Circuit Court for Baltimore County
Case No.: C-03-CR-22-000058

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 432

September Term, 2022

LAURA HARKINS

v.

STATE OF MARYLAND

Friedman,
Albright,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 8, 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

**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.

Following a bench trial in the Circuit Court for Baltimore County, Laura Harkins, appellant, was convicted of second-degree assault, fourth-degree burglary, and trespass. On appeal, she contends that the evidence was insufficient to support her trespass conviction because she was unaware that she was not allowed on the property, and she had an honest and reasonable belief that she was permitted there. Notably, however, she does not challenge the evidentiary sufficiency of either her assault or burglary conviction. For the reasons that follow, we shall affirm.

In reviewing whether the evidence was sufficient to convict Harkins, we must "determine whether . . . *any* rational trier of fact could have found the essential elements of [trespass] beyond a reasonable doubt." *Williams v. State*, 251 Md. App. 523, 569 (2021) (quotation marks omitted) (quoting *Taylor v. State*, 346 Md. 452, 457 (1997)). Put differently, "the limited question before us is not whether the evidence should have or probably would have persuaded [most] fact finders but only whether it possibly could have persuaded any rational fact finder." *Smith v. State*, 232 Md. App. 583, 594 (2017) (cleaned up). We conduct our review keeping in mind our role of reviewing the evidence and all reasonable inferences deducible from it in a light most favorable to the State. *Smith v. State*, 415 Md. 174, 185–86 (2010).

To convict Harkins of trespass, the State had to prove that: (1) she entered the private property of another; and (2) the owner or owner's agent had previously notified her not to do so. Md. Code Ann., Crim. Law § 6-403(a). If Harkins generated *prima facie* evidence that she had an "honest and reasonable belief" she was permitted on the property, the State

had to rebut that evidence beyond a reasonable doubt. *In re Antoine M.*, 394 Md. 491, 509 (2006); *In re Jason Allen D.*, 127 Md. App. 456, 484 (1999).

Here, the State presented sufficient evidence to convince a reasonable fact finder that Harkins had been notified to stay away from the property. Harkins admits she was on the property. A resident of the property, and the victim of Harkins's assault conviction, testified that she had previously told Harkins "numerous times" that "[s]he's not allowed to be on the property." The property's owner further testified that "lots of different people," himself included, had previously told Harkins "numerous, numerous times . . . not to come there[.]" He had also previously sent her text messages to the same effect. Finally, the officer who responded to the scene testified that he too had previously instructed Harkins to "leave the area." This was sufficient evidence for the trial court to conclude that Harkins had "been notified by the owner or the owner's agent" not to enter the property.

The State's evidence was also sufficient for a fact-finder to conclude that Harkins either did not honestly believe she was allowed on the property or that, if she did, her belief was unreasonable.[1] Harkins asserts that her presence on the property was "continually tolerated" for the limited purpose of picking up her son. But the property's owner testified to the contrary. And, in making its ruling, the trial court made clear that it credited the property owner's testimony. In effect, Harkins asks us to draw different inferences from

[1] We also note that Harkins does not challenge her fourth-degree burglary conviction under Md. Code Ann., Crim. Law § 6-205(a). An essential element of that crime is knowledge "that the invasion or trespass is unauthorized." *Dabney v. State*, 159 Md. App. 225, 236 n. 2 (2004). By failing to challenge this conviction on appeal, she implicitly concedes that she knew she was not allowed on the property. *See Harmon v. State Rds. Comm'n*, 242 Md. 24, 31–32 (1966).

the evidence and credit her testimony more than the trial court did. But this we cannot do. *Cagle v. State*, 235 Md. App. 593, 604 (2018). Viewing the evidence in the light most favorable to the State, we hold that a rational trier of fact could have found the essential elements of trespass beyond a reasonable doubt.

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