

Circuit Court for Prince George's County
Case No: C-16-CR-23-002814

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 464

September Term, 2024

WILLIE BURCH

v.

STATE OF MARYLAND

Wells, C.J.
Beachley,
Albright,

JJ.

Opinion by Albright, J.

Filed: September 5, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant was charged in the District Court of Maryland for Prince George's County with second-degree assault and malicious destruction of property having a value greater than \$1,000. On November 1, 2023, he filed a prayer for a jury trial and his case was transferred to the Circuit Court for Prince George's County. On February 5, 2024, appellant waived his right to a jury trial and elected to be tried by the court. After a bench trial, appellant was found guilty of both charges. He was sentenced to incarceration for a period of three years for the second-degree assault conviction and a concurrent term of three years for the malicious destruction of property conviction. Those sentences were suspended, and appellant was placed on supervised probation for a period of three years. This timely appeal followed.

ISSUES PRESENTED

In his Informal Brief, appellant presents several issues¹ for our consideration which we have rephrased as follows:

¹ Appellant presents his issues on appeal as follows:

Issue 1. I did not testify I was My only witness

Issue 2. New Evidence My Lawyer Would not Submit Evidence

Issue 3. The Victims testimony contradicts Reports

- I. Whether appellant’s trial counsel erred in failing to call appellant as a witness when he had “supporting facts of [his] innocence,” was his “only witness,” and “did not testify[;]”
- II. Whether appellant’s trial counsel erred in failing to submit evidence, specifically “recording evidence of victim admitting important information[;]” and,
- III. Whether appellant’s trial counsel erred in failing to ask the victim questions on cross-examination, as requested by appellant, about “contradict[ions]” between the victim’s testimony and “reports.”

For the reasons set forth below, we shall affirm.

ANALYSIS

We are unable to ascertain the factual background of the case that gives rise to this appeal. The record reveals that on May 3, 2024, appellant requested transcripts of his February 5, 2024 trial and his April 5, 2024 sentencing hearing, but there is no indication that those transcripts were filed. Pursuant to Maryland Rule 8-411, appellant was not only required to request a copy of the transcripts, as he did, but also to “cause the original transcript to be filed promptly by the court reporter with the clerk of the lower court for inclusion in the record” and to “promptly serve a copy on the appellee.” Md. Rule 8-411(c). Maryland Rule 8-413 provides that the record on appeal shall include, among other things, “the transcript required by Rule 8-411[.]” Appellant’s failure to cause any transcript of the trial and sentencing hearing to be prepared and filed pursuant to Rules 8-411 and 8-413, provides grounds for us to exercise our discretion to dismiss the appeal. Maryland Rule 8-602(c)(4) (“The court may dismiss an appeal if: . . . (4) the contents of the record do not comply with Rule 8-413[.]”). There is nothing in the Maryland Rules to suggest that, because appellant is self-represented and proceeding under informal

briefing, he is excused from the requirement to obtain and file transcripts. For the reasons explained below, however, we shall not exercise our discretion to dismiss the appeal on that ground.

All of the issues presented by appellant in his Informal Brief involve contentions that his trial counsel provided ineffective assistance of counsel. The Supreme Court of Maryland has emphasized repeatedly that an ineffective assistance of counsel claim generally should be addressed in a post-conviction proceeding pursuant to the Maryland Uniform Post Conviction Procedure Act, Maryland Code §7-101 *et seq.* of the Criminal Procedure Article, rather than on direct appeal, where the record typically is not suited to the task. *See, e.g., Mosley v. State*, 378 Md. 548, 558–59 (2003) (noting that a post-conviction proceeding, is the most appropriate way to raise the claim of ineffective assistance of counsel); *Addison v. State*, 191 Md. App. 159, 174 (2010) (“[T]he ‘desirable procedure’ for presenting claims of ineffective assistance of counsel is through post-conviction proceedings.”). “Post-conviction proceedings are preferred with respect to ineffective assistance of counsel claims because the trial record rarely reveals why counsel acted or omitted to act, and such proceedings allow for fact-finding and the introduction of testimony and evidence directly related to allegations of the counsel’s ineffectiveness.” *Mosley*, 378 Md. at 560 (footnote omitted). While the general rule is that “a claim of ineffective assistance of counsel is raised most appropriately in a post-conviction proceeding,” that rule is “not absolute.” *In re Parris W.*, 363 Md. 717, 726 (2001). Maryland’s Supreme Court has permitted review on direct appeal “in the rare instance where the critical facts are undisputed, the record is sufficiently developed,

and/or the legal representation is so egregiously ineffective that it is obvious from the trial record that a defendant was denied his Sixth Amendment right to counsel.” *Mosley*, 378 Md. at 564.

We decline to address appellant’s claims of ineffective assistance of counsel on direct appeal because the trial record is not sufficiently developed to determine whether appellant’s trial counsel was prejudicially ineffective. The record before us does not include transcripts and does not reveal why defense counsel did not call appellant as a witness, declined to submit a recording of the victim admitting important information, or declined to question the victim about contradictions between his testimony and “reports.” Those issues are most appropriately addressed in a post-conviction proceeding which will allow for the introduction of testimony and evidence, and fact-finding, directly related to appellant’s contentions.

**JUDGMENTS OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED; COSTS TO BE PAID BY
APPELLANT.**