

Circuit Court for Baltimore County
Case No. C-03-CR-22-003661

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2438

September Term, 2023

ANTWAN CHIVONNE ROBINSON

v.

STATE OF MARYLAND

Leahy,
Zic,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: November 26, 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 Maryland Rule 1-104(a)(2)(B).

This appeal arises from criminal proceedings in the Circuit Court for Baltimore County. Following a bench trial, Antwan Chivonne Robinson, appellant, was convicted and sentenced to 25 years' imprisonment with all but 15 years suspended. Mr. Robinson timely noted the instant appeal, in which he challenges the court's acceptance of his jury trial waiver.

QUESTIONS PRESENTED

Appellant presents one question for our review, which we have recast as two and rephrased as follows:¹

1. Whether the circuit court violated Maryland Rule 4-246(b).
2. Whether the circuit court violated Mr. Robinson's constitutional rights pursuant to the Sixth Amendment and Articles 5, 21, and 24 of the Maryland Declaration of Rights.

For the following reasons, we affirm.

BACKGROUND

In August 2022, Mr. Robinson was charged with multiple offenses of sexual abuse of a minor. On October 3, 2023, Mr. Robinson appeared before the circuit court:

THE COURT: Okay. Did you hear that, Mr. Robinson?

[MR. ROBINSON]: Yes, sir.

THE COURT: Okay. Does that sound accurate to you?

[MR. ROBINSON]: Say it again, sir?

THE COURT: Does what [the State] say[s] sound accurate to you?

¹ Mr. Robinson phrased the question as follows: Did the trial court violate Maryland [R]ule 4-246 and/or Mr. Robinson's constitutional rights by failing to ensure that he knowingly and voluntarily waived his right to a jury trial[?]

[MR. ROBINSON]: Well, I've spoken with my attorney about wanting a trial by bench.

THE COURT: Okay. Good. I'm going to ask you a few questions.

[MR. ROBINSON]: Sure.

THE COURT: All right. How old are you, sir?

[MR. ROBINSON]: I'm 45.

THE COURT: How far did you go in school?

[MR. ROBINSON]: Three years of college.

THE COURT: So you can read and write the English language?

[MR. ROBINSON]: I can, sir.

THE COURT: Okay. So I have not looked at anything in your case [because] it's a bench trial, so I don't have any idea of what's going on in your case. If -- if I read something, it might prejudice me in some way, so I didn't do that. So I don't know anything about your case other than your name, okay? And the -- and the charges against you. I . . . assume you've received documentation, the charges against you?

[MR. ROBINSON]: I did, sir.

THE COURT: You've been able to read those?

[MR. ROBINSON]: Yes, sir.

THE COURT: Okay. You had [your counsel], who's a skilled attorney, help you read those?

[MR. ROBINSON]: Yes, sir.

THE COURT: Okay. And he's explained to you what a jury trial is, has he not?

[MR. ROBINSON]: He has.

THE COURT: I'm going to do it again for the record, okay? A jury trial is 12 people drawn from the motor and voter rol[l]s of Baltimore County. Now, you and your attorney, as well as [the State], would have the opportunity to ask those people questions through me, and then we would select out the people that would be inappropriate so far as if it was somebody who knew you or knew [the State] or had some kind of interest in the case or had some kind of prejudice.

And ultimately, we would seat those 12 people. We'd have a trial. A trial would be the same as this trial, meaning the State brings witnesses, you can cross-examine witnesses or you could bring witnesses. Those -- those rules are the exact same in both cases. The difference is the jury would have to find you -- find you guilty on any one of these charges or all of these charges. All 12 people would have to be unanimous to find you guilty. Do you understand that?

[MR. ROBINSON]: I understand.

THE COURT: And it'd be guilty beyond a reasonable doubt, which is the same standard that I do, just I'm one -- there's one of me and there'd be 12 of them, okay? So you are -- if I understand it correctly, you're going to waive your rights to a jury trial?

[MR. ROBINSON]: I am, sir.

THE COURT: Okay. Do you have any questions about [] jury trials or what rights you're waiving by going forward in this fashion?

[MR. ROBINSON]: I don't, sir.

THE COURT: Okay. So you prefer to hav[e] a bench trial, so I'm going to be the person deciding the case.

[MR. ROBINSON]: Okay.

THE COURT: Okay. All right. Good. Anything, [State]?

[STATE]: Your Honor, just pursuant to the rule, I know that the [c]ourt has voir dired [Mr. Robinson], that the [c]ourt would also need to make a finding that the -- the jury trial waiver --

THE COURT: Uh-huh.

