

Circuit Court for Baltimore County
Case No. C-03-CR-21-000194

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2323

September Term, 2022

JAMES MARCHSTEINER

v.

STATE OF MARYLAND

Berger,
Reed,
McDonald, Robert N.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: August 23, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Following a bench trial in the Circuit Court for Baltimore County, James Marchsteiner, appellant, was convicted of first-degree murder, first-degree assault, and second-degree assault.

The court later found Marchsteiner to be not criminally responsible (“NCR”) and ordered that he be committed to the Maryland Department of Health.

In this appeal, Marchsteiner presents a single question for our review:

Whether the evidence adduced at trial is legally sufficient to sustain the convictions for first-degree murder and first-degree assault.

Finding the evidence legally sufficient, we affirm.¹

BACKGROUND

On January 2, 2021, Marchsteiner stabbed and killed a neighbor, Cody Mulligan, as Mulligan was walking through the front yard of his home. Marchsteiner was later arrested and charged with first-degree murder (premeditated), first-degree assault (intent to cause serious physical injury), second-degree assault, and carrying a dangerous weapon openly with intent to injure.

At the subsequent bench trial, Marchsteiner did not dispute that he had killed Mulligan. Marchsteiner’s primary defense was that, because he was mentally ill at the time of the crime, he did not have the specific intent to kill or assault Mulligan.

¹ Marchsteiner also asks whether the evidence was legally sufficient to sustain a conviction for the lesser-included crime of second-degree murder. As discussed in greater detail below, the evidence was sufficient to sustain Marchsteiner’s conviction for first-degree murder. As such, the evidence was necessarily sufficient to sustain the lesser included crime of second-degree murder.

For the State, Joshua Lausch, Mulligan’s cousin, testified that, on the day of the stabbing, Mulligan contacted him and asked if he would come to Mulligan’s home. Lausch testified that he frequently ran errands with Mulligan, who was blind. After speaking with Mulligan, Lausch drove to Mulligan’s home and parked on the street across from the home. Upon parking, Lausch observed a man, later identified as Marchsteiner, walking down the street with a dog. Lausch waited for Marchsteiner to pass and then exited the car, at which point Lausch saw Mulligan walking out the door of his home. Lausch then walked toward the rear of his vehicle and saw Marchsteiner “staring” at him and holding a knife. Upon seeing the knife, Lausch ran away, passing Mulligan, who was walking through the front yard of his home. Seconds later, Marchsteiner ran up to Mulligan and stabbed him several times. Mulligan managed to run back into his house, where he collapsed. Around that same time, Mulligan’s mother and step-father emerged from the house, and Marchsteiner fled the scene. Mulligan was later taken to the hospital, where he died.

Baltimore County Police Detective Craig Schrott testified that, during the subsequent investigation into Mulligan’s death, the police recovered the murder weapon, which Detective Schrott described as “a folding bladed knife ... that you could carry.” Detective Schrott testified that the police also recovered surveillance footage of the attack, which had been captured by a doorbell camera from Mulligan’s home. In that footage, which was admitted into evidence, Mulligan can be seen exiting his home and walking across his front yard. Shortly thereafter, Lausch runs past Mulligan and out of camera view. Seconds later, Marchsteiner runs up to Mulligan and swings his arm forcefully at

Mulligan, stabbing him in the chest. Marchsteiner then steps away and, after a brief pause, lunges at Mulligan and grabs Mulligan's shirt. Marchsteiner then swings his arm, forcefully and repeatedly, at Mulligan, stabbing Mulligan several more times. Two individuals then emerge from Mulligan's home, at which point Marchsteiner runs away.

The court also received into evidence the report from Mulligan's autopsy. According to the report, Mulligan was stabbed three times: once in the armpit, once in the chest, and once in the back. Those stab wounds caused injuries to Mulligan's rib, lung, and heart, resulting in his death.

For the defense, the court accepted into evidence a proffer regarding Marchsteiner's "state of mind" from when he was in the Baltimore County Detention Center in the days following the attack on Mulligan. According to that document, Marchsteiner informed various counselors and social workers: that there were "maggots" in his food; that people were watching him; that he was a saint sent from heaven to perform various tasks; that his 16-year-old daughter was in the prison dressed up as a nurse; and, that he could control what would happen on television.

