

Circuit Court for Montgomery County
Case No.: 485437V

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1751

September Term, 2025

ALLEGRA HEMPHILL, *et al.*

v.

BATTLES TRANSPORTATION INC.

Wells, C.J.,
Zic,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 6, 2026

*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.

In April 2018, appellants Allegra and Vivian Hemphill¹ were injured in a motor vehicle accident when they were rearended at a stoplight by a driver who worked for appellee Battles Transportation, Inc. Three years later, the Hemphills sued the driver, personally, and Battles in the Circuit Court for Montgomery County, alleging negligence. The driver was ultimately dismissed from the case, and the Hemphills amended their complaint to allege that Battles was vicariously liable for the driver’s misconduct. *See generally Hemphill v. Battles Transp. Inc.*, No. 2111, Sept. Term, 2023 (filed Sept. 11, 2024) (*per curiam*). The parties appeared for a jury trial in September 2025, and the jury found Battles not liable. This appeal followed.

On appeal, the Hemphills present two issues for our review. *First*, they contend that the trial court erred in quashing a trial subpoena. The Hemphills subpoenaed McKinley Battle, the owner of Battles, to testify at trial. When he failed to appear, the Hemphills orally moved to compel his testimony. The trial court denied their motion and quashed the subpoena.² We review this decision for an abuse of discretion. *See Forensic Advisors, Inc. v. Matrixx Initiatives, Inc.*, 170 Md. App. 520, 530 n.6 (2006).

¹ Vivian Hemphill passed away while this case was proceeding in the circuit court. Allegra Hemphill, as personal representative of her estate, was substituted in her place under Maryland Rule 2-241. Allegra Hemphill noted this appeal both individually and in her capacity as personal representative. We refer to Allegra Hemphill in her individual and representative capacity, collectively, as “the Hemphills” throughout this Opinion.

² There was some dispute over whether the subpoena had been quashed before trial. The record reflects that the court was not convinced that the subpoena had been previously quashed.

The record reflects that the court allowed the Hemphills to proffer Battle’s testimony. They admitted that he had no personal knowledge of the accident. Instead, they wanted to call him as a corporate representative and question him about the company’s policies for their drivers. But, as the trial court recognized, the Hemphills had already questioned a corporate representative about these policies and, therefore, Battle’s testimony would not add anything. Under the circumstances, we cannot say that the trial court’s decision to quash the subpoena was so far removed from any center mark that we can imagine that it constituted an abuse of discretion. *See Consol. Waste Indus., Inc. v. Std. Equip. Co.*, 421 Md. 210, 219 (2011). Moreover, even if the court did abuse its discretion, the Hemphills have not shown that the jury’s decision would have been different had they heard Battle’s duplicative testimony.³ *See Barksdale v. Wilkowsky*, 419 Md. 649, 660, 662 (2011). Accordingly, any error in quashing the subpoena was harmless.

Second, the Hemphills contend that the trial court erred in delivering its jury instructions. Specifically, the written instructions given to the jury incorrectly named the driver of the vehicle that crashed into the Hemphills as “Brian Nash” instead of “Benjamin Nash.” But the record reflects that the trial court addressed the problem with the jury and orally advised them of the correct name—*i.e.*, the court gave a clarifying instruction—and neither party objected. Thus, even if erroneous, “the harmlessness of the error is readily

³ In their brief, the Hemphills seem to suggest that, through Battle, as the owner of the vehicle, they could have offered into evidence certain police records and other reports related to the accident. Even if true, however, they did not raise this argument in the trial court when proffering Battle’s testimony. As a result, they failed to preserve it for our review. *See DiCicco v. Balt. Cnty.*, 232 Md. App. 218, 224–25 (2017). *See also* Md. Rule 8-131(a).

apparent.” *Id.* at 663. *See also Kruszewski v. Holz*, 265 Md. 434 (1972) (erroneous jury instruction was not prejudicial because trial judge gave clarifying instruction which was not objected to by either party). We shall, therefore, affirm the judgment.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANTS.**