[STATE]: -- is made knowingly and voluntarily. There was actually a line of cases that dealt with that precise issue, and a -- one of my cases fell in line with that so --

THE COURT: Okay.

[STATE]: -- I'm a little sensitive to it.

THE COURT: Not a problem, not a problem. [Defense], did you have any questions you want to ask your client?

[DEFENSE]: No, I was actually going to follow up with and ask him if it's a free and voluntary, but Your Honor --

THE COURT: Not a problem. Do you understand what they're saying?

[MR. ROBINSON]: Yes.

THE COURT: Free and voluntary means -- well first off, is anyone making you do this?

[MR. ROBINSON]: No.

THE COURT: So you're doing this [be]cause you've chosen to do it this way --

[MR. ROBINSON]: Yes.

THE COURT: -- is that correct? All right. Do you have -- again, you don't have any questions of me, is that correct?

[MR. ROBINSON]: I don't.

THE COURT: Okay. I do find that [Mr. Robinson] is making a free and voluntary waiver of the jury trial rights and his election to select a bench trial is an intelligent one, intelligent in the sense of he knows the options and has chosen this option. Does that sound correct to you, sir?

[MR. ROBINSON]: Yes.

THE COURT: All right.

[DEFENSE]: No -- I'm -- I'm satisfied.

THE COURT: Okay.

[DEFENSE]: If the State is.

THE COURT: Are we good to go?

[STATE]: Yes. Yes. Thank you, Your Honor.

Following this colloquy, the court held a bench trial and found Mr. Robinson guilty of the following offenses: two counts of sexual abuse of a minor; one count of sexual offense in the second degree; one count of sexual offense in the third degree; one count of rape in the second degree; and one count of incest. Mr. Robinson was later sentenced to 25 years' imprisonment, with all but 15 years suspended, and multiple lesser

concurrent sentences. Mr. Robinson timely filed this appeal. We supplement with additional facts below as appropriate.

DISCUSSION

I. MR. ROBINSON’S RULE 4-246(b) CHALLENGE WAS NOT PRESERVED AND IS NOT OTHERWISE PROPERLY BEFORE THIS COURT.

Mr. Robinson first argues that the circuit court violated Maryland Rule 4-246(b) by “fail[ing] to ensure that Mr. Robinson knowingly and voluntarily waived his right to a jury trial.” Although he acknowledges that no contemporaneous objection was made, Mr. Robinson nonetheless requests that we review his waiver for compliance with Rule 4-246(b) pursuant to Rule 8-131(a), or alternatively, the plain error doctrine. The State counters that Mr. Robinson’s “defense counsel’s failure to object when [Mr.] Robinson elected a bench trial forfeited any claim for appellate review.” Alternatively, the State maintains that because the court properly performed the jury waiver colloquy, Mr. Robinson knowingly and voluntarily waived his right in accordance with Rule 4-246(b).

Maryland Rule 4-246(b) outlines the procedural requirements for waivers of the right to a jury trial in criminal proceedings. “[A] claimed failure of the [trial] court to adhere strictly with the requirements of Rule 4-246(b) requires a contemporaneous objection in order to be challenged on appeal.” *Spence v. State*, 444 Md. 1, 14-15 (2015) (citing *Nalls v. State*, 437 Md. 674, 684 (2014) (reviewing, pursuant to Rule 8-131(a), an alleged Rule 4-246(b) violation where no contemporaneous objection was made for the limited purpose of clarifying a prior holding)). Thus, if a party does not make a contemporaneous objection, the issue is generally waived on appeal. *Id.* at 15.

An exception to this general rule exists when the alleged violation constitutes plain error. *Turner v. State*, 181 Md. App. 477, 483 (2008). Plain error review may be conducted when the error: (1) was not affirmatively waived by the defendant; (2) is clear and obvious; and (3) affected the outcome of the trial. *Perry v. State*, 229 Md. App. 687, 711 (2016). When these requirements are met, we exercise our discretion to review for plain error “only when the ‘unobjected to error [is] compelling, extraordinary, exceptional or fundamental to assure the defendant a fair trial.’” *Turner*, 181 Md. App. at 483 (quoting *Brown v. State*, 169 Md. App. 442, 457 (2006) (further citations omitted)). As with any contention, however, a party must adequately put forth an argument that plain error review should be conducted. *See* Md. Rule 8-504(a)(6) (requiring that appellate briefs contain “[a]rgument in support of the party’s position on each issue”); *see also Silver v. Greater Balt. Med. Ctr., Inc.*, 248 Md. App. 666, 688 n.5 (2020), and *Rollins v. Cap. Plaza Assocs., L.P.*, 181 Md. App. 188, 201-02 (2008).

