UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1879

September Term, 2015

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EDWIN ALEXANDER ORRILLO

v.

STATE OF MARYLAND

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Krauser, C. J.,
Nazarian,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

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PER CURIAM

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Filed: July 22, 2016

Convicted, by a jury, in the Circuit Court for Washington County, of making a false statement to a law enforcement officer,[1] Edwin Alexander Orrillo, appellant, presents one question for our review: Does the evidence support his conviction?

"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, *cert. denied*, 415 Md. 42 (2010) (citation omitted). "The test is 'not whether 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). We "consider circumstantial evidence as well as direct evidence" and note that "circumstantial evidence alone is 'sufficient to support a conviction, provided the circumstances support rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused.'" *Painter, supra*, 157 Md. App. at 11 (citation omitted).

[1] Maryland Code (2002, 2012 Repl. Vol.) Criminal Law Article, § 9-501(a) provides, in pertinent part, that "[a] person may not make, or cause to be made, a statement, report, or complaint that the person knows to be false . . . to a law enforcement officer . . . of a county . . . with intent to deceive and to cause an investigation or other action to be taken as a result of the statement, report, or complaint."

Viewing the evidence "in the light most favorable to the prosecution," as we are required to do, we conclude the State presented sufficient evidence to support Orrillo's conviction. A rational jury could have found that Orrillo made a false statement to police in an effort to cover up his involvement in an automobile accident based on the following direct and circumstantial evidence: (1) Orrillo was driving his vehicle at the time of the accident, (2) Orrillo left the scene before police arrived, (3) following the accident, Orrillo contacted Daniel Gomberg, who was a passenger in Orrillo's vehicle at the time of the accident, to tell him not to tell authorities that he (appellant) was driving the vehicle that night, and (4) after calling Gomberg, Orrillo reported to police that his car had been stolen.

We reject Orrillo's suggestion that there was a "deficiency in the prosecution's proof" because "there was no testimony about what happened to the vehicle" after the accident. "The State's burden is not to disprove every possible interpretation of the evidence that is favorable to the defendant. It is to prove the elements of the crime beyond a reasonable doubt." *Wyatt v. State*, 169 Md. App. 394, 407 (2006).

Orrillo also claims, for the first time on appeal, that the evidence was not sufficient because, even if it was false, his report did not "cause an investigation or other action to be taken," and, therefore, the State failed to prove one of the elements of the crime.[2] This claim is not properly before us on appeal. The only argument made by defense counsel in the motion for judgment of acquittal on the charge of making a false report was that the State had not proven that the report was *false.* "It is a well established principle that our

[2] *See* footnote 1.

review of claims regarding the sufficiency of evidence is limited to the reasons which are stated with particularity in an appellant's motion for judgment of acquittal." *Claybourne v. State*, 209 Md. App. 706, 750, *cert. denied*, 432 Md. 212 (2013) (citation omitted). "[A] defendant may not argue in the trial court that the evidence was insufficient for one reason, then urge a different reason for the insufficiency on appeal." *Id*. (citation omitted).

**JUDGMENTS OF THE CIRCUIT COURT FOR WASHINGTON COUNTY AFFIRMED. COSTS TO BE PAID BY APPELANT.**