

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2586

September Term, 2015

JASON MATTHEW SCALETTA

v.

STATE OF MARYLAND

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

PER CURIAM

Filed: February 6, 2017

*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.

Accused of presenting a fraudulent military document to Support Services for Veterans' Families (SSVF), a veteran's charity, so that he could obtain \$3,148.64 to pay his rent and utilities, Jason Matthew Scaletta, appellant, was convicted of theft of property over \$1,000 and using a false government identification document, following a jury trial, in the Circuit Court for Wicomico County. Appellant's sole contention on appeal is that the Veteran's Administration (VA), and not SSVF, was the owner of the money, and, therefore, that there was insufficient evidence to support his conviction for theft. For the reasons that follow, we affirm.

"The standard for our review of the sufficiency of the evidence is 'whether, after reviewing 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.'" *Neal v. State*, 191 Md. App. 297, 314, *cert. denied*, 415 Md. 42 (2010) (citation omitted). "The test is 'not whether the evidence *should have or probably would have* persuaded the majority of the fact finders but only whether it *possibly could have* persuaded *any* rational fact finder.'" *Painter v. State*, 157 Md. App. 1, 11 (2004) (citations omitted). In applying the test, "[w]e defer to the fact finder's 'opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence.'" *Neal, supra*, 191 Md. App. at 314 (citation omitted). We "consider circumstantial evidence as well as direct evidence" and note that "circumstantial evidence alone is 'sufficient to support a conviction, provided the circumstances support rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused.'" *Painter, supra*, 157 Md. App. at 11 (citation omitted).

To sustain a conviction for theft, the State must prove ownership of the property. *See Richardson v. State*, 221 Md. 85, 86 (1959). And it is “well settled that ownership may be laid in the real owner-general interest-*or in the person in whose possession the goods were at the time of theft-special interest.*” *Melia v. State*, 5 Md. App. 354, 361 (1968) (emphasis added). Moreover, an “owner” is defined by the theft statute as a “person, other than the offender (1) who has an interest in or possession of property regardless of whether the person’s interest or possession is unlawful; and (2) without whose consent the offense has no authority to exert control over the property.” Md. Code Ann., Crim. Law Art., § 7-101(h).

Viewing the evidence “in the light most favorable to the prosecution,” as we are required to do, we conclude that the State presented sufficient evidence to support Scaletta’s theft conviction. Although the evidence demonstrated that the \$3,148.64 belonged to the VA, the VA then gave that money to SSVF for the purpose of assisting Scaletta. Once SSVF was in possession of those funds, it wrote several checks to Scaletta’s landlord and utility provider, totaling \$3,148.64, from its own checking account. Based on this evidence, the jury could reasonably find that SSVF had a possessory interest in the money at the time of the theft and was therefore an “owner” of the property. *See Borgen v. State*, 58 Md. App. 61, 83 (1983) (“Theft from the bailee is nonetheless theft”); *Richardson*, 221 Md. at 88 (“[I]t is generally held that in a prosecution for larceny an allegation of the ownership of stolen goods is support by proof of any legal interest or

special property interest in the goods, as, for instance, where the person named in the indictment is in lawful possession as a bailee or common carrier.”).

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