

Circuit Court for Caroline County
Case No. C-05-CR-17-000031

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1199

September Term, 2017

CINDY WEBB

v.

STATE OF MARYLAND

Woodward, C.J.,
Fader,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 1, 2018

*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 Caroline County, Cindy Webb, appellant, was convicted of theft of property valued less than \$1,000. On appeal, Webb contends that the evidence was insufficient to support her conviction because the State failed to prove that she exercised “unauthorized” control over the victim’s property. Specifically, Webb claims that (1) she testified “consistently” that the victim had either given her or sold her the allegedly stolen property, and (2) the victim’s contrary testimony that she had not given anyone permission to take the property was not credible due to her memory being “impaired.” For the reasons that follow, we affirm.

In making her motions for judgment of acquittal, the only argument raised by Webb’s defense counsel with respect to the theft charge was that the State had failed to prove that the value of the property was greater than \$1,000.¹ Because defense counsel did not raise any of the claims that Webb now raises on appeal, those claims are 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, Webb’s contention lacks merit.

“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 (2010) (citation omitted). “The test is ‘not whether

¹ The court agreed and dismissed the charge against Webb for theft of property valued more than \$1,000.

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).

Here, Webb’s claims are essentially an invitation for this Court to reweigh the evidence, which we will not do. 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). That is because “it is the [trier of fact’s] task, not the court’s, to measure the weight of the evidence and to judge the credibility of the witnesses.” *State v. Manion*, 442 Md. 419, 431 (2015) (citation omitted).

Viewed in a light most favorable to the State, the evidence demonstrated that the victim’s property was taken without her permission, Webb was later found in possession of that property, and Webb had unique access to the location where the property was stolen because of her role as the victim’s caretaker. That evidence, if believed, was legally sufficient to support a finding of each element of the theft charge, beyond a reasonable doubt. *See Archer v. State*, 383 Md. 329, 372 (2004) (“It is the well-established rule in Maryland that the testimony of a single eyewitness, if believed, is sufficient

evidence to support a conviction.”). Consequently, the State presented sufficient evidence to support Webb’s conviction.

**JUDGMENT OF THE CIRCUIT
COURT FOR CAROLINE COUNTY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**