Circuit Court for Frederick County
Case No. C-10-CR-23-000429

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 869

September Term, 2024

JOSE NELSON GUERRA SANCHEZ

v.

STATE OF MARYLAND

Wells, C.J.,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 6, 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

Following a bench trial in the Circuit Court for Frederick County, Jose Nelson Guerra Sanchez, appellant, was convicted of attempted second-degree rape and sexual abuse of a minor by a household or family member. His sole contention on appeal is that the trial court erred in admitting evidence of his prior sexually assaultive conduct involving the same victim under Section 10-923 of the Courts and Judicial Proceedings Article. For the reasons that follow, we shall affirm.

Prior to trial, the State filed a notice of its intent to offer evidence of other sexually assaultive behavior involving appellant and the same victim to "rebut an express or implied allegation that [the victim] fabricated the sexual offense[.]" Specifically, the State noted that it intended to offer evidence that appellant had previously raped the minor victim during a vacation in El Salvador, which had resulted in the birth of a child for which he had "taken responsibility and offered to support." Appellant filed an opposition and a motion to exclude the evidence.

A hearing was scheduled for October 24, 2023. At that hearing, appellant's counsel informed the court that, in light of appellant's desire for a bench trial, the need for a pretrial hearing on the admissibility of the evidence regarding the prior sexual assault "seems to be moot." Defense counsel further stated that, rather than having the motions court rule on the issue, appellant wanted the trial judge to address it "[w]ithin the trial itself." Appellant proceeded to waive his right to a jury trial, and thereafter, defense counsel reiterated that the "motion that's scheduled for today is now moot." In response, the court agreed that the motion could be "heard by the trial judge."

Following that hearing, appellant retained new counsel. On the morning of trial, the court[1] asked appellant's new defense counsel if there were any "preliminary matters[.]" Other than a scheduling matter, counsel indicated there were not. The case proceeded to trial, during which the State introduced evidence of the prior rape without objection. Moreover, at no point did appellant request the court to rule on the admissibility of that evidence.

On appeal, appellant contends that the motions court erred in finding that the issue of admissibility was "moot once [he] waived his right to a jury trial[,]" because "nothing in Section 10-923 . . . limits its application to jury trials." He further asserts that the motions court erred in not conducting a hearing and in not making findings with respect to: (1) whether the State had proven the sexually assaultive behavior by clear and convincing evidence, and (2) whether the probative value of the evidence was outweighed by the danger of unfair prejudice. These claims are waived, however, because, at the October 24 hearing, appellant specifically asserted that the issue was "moot" and asked the court not to rule on the admissibility of the evidence at that time. Thus, appellant cannot now claim on appeal that the court erred in granting the exact relief that he requested. *See Hyman v. State*, 158 Md. App. 618, 631 (2004) ("Having received the only relief he requested, appellant effectively waived all other potential review on appeal.").

Finally, to the extent appellant is also claiming that the trial judge erred in admitting the evidence, he not only failed to ask the trial judge to rule on its admissibility, but he also

[1] We note that the trial judge was not the same judge who presided over the October 24 motions hearing.

failed to object at any point when the evidence was admitted. Consequently, that issue is not preserved for appellate review. *See* Md. Rule 8-131(a) ("Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]"); *Lopez-Villa v. State*, 478 Md. 1, 19 (2022) (noting that "an appellant who desires to contest a court's ruling or other error on appeal" is required "to have made a timely objection at trial" (cleaned up)).

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