UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2476

September Term, 2015

LOUIS MCKINLEY MEDLEY

v.

STATE OF MARYLAND

Krauser, C. J.,
Graeff,
Leahy,

JJ.

PER CURIAM

Filed: September 6, 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 of attempting to possess oxycodone, a controlled dangerous substance, and attempting to obtain oxycodone by fraud, deceit, misrepresentation, or subterfuge, following a jury trial in the Circuit Court for Charles County, Louis McKinley Medley, appellant, contends on appeal that the evidence was not sufficient to support his convictions because the State failed to prove that the prescription he provided to the pharmacy was fraudulent, counterfeit, or otherwise invalid. For the reasons that follow, we affirm.

First, as to his conviction for attempted possession of oxycodone, Medley correctly notes that Maryland Criminal Law Article § 5-601(a)(1) prohibits the possession of a controlled dangerous substance "unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice[.]" However, the State does not bear the burden of proving that a person, who possesses or attempts to possess a controlled substance, lacked a valid prescription or order to do so. Instead, Maryland Criminal Law Article § 5-807(a)(2) specifically provides that "[t]he burden of proof to establish an exemption, proviso, or exception [to any offense set forth in Title 5 of the Criminal Law Article] is on the person claiming its benefit," in this case, Medley. Accordingly, Medley's claim that the State failed to prove that the prescription he presented to the pharmacist was fraudulent or invalid is without merit.

Second, when making his motion for judgment of acquittal as to the charge of attempting to obtain oxycodone by fraud, deceit, misrepresentation, or subterfuge, Medley did not challenge the sufficiency of the State's evidence on the grounds that he now asserts on appeal. Instead, Medley only argued that his showing the pharmacist a woman's driver's license did not constitute fraud. Accordingly, the argument that Medley is now

making was not preserved for appellate review as to that charge. *See Jones v. State*, 213 Md. App. 208, 215 (2013) ("Grounds that are not raised in support of a motion for judgment of acquittal at trial may not be raised on appeal.").

Finally, even if the State bore the burden of proving that Medley lacked a valid prescription and the issue was preserved as to both charges, the evidence was sufficient to support appellant's convictions. Specifically, the jury could reasonably find that the prescription was fraudulent, and that Medley was aware of that fact, based on the testimony: (1) that the prescription was made out to someone of than Medley; (2) that the detective who investigated the case believed the person named in the prescription was deceased; (3) that the pharmacy technician who Medley initially gave the prescription to had received several prescriptions from the same physician that day and that they were "not legitimate;" (4) that Medley showed the pharmacy technician a woman's driver's license when asked to show his identification; (5) that, after Medley unsuccessfully tried to pick up the prescription on two separate occasions, he then drove to the same pharmacy eight days later with a female, who went inside and tried to pick up the prescription while Medley waited in the car; and (6) that following their arrest, Medley told the woman that he would tell the police that he "told [her] to go inside the store" and "told [her] to do it." *See generally Titus v. State*, 423 Md. 548, 557-58 (2011) (recognizing that the "finder of fact has the ability to choose among differing inferences that might possibly be made from a

factual situation, and we therefore defer to any possible reasonable inferences the [trier of fact] could have drawn from the admitted evidence" (citation omitted)).

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