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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 06/12/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0400
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
DOUGLAS WILLIAM MAHALA,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
_____)

Appeal from the Superior Court in Yavapai County

Cause No. P1300CR201001226

The Honorable Tina R. Ainley, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General Phoenix
By Kent E. Cattani, Chief Counsel
Criminal Appeals/Capital Litigation Section
Joseph T. Maziarz, Assistant Attorney General
Attorneys for Appellee

Craig Williams Attorney at Law P.L.L.C. Prescott
By Craig Williams Valley
Attorney for Appellant

D O W N I E, Judge

¶1 Douglas William Mahala appeals from his criminal convictions and sentences. Finding no error, we affirm.

FACTS AND PROCEDURAL HISTORY¹

¶2 On June 8, 2010, Mahala was served with an order of protection that prohibited him from having contact with G.L. or going "on or near" her residence or workplace. In October 2010, Mahala was convicted of two counts of felony aggravated harassment -- domestic violence for offenses committed against G.L. on July 28, 2010, and August 2, 2010. Mahala was sentenced to three years' intensive probation and was released from jail October 25.

¶3 Around 9:00 a.m. on November 2, 2010, G.L.'s mother, R.L., was driving to work, looked in her rearview mirror, and saw Mahala driving an orange and black taxicab behind her. Mahala followed her for awhile before turning. R.L. told G.L. that Mahala was in the area and warned her not to leave her office building alone. Around 11:00 a.m., G.L. went outside on a break and saw Mahala driving an orange and black taxicab. Mahala wore a blue cap and white shirt. He made eye contact with G.L., "smirk[ed]," and slowly followed her as she walked. Frightened, G.L. returned to her office. Around noon, G.L.'s co-worker, A.L., saw an orange and black taxicab outside the office building but could not identify the driver.

¹ We view the facts in the light most favorable to sustaining the verdict. *State v. Tamplin*, 195 Ariz. 246, 246, ¶ 2, 986 P.2d 914, 914 (App. 1999).

¶14 G.L. filed a police report that afternoon. When Officer Hilton arrived to question Mahala, Mahala turned to his co-workers and said, "You ratted me out." Mahala "was nervous [and] anxious" and was wearing a long-sleeved white shirt. Officer Hilton arrested Mahala and issued *Miranda* warnings. When asked about his presence at G.L.'s workplace, Mahala denied being there and said he was "not aware that [G.L.] worked there; he only thought [R.L.] worked" there.

¶15 Mahala was indicted on one count each of harassment, violation of an order of protection, harassment -- domestic violence, and interfering with a judicial proceeding.² A jury trial ensued.

¶16 During the State's case-in-chief, Officer Hilton acknowledged "discrepancies within [his] report," and defense counsel cross-examined him on that topic. G.L. also testified she was "confused on a regular basis" about dates and was "rattled" on November 2, but she reported remembering what happened that day "[v]ery clearly." G.L. and her son testified that Mahala would drive very slowly by their residence; G.L. believed he was trying to intimidate her.

¶17 At the conclusion of the State's case-in-chief, Mahala moved for a judgment of acquittal pursuant to Rule 20, Arizona

² A fifth count, misdemeanor harassment, was dismissed prior to trial.

Rules of Criminal Procedure ("Rule"), asserting that the only evidence he was at G.L.'s workplace was "the testimony of the alleged victim in this matter, who has been less than honest with the Court." The court denied the motion, explaining that "issues of credibility would be determined by the jury."

¶18 D.B., a defense investigator, testified about the location and timing of Mahala's taxi fares around the time of the alleged incident. D.B. testified that Mahala was dispatched at 10:53 a.m. for a six-minute fare, that Mahala told him he went from there to a grocery store, and that Mahala's next fare was at 12:06 p.m. D.B. described a grocery store videotape he viewed with Mahala that depicted a person wearing a long-sleeved, light-colored, button-down shirt and jeans, but no hat, entering the store at 11:07 a.m. and leaving at 11:19. D.B. could not positively identify that individual, but testified Mahala "point[ed] himself out on the video," and Mahala's description of his actions inside the store was "similar to what [D.B.] observed on the video."

¶19 At the conclusion of the defense case, Mahala renewed his Rule 20 motion, asserting that the only evidence placing him at G.L.'s workplace was "the victim's testimony, and it's clear, now that the officer has testified, that the victim has changed her story, and that gives me certain pause about whether or not there's enough information for the jury to render a verdict of

'guilty.'" The court denied the motion.

¶10 Mahala was convicted on all counts and was sentenced to prison terms totaling seven years. Mahala timely appealed. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1), 13-4031, and -4033(A).

DISCUSSION

¶11 Mahala's only argument on appeal is that the guilty verdicts were "against the weight of the evidence." He asserts that the "competing facts" offered at trial "should have given the jury ample reason to find reasonable doubt," especially because he adamantly denied being at G.L.'s office and had "a very credible video-taped alibi."

¶12 The "question of sufficiency of the evidence is one of law, subject to de novo review." *State v. West*, 226 Ariz. 559, 562, ¶ 15, 250 P.3d 1188, 1191 (2011) (citation omitted). "[T]he relevant question 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." *Id.* at ¶ 16 (citation omitted). "Both direct and circumstantial evidence should be considered in determining whether substantial evidence supports a conviction." *Id.* (citation omitted).

¶13 "A conviction may be had under the law of Arizona upon the testimony of the prosecuting witness alone, and the

truth of her story is for the jury, unless such testimony is of a nature which is incredible or unreasonable." *Zavala v. State*, 39 Ariz. 123, 126, 4 P.2d 390, 391 (1931) (citation omitted); see also *State v. Munoz*, 114 Ariz. 466, 469, 561 P.2d 1238, 1241 (App. 1977). The existence of conflicting evidence does not preclude a finding of guilt beyond a reasonable doubt. "No rule is better established than that the credibility of the witnesses and the weight and value to be given to their testimony are questions exclusively for the jury." *State v. Cox*, 217 Ariz. 353, 357, ¶ 27, 174 P.3d 265, 269 (2007) (citations omitted); see also *State v. Miller*, 16 Ariz. App. 96, 99, 491 P.2d 485, 488 (1972) (citation omitted) ("Evidence is not insubstantial simply because the testimony is conflicting or reasonable persons may draw different conclusions therefrom.").

¶14 R.L. testified she saw Mahala driving an orange and black taxicab the morning of November 2. Mahala concedes that, on that date, he worked as a cab driver and that his employer's taxis are painted black and orange. G.L. and A.L. saw an orange and black cab later that morning at G.L.'s workplace. G.L. made eye contact with Mahala, who smirked at her. Mahala had previously driven by G.L.'s home in an intimidating fashion. Officer Hilton overheard Mahala accuse his co-workers of "ratt[ing] him out" when the officer arrived to question him.

¶15 We disagree with Mahala's assertion that the videotape

