

Circuit Court for Prince George's County
Case No. CT200246X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1079

September Term, 2021

CHARLENE MAHONEY

v.

STATE OF MARYLAND

Kehoe,
Beachley,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 25, 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 jury trial in the Circuit Court for Prince George’s County, Charlene Mahoney, appellant, was convicted of one count of theft scheme between \$25,000 and \$100,000. She raises two issues on appeal: (1) whether there was sufficient evidence to sustain her conviction, and (2) whether she received ineffective assistance of counsel. For the reasons that follow, we shall affirm.

At trial the State presented evidence that appellant worked for Prince George’s County Public Schools between 2000 and 2018. Appellant’s conviction was based on her having received approximately \$63,000 in overtime pay between 2015 and 2018 which was unauthorized because it had not been approved by her supervisors. In challenging the sufficiency of the evidence appellant contends that the State failed to prove that she “obtained control of money belonging to Prince George’s County Public Schools or the Board of Education.” However, defense counsel did not raise this issue when making a motion for judgment of acquittal. Rather, defense counsel’s sole contention was that there had been no “trespassory [sic] action of overtime by the defendant” because her supervisor had approved the overtime “after the fact[.]” Consequently appellant’s claim regarding the sufficiency of the evidence is not preserved for appellate review. *See Peters v. State*, 224 Md. App. 306, 353 (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.” (quotation marks and citation omitted)).

Appellant alternatively asks us to conclude that her defense counsel’s failure to preserve this issue constituted ineffective assistance of counsel. She also asserts that her defense counsel was ineffective in failing to object to two of the State’s exhibits and in

failing to properly impeach the credibility of a key prosecution witness with evidence of a prior inconsistent statement. However, “[p]ost-conviction proceedings are preferred with respect to ineffective assistance of counsel claims because the trial record rarely reveals why counsel . . . omitted to act, and such proceedings allow for fact-finding and the introduction of testimony and evidence directly related to the allegations of the counsel’s ineffectiveness.” *Mosley v. State*, 378 Md. 548, 560 (2003). Under the circumstances, we are not persuaded that the record in this case is sufficiently developed to permit a fair evaluation of appellant’s claim that her defense counsel was ineffective. Consequently, we decline to consider appellant’s claim of ineffective assistance of defense counsel on direct appeal.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**