Karen Simmonds, Marchsteiner's sister, testified that Marchsteiner had "always believed in other dimensions and realities" and had "always felt as if he was under attack." Simmonds testified that she spoke with Marchsteiner in the days leading up to the attack and that Marchsteiner asked her to pray with him about "his anxiety, the hallucinations, the voices he was hearing." Simmonds described Marchsteiner as "anxious, scared" and "talking out of his head." According to Simmonds, Marchsteiner called her on the morning

of the stabbing, and the two had a 45-minute conversation. Simmonds stated that the conversation was not “a normal conversation” and that Marchsteiner had reported that he was “hearing voices” that were telling him “to be prepared.”

Marchsteiner thereafter testified that he was 49 years old and had been under the care of a mental health doctor “on several occasions.” Marchsteiner testified that, in 2019, he went to Johns Hopkins Psychiatric Unit and was diagnosed with “schizoaffective disorder, post-traumatic stress disorder, bipolar, social anxiety.” Marchsteiner testified that he had been seeing a psychiatrist, but he stopped going in April 2020. Marchsteiner stated that, between April 2020 and January 2021, he experienced audio hallucinations and paranoid delusions. Marchsteiner reported that, in the winter of 2020, his illness had “progressed” and he was “in and out of consciousness.”

On January 2, 2021, Marchsteiner was living with his mother at her home, which was located on the same block as Mulligan’s home. At 4:00 a.m. that day, Marchsteiner woke his mother up and asked her to take him to a local methadone clinic because, according to Marchsteiner, “another part of [his] mental health is substance abuse.” Marchsteiner went to the clinic and discovered it was closed, so he went back home and then returned to the clinic later that morning. In between those two trips, Marchsteiner went to a local store to buy cigarettes, but he quickly left upon feeling “very threatened” by the other customers, who were “stalking” him and trying to “hurt” him. After returning home following his second trip to the clinic, Marchsteiner watched a movie, which he believed “was specifically talking to [him] and stuff.” At around 3:00 p.m., Marchsteiner

began “feeling kind of better,” and he remembered that a friend who “lived down the street” owed him “some money.” Marchsteiner then decided to “take a shower” and “walk down the street.” The next thing he knew, Marchsteiner was back at home, and his mother was telling him “to hand [her] a knife.” Marchsteiner handed over the knife, “and the next thing [he] remember[ed] after that was waking up in Precinct Nine and them asking [him] if [he] needed medical attention.” After seeing a doctor and being given medication, Marchsteiner was taken to the mental health unit of the detention center, where he remained until trial. Marchsteiner testified that he “did not consciously, willfully intend to kill [Mulligan].”

On cross-examination, Marchsteiner was asked if he had his “pocketknife” with him when he left the house prior to the stabbing. Marchsteiner responded: “I always carry my pocketknife when I walk my dog, which is usually in the woods.” Marchsteiner stated that he usually carried the knife in his pocket. When asked if he ever “walk[ed] around the house” carrying the knife, Marchsteiner responded in the negative.

At the conclusion of the State’s case, and again at the conclusion of the defense’s case, defense counsel moved for judgment of acquittal, arguing, among other things, that the evidence was insufficient to convict Marchsteiner of murder because he did not have the requisite intent. The court denied the motion.²

Ultimately, the court found Marchsteiner guilty of first-degree murder (premeditated), first-degree assault (intent to cause serious physical injury), and second-

² Defense counsel also moved for judgment of acquittal on the charge of carrying a dangerous weapon openly with intent to injure. The court granted that motion.

degree assault. This timely appeal followed. Additional facts will be supplied as needed below.

DISCUSSION

Parties' Contentions

Marchsteiner contends that the evidence adduced at trial was insufficient to sustain his convictions for first-degree murder and first-degree assault.³ As to the conviction for first-degree murder, Marchsteiner argues that the evidence did not establish that he had sufficient time to premeditate and deliberate prior to the fatal stabbing. As to both convictions, Marchsteiner argues that “the circumstances of his mental illness” at the time of the crime prevented him from forming the requisite intent to commit either crime.

