

Circuit Court for Baltimore City  
Case No. 117069002

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2158

September Term, 2017

---

D'ANDRE ANDERSON

v.

STATE OF MARYLAND

---

Woodward, C.J.,  
Friedman,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: October 2, 2018

\*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, D’Andre Anderson, appellant, was convicted of possession with intent to distribute heroin, possession of heroin, conspiracy to possess heroin with intent to distribute, and conspiracy to possess heroin. Anderson’s sole claim on appeal is that the evidence was insufficient to sustain his convictions. He concedes that this claim is not preserved because his defense counsel did not provide any specific reasons in support of his 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)). Therefore, relying on *Testerman v. State*, 170 Md. App. 324 (2006), Anderson asks us to conclude that his defense counsel’s failure to preserve the issue constituted ineffective assistance of counsel.<sup>1</sup>

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 Anderson’s claim that his defense counsel was ineffective. Consequently, *Testerman* does not require us to

---

<sup>1</sup> Although Anderson does not specifically ask us to do so, we decline to exercise our discretion to engage in “plain error” review of this issue pursuant to Maryland Rule 8-131(a).

consider Anderson’s claim of ineffective assistance of defense counsel on direct appeal, and we decline to do so.

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