name of Patricia Eltringham, and a face mask. Technician Noratel also “recovered 11 lifts” of “latent fingerprints.” Baltimore City Police Crime Lab Technician Ashley Cowan processed the Odyssey and recovered five lifts of latent fingerprints. Baltimore City Police Forensic Scientist Meredith Coon subsequently examined the fingerprints discovered on the vehicles, and determined that a fingerprint lifted from above the window of the driver’s door of the Odyssey belonged to Mr. Bailey.

Following the close of the State’s case, defense counsel moved for judgment of acquittal in case number 119231006, arguing:

[W]ith regard to the motion for judgment of acquittal, general sufficiency of the evidence with one through four, given the testimony we believe that there were three people involved and there were three fingerprints found and there’s three fingerprints that do not belong to [Mr. Bailey]. With respect to the first degree assault, conspiracy to commit first degree assault, handgun crime of violence, conspiracy handgun crime of violence, all of that is premised upon a gun. My recollection was there was not a gun, I may be wrong about that, but in any event, the State has not shown that there was a gun ever recovered in relation to – a gun was never recovered by anyone at all, on anyone rather. There is no indication that Mr. Rose – there’s been no testimony that he’s a firearm[s] expert, so I believe they have not made it out that there was a gun involved that would get us to a first degree assault or the handgun crime of violence.

* * *

I don't know anything about a credit card being on [Mr. Bailey] coming in, I heard there were credit cards that I strenuously objected to, that pictures were taken of which I would argue would be hearsay but I don't remember any evidence coming in about something was stolen, pieces of property on [Mr. Bailey].

Defense counsel also moved for judgment of acquittal in case number 119231005, arguing:

I just fail to see how this would be considered a carjacking. My understanding is that it would have to be in . . . arguably the custody or control of the person who owns the car and this is, well, number one I'm not even sure who the owner of the car is; number two, with regard to whether or not this happened while she was in possession, she being the complaining witness, was in possession of it, the testimony which I did bring out was that it was about seven row homes away as to where the car was which is 20 feet per row home which would be 140 feet away. So I don't see how we're going – how the State would get us – would be able to – that there is evidence to show her being in possession of the car since it was taken out of her control. I would submit with the remaining but again there is no gun or weapon.

The court denied the motions.

Following the close of the evidence, the jury convicted Mr. Bailey in case number 119231005 of robbery with a dangerous weapon, first degree assault, use of a firearm in a crime of violence, conspiracy to commit armed carjacking, conspiracy to commit robbery with a dangerous weapon, conspiracy to commit first degree assault, and conspiracy to commit use of a firearm in a crime of violence. In case number 119231006, the jury convicted Mr. Bailey of conspiracy to commit carjacking, conspiracy to commit robbery, and conspiracy to commit second degree assault.

Mr. Bailey contends that the evidence is insufficient to sustain the convictions. With respect to the convictions for offenses against Ms. Eltringham, Mr. Bailey contends that “the record is devoid of any evidence proving an essential element of the State’s case: that [he] was directly involved in robbing Ms. Eltringham . . . or that he agreed with others to commit that offense.” With respect to the convictions for offenses against Mr. Rose, Mr. Bailey contends that “there is no direct evidence in the record tying [him] to the crimes committed against Mr. Rose.” The State counters that Mr. Bailey’s “arguments are waived.” Alternatively, the State contends that Mr. Bailey’s “arguments are meritless,” because “[c]ircumstantial evidence may support a conviction,” and “there was ample evidence – both direct and circumstantial – to support the jury’s verdicts.”

We agree with the State that Mr. Bailey’s contentions are not preserved for our review. In making a motion for judgment of acquittal, a “defendant shall state with particularity all reasons why the motion should be granted,” Rule 4-324, and the Supreme Court of Maryland has stated that “[t]he issue of sufficiency of the evidence is not preserved when the defendant’s motion for judgment of acquittal is on a ground different than that set forth on appeal.” *Hobby v. State*, 436 Md. 526, 540 (2014) (internal citation and brackets omitted). Here, Mr. Bailey moved for judgment of acquittal of the offenses with respect to Mr. Rose on the particular grounds that the fingerprints discovered on the Altima “do not belong to” Mr. Bailey, “a gun was never recovered . . . on anyone,” Mr. Rose is not “a firearm[s] expert,” and the State failed to present “any evidence [that] something was stolen” from Mr. Rose. Mr. Bailey also moved for judgment of acquittal of the offenses with respect to Ms. Eltringham on the particular grounds that the State failed

to prove “who the owner of the [Odyssey] is,” Ms. Eltringham was not “in possession of the car [when] it was taken out of her control,” the taking was not a carjacking, and “there is no gun or weapon.” The grounds upon which Mr. Bailey moved for judgment of acquittal are different from that which he now sets forth on appeal, and hence, his contentions are not preserved.

Even if Mr. Bailey’s arguments were preserved for our review, he would not prevail. Assuming, without deciding, that the entirety of the evidence produced by the State was circumstantial, the Supreme Court of Maryland has long held that “generally, proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts.” *State v. Smith*, 374 Md. 527, 534 (2003) (citation omitted). Here, the State produced evidence that Mr. Rose was carjacked at gunpoint by a group of three men, that Mr. Bailey was later found to be in possession of Mr. Rose’s car, and that Mr. Bailey initially fled when approached by Officer Goodwin. Police subsequently discovered inside the car property belonging to Mr. Rose, Ms. Eltringham, and Patricia Eltringham. The State also produced evidence that a pair of men, one of whom had a gun, demanded Ms. Eltringham’s “stuff” and subsequently used her car keys to enter the Odyssey and drive away. The State entered into evidence a video recording of the incident, from which the jury could determine whether it depicted Mr. Bailey as one of Ms. Eltringham’s assailants. The State also produced evidence that police discovered Mr. Bailey’s fingerprint above the window of the driver’s door of the Odyssey. From this evidence, whether considered direct or circumstantial, a rational trier of fact could conclude beyond a reasonable doubt that Mr. Bailey was one of the men who committed, and

conspired to commit, the offenses against Mr. Rose and Ms. Eltringham, and hence, the evidence is sufficient to sustain the convictions.

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