The State contends that the evidence was sufficient to sustain both convictions. The State argues that the circumstances of the crime permitted a reasonable inference that Marchsteiner had adequate time to deliberate and premeditate and that he formed the requisite intent prior to stabbing Mulligan. In support, the State notes that: Marchsteiner left his house carrying a pocketknife, which he unfolded at some point; Marchsteiner stared at Lausch and then ran after him; while chasing Lausch, Marchsteiner encountered Mulligan; Marchsteiner then stabbed Mulligan, paused, backed away, and then stabbed him two more times; and, when Mulligan’s parents came out of the house, Marchsteiner

³ It does not appear from the record that defense counsel moved for judgment of acquittal as to the first-degree assault conviction. Although such a failure would preclude appellate review as to the sufficiency of the evidence following a jury trial, it does not preclude such review following a bench trial. *Chisum v. State*, 227 Md. App. 118, 125-26 (2016).

fled. The State argues that Marchsteiner’s mental health at the time of the stabbing and the court’s subsequent NCR finding did not mean that the evidence adduced at trial was legally insufficient to show that Marchsteiner had the requisite intent.

Standard of Review

“The standard for appellate review of evidentiary sufficiency is whether, after viewing 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.” *Scriber v. State*, 236 Md. App. 332, 344 (2018). “When making this determination, the appellate court is not required to determine ‘whether *it* believes that the evidence at trial established guilt beyond a reasonable doubt.’” *Roes v. State*, 236 Md. App. 569, 583 (2018) (citing *State v. Manion*, 442 Md. 419, 431 (2015)). “This is because weighing the credibility of witnesses and resolving conflicts in the evidence are matters entrusted to the sound discretion of the trier of fact.” *Scriber*, 236 Md. App. at 344 (citations omitted). “We defer to any possible reasonable inferences the [fact-finder] could have drawn from the admitted evidence and need not decide whether the [fact-finder] could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence.” *Fuentes v. State*, 454 Md. 296, 308 (2017). In short, “the limited question before an appellate court is not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded *any* rational fact finder.” *Scriber*, 236 Md. App. at 344.

The test for legal sufficiency is the same in a bench trial and in a jury trial. *Chisum v. State*, 227 Md. App. 118, 124-31 (2016).

Analysis

The relevant offenses in the instant case, first-degree murder and first-degree assault, can be committed in multiple ways. Md. Code, Crim. Law §§ 2-101 and 3-202. The modalities at issue here are “intent to kill” first-degree murder and “intent to cause serious physical injury” first-degree assault. As discussed, the sole question here is whether the evidence was legally sufficient to establish that Marchsteiner had the specific intent to commit those crimes.

A. First-Degree Murder

The elements of “intent to kill” first-degree murder are: (1) that the killing was willful, *i.e.*, the defendant possessed the intent to kill; (2) that the killing was deliberate, *i.e.*, the defendant had conscious knowledge of that intent; and (3) that the killing was premeditated, *i.e.*, the defendant had enough time to think about that intent. *Garcia v. State*, 253 Md. App. 50, 59 (2021).

“To find willfulness, there must be evidence adduced at trial ‘that the defendant actually intended to kill the victim.’” *Buck v. State*, 181 Md. App. 585, 641 (2008) (quoting *Pinkney v. State*, 151 Md. App. 311, 331 (2003)). “Because few defendants announce to witnesses their intent to kill, we most often have to look to other factors to discern whether the defendant had [that] intent[.]” *Anderson v. State*, 227 Md. App. 329, 347 (2016). In other words, “because intent is a ‘subjective [concept] and, without the cooperation of the

accused, cannot be directly and objectively proven, its presence must be shown by established facts which permit a proper inference of its existence.” *Buck*, 181 Md. App. at 642 (quoting *State v. Raines*, 326 Md. 582, 591 (1992)). As this Court has explained, “when a defendant’s actions so clearly involve actions that are likely to bring about death, they speak for themselves with regard to willfulness.” *Anderson*, 227 Md. App. at 348.

Regarding deliberation and premeditation, the Supreme Court of Maryland has explained that “[f]or murder ‘to be deliberate there must be a full and conscious knowledge of the purpose to kill; and to be premeditated the design to kill must have preceded the killing by an appreciable length of time, that is, time enough to deliberate.’” *Mitchell v. State*, 363 Md. 130, 148 (2001) (quoting *Tichnell v. State*, 287 Md. 695, 717 (1980)). Although deliberation and premeditation require some time to form, “[i]t is unnecessary that the deliberation or premeditation shall have existed for any particular length of time.” *Id.* (citations and quotations omitted). “An appreciable length of time simply means any amount of time sufficient to convince the trier of fact that the purpose to kill was not the immediate offspring of rashness and impetuous temper, but was the product of a mind fully conscious of its own design.” *Garcia*, 253 Md. App. at 59 (quoting *Mitchell*, 363 Md. at 148) (quotations and brackets omitted). “Put simply, ‘[i]f the killing results from a choice made as the result of thought, however short the struggle between the intention and the act, it is sufficient to characterize the crime as deliberate and premeditated murder.’” *Id.* (quoting *Tichnell*, 287 Md. at 718).

