UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 758

September Term, 2016

WILLIAM BLAN HARCUM, III

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: April 7, 2017

Convicted of voluntary manslaughter, first degree assault, and second degree assault following a jury trial, in the Circuit Court for Wicomico County, William Blan Harcum, III, appellant, contends that there was insufficient evidence to support his convictions because the State failed to prove that he did not act in perfect self-defense. 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, *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).

At trial, Harcum testified that, following a fist-fight with his uncle in a watermelon field, his uncle threatened to kill him as they walked toward their respective vehicles. Although Harcum reached his vehicle first, he knew that his uncle kept a rifle in his vehicle and Harcum was scared that his uncle might follow him if he drove away. Therefore, Harcum drove across the field to a nearby tractor; pulled out the tractor's iron "hitch pin;" drove back to where his uncle was walking; exited his vehicle; and struck his uncle in the head with the "hitch pin," killing him. Harcum testified that he did not intend to kill his

uncle but only intended to prevent him from reaching his vehicle. Following the close of all the evidence, the trial court instructed the jury on both perfect and imperfect self-defense.

Relying on his trial testimony, Harcum essentially contends that the evidence of self-defense was so overwhelming as to entitle him to a judgment of acquittal as a matter of law. However, in *Hennessy v. State*, 37 Md. App. 559 (1977), we rejected an identical argument stating:

> [Hennessy] concedes by silence that there was sufficient evidence to sustain a manslaughter verdict, but argues that because the State did not affirmatively negate his self-defense testimony, he was entitled to what amounts to a judicially declared holding of self-defense as a matter of law. That is of course, absurd. The factfinder may simply choose not to believe the facts as described in that, or any other, regard, and the very fact that a large knife was used, causing the death of an unarmed man, raises in itself the issue of excessive force even if [Hennessy's] account had been believed.

Id. at 561-562 (internal citations omitted).

Harcum's contention is equally "absurd." Harcum was entitled to, and received, a jury instruction on perfect self-defense. The jury, however, was "free to believe some, all, or none of the evidence [he] presented in support of that defense." *Sifrit v. State*, 383 Md. 116, 135 (2004). In short, there was sufficient evidence to support Harcum's convictions, and the trial court did not err in submitting the charges to the jury.

JUDGMENTS OF THE CIRCUIT COURT FOR WICOMICO COUNTY AFFIRMED. COSTS TO BE PAID BYAPPELLANT.