

COURT OF APPEALS OF MARYLAND

Brown v. State, 222 Md. 312

160 A.2d 95 (1960) · No. No. 213, September Term, 1959 · Decided April 18, 1960

SUMMARY

Calvin Brown appealed his conviction for assault with intent to rob, challenging the sufficiency of the evidence and the credibility and sufficiency of the victim's identification. The Court of Appeals of Maryland held that credibility and identification were matters for the trial judge and that the evidence, if believed, supported the conviction. The court found no clear error and affirmed the judgment.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Brune, C.J.; Henderson, J.; Hammond, J.; Prescott, J.; Horney, J.
JURISDICTION	Maryland
DECIDED	April 18, 1960
DOCKET	No. 213, September Term, 1959
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brown appealed from a conviction and sentence for assault with intent to rob following a bench trial.
STANDARD OF REVIEW	The conviction could not be reversed on an evidentiary issue unless the trial court's determination was clearly erroneous. The trial judge was responsible for assessing witness credibility and the sufficiency of the identification evidence.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; precedential.
PARTIES	Calvin Brown v. State

TOPICS

- criminal procedure
- evidence
- appellate procedure
- standard of review
- preservation of error

PRACTICE AREAS

- criminal law
- criminal appellate procedure
- evidence

QUESTIONS PRESENTED

1. Whether the evidence, including the victim's identification of Brown, was legally sufficient to sustain the conviction for assault with intent to rob.
2. Whether the trial court's assessment of the victim's credibility and identification was clearly erroneous.
3. Whether the victim's post-trial letter suggesting a mistake in identification could be considered on appeal.

HOLDINGS

1. The evidence, if believed, was sufficient to warrant Brown's conviction for assault with intent to rob.
2. The appellate court would not reverse the conviction because it found no clear error in the trial court's evaluation of the evidence.
3. The victim's letter suggesting a mistake in identification was not properly before the appellate court and could not support reversal.

KEY QUOTATIONS

"The credibility of the witness and the sufficiency of the identification were matters for the determination of the trial judge." (314)

"The evidence, if believed, was ample to warrant conviction." (314)

"We could not reverse the conviction on a question of evidence unless it were clearly erroneous." (314)

FACTUAL BACKGROUND

The victim, Dargan, identified Brown as one of two men who attacked him, stating that Brown had grabbed or "yoked" him from behind. Dargan could not identify another suspect wearing a red sweater as the assailant who attacked him from the front, although he had described one attacker as wearing a red sweater. After conviction, a letter from Dargan suggesting that he may have mistakenly identified Brown was presented at argument but was not properly before the appellate court.

PROCEDURAL HISTORY

Brown was tried without a jury before Judge Allen and convicted and sentenced for assault with intent to rob. On appeal, he challenged the sufficiency of the evidence and the credibility and reliability of the victim's identification. The Court of Appeals of Maryland affirmed.

DISPOSITION

affirmed

CASES CITED

- Johnson v. State, 221 Md. 177, 156 A.2d 441
- Ward v. State, 219 Md. 559, 150 A.2d 257

OPINION

Brown v. State 160 A.2d 95

PER CURIAM.

222 Md. 312 (1960)

160 A.2d 95

BROWN

v.

STATE

[No. 213, September Term, 1959.] Court of Appeals of Maryland. Decided April 18, 1960. The cause was argued before BRUNE, C.J., and HENDERSON, HAMMOND, PRESCOTT and HORNEY, JJ. C. Oliver Goldsmith, for appellant. Clayton A. Dietrich, Assistant Attorney General, with whom were C. Ferdinand Sybert, Attorney General, Saul A. Harris, State's Attorney for Baltimore City, and Julius A. Romano, Assistant State's Attorney for Baltimore City, on the brief, for appellee. PER CURIAM: Calvin Brown appeals from his conviction and sentence on a charge of assault with intent to rob. He challenges the sufficiency of the evidence to sustain his conviction, and attacks the credibility of the testimony of the victim of the attack, one Dargan, who identified Brown as one of two men who attacked him. Able counsel appointed to represent Brown on this appeal has strongly questioned the victim's ability to identify Brown as the man who "yoked" him from behind, though the victim was unable to identify another suspect wearing a red sweater, as the man who attacked him from the front. Dargan had described one of his assailants as wearing a red sweater. The case was tried before Judge Allen, sitting without a jury. The credibility of the witness and the sufficiency of the *314 identification were matters for the determination of the trial judge. *Johnson v. State*, 221 Md. 177, 156 A.2d 441. The evidence, if believed, was ample to warrant conviction. We could not reverse the conviction on a question of evidence unless it were clearly erroneous. Maryland Rules, Rule 741 c. *Ward v. State*, 219 Md. 559, 150 A.2d 257. We do not find that it was. We were informed at the argument that Dargan is now also an inmate of the same prison as Brown. A letter which he has recently written suggesting a mistake in his identification of Brown, but denying any perjury in connection therewith, is not properly before us. Judgment affirmed.