

Circuit Court for Baltimore City  
Case No. 119101003

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2029

September Term, 2019

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DANIELLA BATES

v.

STATE OF MARYLAND

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Fader, C.J.,  
Kehoe,  
Wright, Alexander, Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: December 29, 2020

\*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.

Following a jury trial in the Circuit Court for Baltimore City, Daniella Bates, appellant, was convicted of second-degree assault and reckless endangerment based on her having stabbed the victim in the abdomen with a knife. On appeal, she claims that the evidence was insufficient to sustain her convictions because: (1) no eyewitness observed her with a knife; (2) no knife or other weapon was recovered; (3) there was “no video available to show whether [she] did in fact stab [the victim];” and (4) the “police did not investigate the scene of the altercation to see if there were any blood droplets, stains, or other physical evidence.” However, these contentions are not preserved for appellate review as she did not raise them when making her motion for judgment of acquittal. *See Peters v. State*, 224 Md. App. 306, 354 (2015) (“[R]eview of a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal.” (citation omitted)).

Relying on *Testerman v. State*, 170 Md. App. 324 (2006), Ms. Bates alternatively asks us to conclude that her defense counsel’s failure to preserve this issue constituted ineffective assistance of counsel. However, “[p]ost-conviction proceedings are preferred with respect to ineffective assistance of counsel claims because the trial record rarely reveals why counsel . . . omitted to act, and such proceedings allow for fact-finding and the introduction of testimony and evidence directly related to the allegations of the counsel’s ineffectiveness.” *Mosley v. State*, 378 Md. 548, 560 (2003). And, unlike *Testerman*, we are not persuaded that the record in this case is sufficiently developed to permit a fair evaluation of Ms. Bates’s claim that her defense counsel was ineffective. Consequently,

*Testerman* does not require us to consider that claim on direct appeal, and we decline to do so.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
AFFIRMED. COSTS TO BE PAID  
BY APPELLANT.**