Circuit Court for Worcester County
Case No.: C-23-CR-17-000448

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 859

September Term, 2018

WILLIAM EDWARD WILSON, JR.

v.

STATE OF MARYLAND

Meredith,
Graeff,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIUM

Filed: May 1, 2019

Following a jury trial in the Circuit Court for Worcester County, William Edward Wilson, Jr., appellant, was convicted of third-degree sexual offense, fourth-degree sexual offense, and second-degree assault. On appeal, Mr. Wilson claims that the evidence was insufficient to prove that he inappropriately touched D.B., the minor victim. We affirm.

On appellate review of the sufficiency of the evidence, we determine "'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.'" *Grimm v. State*, 447 Md. 482, 494-95 (2016) (quoting *Cox v. State*, 421 Md. 630, 656-57 (2011)); *accord Jackson v. Virginia*, 443 U.S. 307, 319 (1979). Accordingly, "[w]e do not reweigh the evidence but simply ask whether there was sufficient evidence—either direct or *circumstantial*—that could have possibly persuaded a rational jury to conclude that the defendant was guilty of the crime(s) charged." *Sewell v. State*, 239 Md. App. 571, 607 (2018) (citations omitted) (emphasis in original). In doing so, "[w]e defer to the fact finder's opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence." *Lindsay v. State*, 235 Md. App. 299, 311 (2018) (quoting *Neal v. State*, 191 Md. App. 297, 314 (2010)) (internal quotation marks omitted).

The evidence at trial demonstrated that, in August 2017, ten-year-old D.B. and her family were staying at the home of family friends, where Mr. Wilson also resided. D.B. fell asleep on a couch while watching television. When she woke up, around 1:00 a.m., someone was lying on the couch next to her, touching her "privates." D.B. explained that "he" then "quick turned over and pretended he was asleep." D.B. got up and went to the bathroom. When she left the bathroom, she saw Mr. Wilson on the couch, "in the same

position," covering his eyes with his arm. D.B. then ran to tell her parents what happened. D.B. stated that she did not know who had touched her until she left the bathroom and saw Mr. Wilson on the couch.

The State's DNA expert testified that a male DNA profile from a "major contributor" was recovered from the interior of the crotch of D.B's underwear, and that Mr. Wilson could not be excluded as a source of that DNA. The expert concluded that the probability that someone other than Mr. Wilson matched this DNA profile was 1 in 4,167.

Mr. Wilson contends that the evidence was insufficient to support his convictions because D.B. testified that she could not see who touched her during the incident, and only identified him as the perpetrator after she returned from the bathroom.[1] We disagree. The circumstances under which D.B. identified Mr. Wilson as the person who touched her were presented to the jury. Any weakness in the identification affects the weight of the evidence, not its sufficiency. Accordingly, we hold that the evidence, viewed in the light most favorable to the State, was sufficient for a rational trier of fact to conclude beyond a reasonable doubt that Mr. Wilson was the person who touched D.B. *See Branch v. State*,

[1] Mr. Wilson also asserts that the evidence was insufficient because the State did not present evidence establishing a "clear timeline" of events that eliminated the other men in the house as suspects, and the State did not obtain DNA samples from anyone but Mr. Wilson. Because defense counsel did not raise these issues in moving for judgment of acquittal, however, they were not preserved for our review. *See Nicholson v. State*, 239 Md. App. 228, 250 (2018) ("where a particular ground for a motion for judgment of acquittal is not raised at trial, any appellate review on those grounds is waived.")

305 Md. 177, 183-84 (1986) (identification of the accused by the victim is sufficient to establish criminal agency.)

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