

Circuit Court for Baltimore City
Case No. 118250008

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1073

September Term, 2019

DARNELL SULLIVAN

v.

STATE OF MARYLAND

Graeff,
Berger,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 7, 2020

*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 jury trial in the Circuit Court for Baltimore City, Darnell Sullivan, appellant, was convicted of second-degree assault; wearing, carrying or transporting a handgun; possession of a firearm after being convicted of a disqualifying crime; unlawful possession of ammunition; and discharging a firearm in Baltimore City. His sole contention on appeal is that there was insufficient evidence to support his convictions because, he claims, the State failed to prove his identity as the perpetrator. However, when moving for a judgment of acquittal in the trial court, defense counsel did not raise this claim but rather submitted on the evidence. Consequently, the issue is not preserved for appellate review. *See Peters v. State*, 224 Md. App. 306, 354 (2015) (“[R]eview of a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal.” (citation omitted)).

Moreover, even if preserved, we would find no error. Mr. Sullivan’s convictions were based on his having shot the victim in the chest inside the victim’s home. Although Mr. Sullivan contends that no physical evidence tied him to the shooting, an eyewitness, who was also inside the victim’s home at the time of the shooting, identified Mr. Sullivan as the perpetrator at trial. And, if believed by the jury, that testimony was sufficient to establish Mr. Sullivan’s criminal agency beyond a reasonable doubt. *See Reeves v. State*, 192 Md. App. 277, 306, 372 (2010) (“It is the well-established rule in Maryland that the testimony of a single eyewitness, if believed, is sufficient evidence to support a conviction.”). Although Mr. Sullivan generally challenges the credibility of the eyewitness, it is “not a proper sufficiency argument to maintain that the [fact-finder] should have placed less weight on the testimony of certain witnesses or should have disbelieved

certain witnesses.” *Correll v. State*, 215 Md. App. 483, 502 (2013). Rather, any inconsistencies or weaknesses in the testimony of the State’s witnesses affects the weight of the evidence, and not its sufficiency. *Owens v. State*, 170 Md. App. 35, 103 (2006) (“[A] witness’s credibility goes to the weight of the evidence, not its sufficiency.”). Consequently, we shall affirm the judgments of the circuit court.

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