

Circuit Court for Baltimore County
Case No. K15006531

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 864

September Term, 2016

MICHAEL JEROME BERNERT

v.

STATE OF MARYLAND

Woodward, C.J.,
Graeff,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 11, 2017

*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 County, Michael Jerome Bernert, appellant, was convicted of second-degree assault and malicious destruction of property having a value of more than \$1,000. On appeal, Bernert contends that the evidence was not sufficient to support his convictions. Specifically, he claims that the victim was not credible because (1) her testimony was inconsistent with the photographic evidence and the testimony of the responding officer; (2) she had a motive to blame the assault on him instead of her husband, who had a history of domestic violence; and (3) she sent a letter to the State’s Attorney prior to trial stating that she had lied about the charges. For the reasons that follow, we affirm.

“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 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).

Bernert’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 jurors 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 Bernert grabbed the victim by the hair, dragged her out of a car, pushed her to the ground, kicked her, and spit on her. He then flattened the tires of her car with a knife and broke her car windows with either a baseball bat or club, causing more than \$2,000 in damage. That evidence, if believed by the jury, was legally sufficient to support a finding of each element of each crime charged, beyond a reasonable doubt. Consequently, the State presented sufficient evidence to support Bernert’s convictions.

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