

Circuit Court for Caroline County
Case No. 05-K-16-011301

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2313

September Term, 2016

AUSTIN DALE WILSON

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: October 3, 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.

Convicted of possession of oxycodone following a bench trial in the Circuit Court for Caroline County, Austin Dale Wilson, appellant, argues that there was insufficient evidence to sustain his conviction.¹ Finding that there was sufficient evidence, we affirm.

On June 3, 2016, Aaron Rochester called the Ridgely Pharmacy to inform them that his cousin, appellant, would pick up his prescription medications. Sue Cherry, the pharmacist, testified that Rochester had three prescriptions ready for pick-up that day, including one for 360 tablets of oxycodone. Cherry stated that appellant did, in fact, pick up Rochester’s prescriptions. Federalsburg Police Department Sergeant Robert Weilgosz also observed appellant at the pharmacy that day.²

Later, Rochester came to the pharmacy and said that someone had picked up his prescriptions without his permission. Ridgely Police Department Officer Jeff Christopher contacted appellant, who admitted to a “regular deal” that had been ongoing for three years in which appellant would pick up prescriptions for Rochester, take some of the oxycodone pills, and trade them for marijuana. A few days later, appellant wrote a statement for Officer Christopher, which memorialized the conversation they had. Appellant stated that he had given the prescriptions to Rochester and received thirty oxycodone pills as payment for picking up the prescriptions. Police did not recover any of the oxycodone pills.

On appeal, appellant contends that the evidence was insufficient to sustain the conviction for possession of oxycodone because the State did not establish that the pills

¹ The court sentenced appellant to a four-year prison term, with all but 366 days suspended, to be followed by a three-year period of probation.

² Sergeant Weilgosz was off-duty at the time.

that appellant possessed were actually oxycodone. Appellant points out that there was no chemist’s report, no receipt from the pharmacy and/or drug manufacturer indicating that the pills were oxycodone, or any testimony from the pharmacist about the physical appearance of the pills or a chain of custody. Essentially, then, appellant maintains that the State failed to prove beyond a reasonable doubt that the pills he received from the pharmacy were oxycodone.

In reviewing for sufficient evidence, we ask “whether, ‘after viewing 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.’” *Hall v. State*, 233 Md. App. 118, 137 (2017) (quoting *State v. Coleman*, 423 Md. 666, 672 (2011)). This Court has noted that in this undertaking, “the limited question before us is not ‘whether the evidence should have or probably would have persuaded the majority of fact finders but only whether it possibly could have persuaded any rational fact finder.’” *Smith v. State*, 232 Md. App. 583, 594 (2017) (emphasis omitted) (quoting *Allen v. State*, 158 Md. App. 194, 249 (2004), *aff’d*, 387 Md. 389 (2005)). “In short, the question ‘is not whether we might have reached a different conclusion from that of the trial court, but whether the trial court had before it sufficient evidence upon which it could fairly be convinced beyond a reasonable doubt of the defendant’s guilt of the offense charged[.]’” *Spencer v. State*, 422 Md. 422, 434 (2011) (emphasis omitted) (quoting *Dixon v. State*, 302 Md. 447, 455 (1985)).

Certainly, the State was required to establish that the substance appellant possessed was actually oxycodone. *See* Maryland Code (2002, 2012 Repl. Vol.), Criminal Law

Article (“C.L.”) § 5-601. A chemical analysis is, however, not required. *See Best v. State*, 79 Md. App. 241, 255 (1989). We are persuaded that the State adduced sufficient evidence from which a rational finder of fact could conclude that the substance appellant possessed was oxycodone. The pharmacist, Cherry, testified that the pharmacy had to special order the oxycodone because it was “not something [the pharmacy] would ever have laying around” due to federal regulations. She also stated that she filled the prescription and gave the oxycodone to appellant.³ Moreover, appellant confessed to Officer Christopher that he obtained the oxycodone and that he had been trading some of Rochester’s oxycodone pills for marijuana as part of a “regular deal” that had been ongoing for the past three years. Additionally, appellant stated that he had observed the pills, was familiar with oxycodone, and had taken one of them, which “[j]ust took my pain, I mean, just helped me out.” Accordingly, we conclude that there was sufficient evidence from which a rational fact finder could find beyond a reasonable doubt that the substance appellant possessed was oxycodone.

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

³ Furthermore, Cherry testified that the drug manufacturer tests the drug prior to it being shipped.