

Circuit Court for Cecil County
Case No: C-07-CR-18-001232

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 963

September Term, 2019

CHERMAINE LATEE MAYO

v.

STATE OF MARYLAND

Friedman,
Gould,
Woodward, Patrick, L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 5, 2021

*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.

Chermaine Latee Mayo, appellant, was convicted in the Circuit Court for Cecil County of gross negligent manslaughter by motor vehicle, theft under \$1,500, reckless driving, failure to immediately return and remain at the scene of an accident, and failure of driver in accident to render assistance. On appeal, Ms. Mayo raises the following question for our review:

Did the court err in denying Appellant’s motion to sever her trial for theft from her trial for negligent manslaughter and failure to return and remain at the scene of an accident involving death?

For the following reasons, we shall affirm.

BACKGROUND

In September 2018, Ms. Mayo, Keneesha Cunningham, and Donisha Harris went to a Walmart located in Cecil County, Maryland. They stayed inside the Walmart for approximately 30 minutes. As they exited the store, security guard Richard Shade observed that the women were leaving “with two carts of what looked like it was clothing.” Instead of Walmart bags, however, the clothing was in “Macy’s bags and Kohl’s bags,” appearing to Mr. Shade as though “they had pulled clothing off the racks and stuffed it in these bags.” Mr. Shade asked the women for a receipt as they were leaving the store, but the women continued walking, without responding or producing the requested receipt.

Mr. Shade then followed the women into the parking lot so that he could “take a picture of the license plate of the car” they were traveling in. Upon arriving at the car, Ms. Cunningham stood behind the car to prevent Mr. Shade from obtaining a clear photograph of the license plate. As she did so, Ms. Mayo and Ms. Harris loaded the clothing into the car. Ms. Mayo and Ms. Harris then entered the vehicle, with Ms. Mayo getting in the

driver’s seat. Mr. Shade testified that the car then backed out of the parking space while Ms. Cunningham was still positioned behind the vehicle and holding onto the spoiler. Ms. Mayo “lost control” of the car as she was backing out and struck some shopping carts and a parking lot island, which caused Ms. Cunningham to “[fly] off, land[] on the blacktop, and then the car came down on top of her.” Because the car “wouldn’t run,” Ms. Mayo and Ms. Harris exited the vehicle and ran away from the scene. Ultimately, when paramedics arrived at the scene, they observed Ms. Cunningham “pinned” underneath the vehicle “with obvious injuries that were incompatible with life,” including lack of a pulse, a deformed neck, and spinal fluid flowing from her ears. The cause of Ms. Cunningham’s death was determined to be multiple injuries sustained during the crash.

DISCUSSION

Prior to Ms. Mayo’s trial, she filed a motion to sever, contending that the theft charge and the driving offense charges should be tried separately. The Court denied Ms. Mayo’s motion, finding that the evidence was mutually admissible, stating:

The Court does find that evidence of flight is relevant evidence or evidence that is relevant regarding the theft. The Court believes that evidence regarding the theft is probative of consciousness of guilt. The Court does believe that this evidence therefore is mutually admissible.

The Court also finds that these events are related within a very short period of time and location. The alleged theft occurs upon the exit of the store. The other alleged offenses occur within a very short time thereafter. The Court believes it is one continuous uninterrupted transaction.

On appeal, Ms. Mayo contends that the court abused its discretion in denying her motion to sever. We disagree and shall affirm.

Maryland Rule 4-253 permits the joinder of multiple charges against a single defendant to save time and money by avoiding unnecessary additional trials. *Conyers v. State*, 345 Md. 525, 552 (1997). If there is (1) mutual admissibility of evidence concerning the offenses and (2) an overriding interest in judicial economy, (3) without undue prejudice to the defendant, then joinder is appropriate. Md. Rule 4-253(c); *Conyers*, 345 Md. at 553. To establish mutual admissibility of evidence, a trial court determines whether, if trials were to occur separately, evidence from the “other crimes” would be admissible under one of the “other purposes” exceptions to the general prohibition against admitting “other crimes evidence” in the Maryland Rules of Evidence. *Id.* at 553. “Other crimes” evidence may be admitted for several reasons, including if the offenses are so connected in time or circumstances that they form one transaction and cannot be fully explained without the other. *Tichnell v. State*, 287 Md. 695, 711-12 (1980). The Court of Appeals discussed this subject in *Odum v. State*, where it explained, in relevant part:

the strictures of “other crimes” evidence law, now embodied in Rule 5-404(b) do not apply to evidence of crimes (or other bad acts or wrongs) that arise during the same transaction and are intrinsic to the charged crime or crimes. We define “intrinsic” as including, at a minimum, other crimes that are so connected or blended in point of time or circumstances with the crime or crimes charged that they form a single transaction, and the crime or crimes charged cannot be fully shown or explained without evidence of the other crimes.

412 Md. 593, 611-12 (2010).

Based on our review of the record, we are persuaded that the theft from the Walmart and the vehicle related offenses formed one continuous criminal transaction such that joinder of those charges was proper. All the charged offenses occurred at the same location

and there was no meaningful break in time between the completion of the theft and Ms. Mayo's attempt to flee from Mr. Shade in her vehicle. Moreover, the series of events leading to Ms. Cunningham's death could not be fully explained without reference to the theft that precipitated them. In other words, it would be difficult for the jury to evaluate why Ms. Mayo had backed out of the parking space when Ms. Cunningham was still positioned behind her, and then left the scene of the accident after striking Ms. Cunningham, without allowing the State to present evidence demonstrating her likely motive, to avoid being apprehended for a theft that she committed minutes earlier. Thus, this case is similar to *Tichnell*, wherein the Court of Appeals held that the defendant's breaking and entering of an Army-Navy surplus store, murder of a deputy sheriff who responded to the breaking and entering several minutes later, and subsequent taking of the deputy's police cruiser constituted a continuous and uninterrupted criminal transaction which warranted joinder. *Tichnell*, 287 Md. at 710.

Finally, we note that Ms. Mayo's reliance on *Bussie v. State*, 115 Md. App. 324, 335 (1997) is misplaced. That case involved the joinder of an assault charge that led to discovery of drugs on the defendant's person when he was arrested. In contrast to this case, those assault and drug offenses could have been proved without introducing evidence of the other, given that their only "correlation" was "between the occurrence of one crime and the discovery of another." *Id.* at 336-37.

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