UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2884

September Term, 2015

CHARLES ANTHONY DICKSON

v.

STATE OF MARYLAND

Krauser, C.J.,
Graeff,
Nazarian,

JJ.

PER CURIAM

Filed: December 13, 2016

*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 by a jury, in the Circuit Court for Charles County, of failure to obey an order that a law enforcement officer made to prevent a disturbance of the peace, Charles Anthony Dickson, appellant, claims that the evidence was insufficient to support a conviction on that charge. 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, *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).

At trial, the State presented evidence that police were called to the "Beer for You" bar in Pinefield, which had closed early due to a "disturbance and fighting inside the

bar." Officer Fenlon[1] of the Charles County Sheriff's Office testified that when he arrived, he observed a "pretty chaotic scene." A "large crowd" of approximately 80 people remained in the parking lot, a "lot of people" were "yelling at each other," and there were "individual fights here and there." Security guards were "yelling at people to clear the parking lot." Ten to fifteen police officers were at the scene and were "trying to gain control of the parking lot," but "[n]obody was listening." The officer repeatedly ordered Dickson, who was "obviously agitated" to "step back" and to leave the parking lot. Dickson did "step back," but he remained "right behind" the officer, and the officer had to repeat the order approximately ten times. Moreover, Dickson "refused" the order to leave the parking lot, which was given, the officer explained at trial, because the bar was closed.

Dickson was convicted of violation of Maryland Code (2002, 2012 Repl. Vol), Criminal Law Article, § 10-201(c)(3), which provides that "[a] person may not willfully fail to obey a reasonable and lawful order that a law enforcement officer makes to prevent a disturbance to the public peace." Specifically, Dickson contends on appeal that (1) the evidence was insufficient to prove that he disobeyed an order; (2) the order was not "reasonable and lawful," and (3) the orders to "step back" and leave the parking lot were not made to prevent a disturbance to the public peace, because the disturbance was already in progress in the parking lot.

[1] Officer Fenlon's first name is not apparent from the record.

In support of the motion for judgment of acquittal at trial, defense counsel contended only that the officer's orders were for the sole purpose of promoting officer safety, and were not given to prevent a disturbance of the peace, because the disturbance was already in progress, and "there wasn't a public peace to disturb." Defense counsel did not contend, as Dickson now does on appeal, that the evidence was insufficient to prove that he disobeyed an order, or that the order was not "reasonable and lawful."[2] In moving for a judgment of acquittal, a defendant must "argue precisely the ways in which the evidence should be found wanting and the particular elements of the crime as to which the evidence is deficient." *Arthur v. State*, 420 Md. 512, 522 (2011) (citation omitted). "Accordingly, a defendant is not entitled to appellate review of reasons stated for the first time on appeal." *Id.* at 523 (citation and internal quotation marks omitted). Consequently, our review is limited to Dickson's third contention, that is, whether or not the officer's order was given to prevent a disturbance of the peace.

To be guilty of a failure to obey an order made by a law enforcement officer to prevent a disturbance of the peace, "there must be a sufficient nexus between the police command and the probability of disorderly conduct." *Attorney Grievance Comm'n of Maryland v. Mahone*, 435 Md. 84, 105 (2013) (citation omitted). Viewing the evidence "in the light most favorable to the prosecution," as we are required to do, we conclude

[2] Indeed, defense counsel expressly conceded that there was sufficient evidence that Dickson failed to obey a police order when she stated, "we agree there's evidence that Mr. Dickson did not follow an order that Officer Fenlon gave." Moreover, defense counsel did not challenge whether the order was "reasonable and lawful," but stated, "I don't even think we need to go though [sic] whether or not [the order] was reasonable and lawful because it wasn't being made to prevent a disturbance to the peace."

that the jury could rationally infer from the evidence presented that the orders to "step back" and to leave the parking lot were given by Officer Fenlon not only for officer safety, but also to defuse the "chaotic scene" and to prevent an escalation of the disturbance. *See id.* (noting that "failure to obey a policeman's command to move on when not to do so may endanger the public peace, amounts to disorderly conduct.") (citation omitted.)[3] *See also Spry v. State*, 396 Md. 682, 692-93 (2007) (noting that "refusal to obey an order of a police officer . . . to move on . . . may interfere with the public order and lead to a breach of the peace, and . . . can be justified only where the circumstances show conclusively that the police officer's direction was purely arbitrary and was not calculated in any way to promote the public peace.") (citation and internal quotation marks omitted).

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

[3] Failure to obey a lawful order is one of the disorderly conduct offenses codified in § 10-201 of the Criminal Law Article. *See Spry v. State,* 396 Md.682, 691 (2007).