Here, the evidence showed that, prior to the stabbing, Marchsteiner left his house after remembering that a friend who “lived down the street” owed him “some money.” At the time, Marchsteiner was armed with a pocketknife, which needed to be unfolded. Shortly after leaving his house, Marchsteiner encountered Lausch, who was standing outside Mulligan’s home. Lausch made eye contact with Marchsteiner, who stared at Lausch while brandishing the knife. Lausch then ran away, and Marchsteiner ran after him. While chasing after Lausch, Marchsteiner encountered Mulligan, who was walking through his front yard. Marchsteiner then ran up to Mulligan and stabbed him forcefully in the chest. After stepping away from Mulligan and pausing for a brief moment, Marchsteiner grabbed Mulligan by the shirt, pulled him closer, and forcefully stabbed him two more times. Then, when Mulligan’s mother and step-father emerged from their home, Marchsteiner ran away. Mulligan ultimately died from his wounds, and the autopsy report showed that Marchsteiner had stabbed Mulligan in the armpit, chest, and back, causing injuries to Mulligan’s rib, lung, and heart.

Viewing that evidence in a light most favorable to the State, we hold that a reasonable fact-finder could have found that the killing of Mulligan constituted “intent to kill” first-degree murder. Marchsteiner forcefully stabbed Mulligan in the chest, armpit, and back, causing injuries to Mulligan’s heart and lung. Those facts alone were sufficient to establish that the killing was willful, *i.e.* that Marchsteiner actually intended to kill Mulligan. *See Raines, supra*, 326 Md. at 591 (noting that willfulness may be inferred from facts showing that a defendant used “a deadly weapon directed at a vital part of the human

body”); *see also Glenn v. State*, 68 Md. App. 379, 408-09 (1986) (holding that an intent to kill could be inferred from the fact that the defendant stabbed the victim four times in the abdomen).

When we consider those facts in conjunction with the attendant circumstances, we are persuaded that the killing was also deliberate and premeditated. On the day of the killing, Marchsteiner armed himself with a pocketknife and left his house to look for someone who owed him money. At some point, Marchsteiner unfolded the knife, exposing the blade. From that, a reasonable inference can be drawn that Marchsteiner intended to use the knife. Then, after unfolding the knife and encountering Lausch, Marchsteiner chased Lausch with the unfolded knife. From that, a reasonable inference can be drawn that Marchsteiner intended to use the knife on Lausch. While chasing Lausch with unfolded knife over some distance, Marchsteiner came across Mulligan, whom Marchsteiner proceeded to stab multiple times with the unfolded knife. Given all of those facts, a reasonable inference could be drawn that, in stabbing Mulligan, Marchsteiner had a full and conscious knowledge of the purpose to kill and time enough for that purpose to form. *See Taylor v. State*, 226 Md. 561, 567-68 (1961) (holding that evidence of premeditation and deliberation was sufficient where the defendant carried a rifle from one room to another, raised it, and fired it at the victim); *see also Ferrell v. State*, 304 Md. 679, 684 (1985) (holding that evidence of deliberation and premeditation was sufficient where the defendant aimed and fired a gun at a second victim after shooting the first victim).

The circumstances of the actual stabbing further support a finding of premeditation and deliberation. During the attack, Marchsteiner did not simply stab Mulligan, but rather Marchsteiner ran up to Mulligan from some distance away, lunged at him, and stabbed him forcefully in the chest with the unfolded blade. Marchsteiner then stepped back, paused a brief moment, and lunged at Mulligan again, grabbing his shirt and forcefully stabbing him two more times in the armpit and back in a brutal and intense manner. From those facts, a reasonable inference could be drawn that Marchsteiner had sufficient time to develop, and did in fact develop, a full and conscious knowledge of the purpose to kill. *See Chisley v. State*, 202 Md. 87, 108-09 (1953) (holding that evidence of premeditation and deliberation was sufficient where the defendant fired multiple shots at the victim, with an “interval of time” between the shots); *see also Purnell v. State*, 250 Md. App. 703, 713-17 (2021) (holding that evidence of premeditation and deliberation was sufficient where the defendant stabbed the victim multiple times in a brutal and intense manner).

