Circuit Court for Worcester County
Case No.: C-23-CR-24-000029

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 908

September Term, 2024

THOMAS STUART ALBRECHT

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 25, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

A jury in the Circuit Court for Worcester County convicted Thomas Stuart Albrecht, appellant, of distribution of a controlled dangerous substance—methadone. The court later sentenced him to ten years' incarceration, five suspended, followed by five years of supervised probation.

On appeal, Albrecht contends that the evidence was insufficient to support his conviction. In reviewing this issue, we must "determine whether . . . *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Williams v. State*, 251 Md. App. 523, 569 (2021) (cleaned up). Put differently, "the limited question before us is not whether the evidence should have or probably would have persuaded [most] fact finders but only whether it possibly could have persuaded any rational fact finder." *Smith v. State*, 232 Md. App. 583, 594 (2017) (cleaned up). We conduct our review keeping in mind our role of reviewing both the evidence and all reasonable inferences that may be drawn from it in a light most favorable to the State. *Smith v. State*, 415 Md. 174, 185–86 (2010); *Williams*, 251 Md. App. at 569.

To convict Albrecht of distribution of a controlled dangerous substance, the State had to prove: (1) that he had actual or constructive possession of the substance; and (2) that he actually or constructively delivered the substance to another person, other than by lawful order of an authorized provider. *See* Md. Code Ann., Crim. Law § 5-602(a)(1); *Anderson v. State*, 385 Md. 123, 132–33 (2005).

The evidence at trial showed that Albrecht was prescribed methadone and had two bottles of the substance in his home at the relevant time. Albrecht shared his home with two other people, Ronald Pruitt and Pruitt's daughter. A paramedic testified that he

responded to a call "for an unconscious person" at Albrecht's home, and when he arrived, he observed Pruitt lying on the bed, unresponsive and breathing inadequately. He then "asked anyone else who was in the house if they could provide any information as to what may have been going on or could have been causing this condition." The paramedic testified that Albrecht told him "that he had given [Pruitt] methadone the night before." This evidence, "if believed and if given maximum weight, would have established the necessary elements of the crime." *McCoy v. State*, 118 Md. App. 535, 538 (1997) (emphasis omitted). *See also Reeves v. State*, 192 Md. App. 277, 306 (2010) ("[T]he testimony of a single eyewitness, if believed, is sufficient evidence to support a conviction.").

But still, Albrecht contends that the evidence was insufficient to support his convictions for two reasons. He first argues that there was a "conflict in testimony" about how and when Ronald Pruitt, the individual to whom Albrecht allegedly distributed the methadone, obtained the substance. Albrecht also argues that there was no testimony that he gave Pruitt methadone on the date charged in the indictment. Neither argument has merit.

To be sure, as Albrecht points out, there was conflicting testimony at trial. Albrecht testified that Pruitt admitted, in front of his daughter, that he took the methadone, and Pruitt's daughter testified only that her father "had methadone," not that Albrecht had given it to him. But although the jury could have accepted Albrecht's version of events, it also could have credited, instead, the paramedic's version. Ultimately, "credibility goes to the weight of the evidence, not its sufficiency." *Owens v. State*, 170 Md. App. 35, 103 (2006),

aff'd, 399 Md. 388 (2007). "[T]he assessment of testimonial credibility . . . is not and never was the function of appellate review, as a matter of law." *Rothe v. State*, 242 Md. App. 272, 283 (2019).

As for Albrecht's variance[1] claim, even if preserved, it is irrelevant. Generally, only "matters essential to the charge must be proved as alleged in the indictment." *Smith*, 232 Md. App. at 594 (cleaned up). Here, the exact date of distribution is not a necessary element of the charged offense. *Cf. State v. Mulkey*, 316 Md. 475, 482 (1989) ("Here, we conclude the exact date of the offense is not an essential element, and is not constitutionally required to be set forth."); *Tucker v. State*, 5 Md. App. 32, 35 (1968) ("It is well established that the State is not confined in its proof to the date alleged in the indictment."). Thus, the evidence, when viewed in the light most favorable to the State, was sufficient to sustain Albrecht's conviction.

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

[1] A variance, in this context, is "a difference between the allegations in a charging instrument and the proof actually introduced at trial." *Variance*, BLACK'S LAW DICTIONARY (12th ed. 2024).