When we consider the entirety of the above facts, we are convinced that the evidence adduced at trial was more than sufficient to show that the stabbing of Mulligan was willful, deliberate, and premeditated. Not only were Marchsteiner’s actions clearly the sort of actions that were likely to bring about death, but the attendant circumstances were such that a reasonable inference could be drawn that Marchsteiner had the design to kill and that that design was preceded by an appreciable length of time. As such, we hold that the evidence was sufficient to sustain his conviction for first-degree murder.

As discussed, in claiming that the evidence was insufficient, Marchsteiner relies heavily on his mental health at the time of the attack on Mulligan. Marchsteiner argues that, because he was “not thinking clearly” or “demonstrating the capacity make decisions” at the time of the attack, he was unable to form the specific intent to kill Mulligan.

We remain unpersuaded. In claiming that evidence of his mental health precluded a finding of specific intent, Marchsteiner ignores the fact that the trial court, as the fact-finder, was free to accept or reject that evidence in reaching its verdict. *See Abbott v. State*, 190 Md. App. 595, 615-16 (2010) (noting that a fact-finder is free to discount or disregard a defendant’s testimony of the incident). That the court was unpersuaded by Marchsteiner’s claims regarding his mental health does not mean that the court’s guilty finding was erroneous. *See Burlas v. State*, 185 Md. App. 559, 579 (2009) (noting that “it is nearly impossible for a verdict to be clearly erroneous or an abuse of discretion or legally in error when it is based ... only on the fact-finder’s being unpersuaded”) (citations and quotations omitted). Moreover, in reviewing whether the evidence was sufficient, we are not concerned with what the fact-finder could have done with the evidence. Rather, we are only concerned with whether there was *any* evidence to support a finding of guilt. And, as discussed, there was such evidence.

Assuming, *arguendo*, that the court was required to accept the evidence regarding Marchsteiner’s mental health and to consider that evidence in determining whether Marchsteiner had the requisite intent, we are persuaded that the court had ample evidence from which to conclude that Marchsteiner developed a fully-formed and conscious purpose

to kill Mulligan. Marchsteiner’s testimony established that, on the day of the attack, he made several clear decisions and took various steps to effectuate those decisions, including going to the methadone clinic, going to the store to buy cigarettes, going back to the methadone clinic, going home to watch a movie, taking a shower, and leaving his house to find a friend who owed him some money. In fact, in reporting his decision to take a shower and leave the house prior to the attack on Mulligan, Marchsteiner stated that he was “feeling kind of better.” Upon leaving the house with his dog, Marchsteiner took his knife, which he ordinarily did not carry while in the house but “always” carried when he walked his dog. Shortly thereafter, Marchsteiner committed the attack on Mulligan, which, as discussed, was clearly willful, deliberate, and premeditated. Seconds later, when Mulligan’s mother and step-father emerged from the house, Marchsteiner fled. Eventually, Marchsteiner returned home and gave the murder weapon to his mother.

From those facts, the court could reasonably conclude that Marchsteiner possessed the intent to kill and had conscious knowledge of that intent. Again, the court was under no obligation to accept Marchsteiner’s self-serving claims regarding his lack of intent in stabbing Mulligan. As such, the trial court did not err in finding Marchsteiner guilty on the first-degree murder charge.⁴

⁴ That Marchsteiner was later found NCR is of no moment, as a guilty finding and an NCR finding are not mutually exclusive. *Smallwood v. State*, 451 Md. 290, 321-23 (2017).

B. First-Degree Assault

For the first-degree assault conviction, the State needed to show that Marchsteiner intended to cause serious physical injury to Mulligan. Md. Code, Crim. Law § 3-202(b)(1). For all the reasons previously discussed, we hold that the evidence was sufficient to sustain that conviction. That is, because the evidence was sufficient to show that Marchsteiner had the specific intent to kill Mulligan, the evidence was necessarily sufficient to show that Marchsteiner had the specific intent to cause serious physical injury to Mulligan. *Thornton v. State*, 397 Md. 704, 729-30 (2007) (defining “serious physical injury” as an injury that “creates a substantial risk of death.”) (quotations and brackets omitted).

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