Here, Mr. Robinson asks this Court to consider the alleged Rule 4-246(b) violation pursuant to Rule 8-131(a). Such consideration would be directly contrary to *Spence*, 444 Md. at 14-15, and *Nalls*, 437 Md. at 693-94, and we decline to do so. Moreover, Mr. Robinson’s plain error contention is comprised of two sentences that do not apply all the requisite plain error factors.² This Court cannot be expected to seek out law or facts in

² The two sentences read:

Alternatively, [Mr. Robinson] requests that this Court exercise its discretion to review [Mr. Robinson]’s claims as “plain error,” because the deficiency in the jury trial waiver

(continued)

favor of either party. *Rollins*, 181 Md. App. at 201-02. Accordingly, we will not review the merits of the alleged Rule 4-246(b) violation for plain error.

II. AS A CONSTITUTIONAL MATTER, MR. ROBINSON’S JURY TRIAL WAIVER WAS KNOWING AND VOLUNTARY.

A. The Parties’ Arguments

Mr. Robinson also contends that the circuit court violated his constitutional rights under the Sixth Amendment and Articles 5, 21, and 24 of the Maryland Declaration of Rights. Specifically, Mr. Robinson argues that: (1) the court only relied on “affirmative responses to rote questioning”; (2) there is ambiguity reflected in the record concerning the jury selection process and the court did not advise Mr. Robinson that he was presumed innocent; and (3) “the totality of the circumstances fails to establish the constitutionally required ‘intentional relinquishment’ of a known right.” The State maintains that the “record demonstrates that [Mr.] Robinson had some knowledge of the jury trial before being allowed to waive it” and “the court [] properly accepted the waiver as voluntary.”

B. Analysis

At the outset, we recognize that articles of the Maryland Declaration of Rights are analyzed *in pari materia* with their federal counterparts. See *Clark v. State*, 485 Md. 674,

was not a mere technical violation and is of constitutional magnitude in respect to the fundamental right to a jury trial. “Plain error is ‘error which vitally affects a defendant’s right to a fair and impartial trial.’” *Diggs v. State*, 409 Md. 260, 286 (2009) [(quoting *State v. Daughton*, 321 Md. 206, 211 (1990))].

717-18 (2023) (reading together a defendant’s rights under the Sixth Amendment and Articles 21 and 24 of the Maryland Declaration of Rights); *Epps v. State*, 52 Md. App. 308, 311 (1982) (noting that a criminal defendant’s right to a jury trial is guaranteed by the Sixth Amendment, made applicable to the State through the Fourteenth Amendment, and by Articles 5, 21, and 24 of the Maryland Declaration of Rights). An alleged constitutional violation does not require a contemporaneous objection to be preserved for review. *Hammond v. State*, 257 Md. App. 99, 121 (2023).

When a criminal defendant waives a constitutional right such as the right to a trial by jury, the waiver must be affirmative. “A waiver of a constitutional right must appear affirmatively in the record, and [this] failure . . . is the very basis of [an] appeal.” *Biddle v. State*, 40 Md. App. 399, 407 (1978) (citing *Boykin v. Alabama*, 395 U.S. 238 (1969)) (reversing a defendant’s conviction following a bench trial because there was no record of a colloquy or questioning to ensure that the defendant’s waiver of his right to a jury trial was knowing and voluntary).

Furthermore, “a constitutionally valid waiver of the right to a jury trial must be *knowing* and *voluntary*; it must be ‘an intentional relinquishment or abandonment of a known right or privilege.’” *Hammond*, 257 Md. App. at 121 (quoting *Aguilera v. State*, 193 Md. App. 426, 431 (2010) (internal citation omitted) (emphases added)). Although there is no “fixed incantation” on how to address the concepts of “knowing” and “voluntary,” both concepts must be addressed on the record. *Nalls*, 437 Md. at 688 (citation omitted).

We first analyze whether Mr. Robinson’s jury trial waiver was made knowingly. “[I]n determining whether [a] defendant made [a] waiver knowingly, we [] look to the ‘totality of the circumstances.’” *Walker v. State*, 406 Md. 369, 379 (2008). A knowing waiver is supported by an on-the-record showing that the defendant: (1) understands the case will be tried by a jury unless the right is waived; (2) knows a criminal defendant is presumed innocent and may be convicted only if the trier of fact is persuaded beyond a reasonable doubt of guilt; and (3) knows (if the right is not waived) that the case will be tried by a jury of 12 persons. *Id.* at 385.

The defendant’s knowledge of the right to a jury trial need not be complete or perfect, so long as the record shows some awareness of the nature of a jury trial. *State v. Bell*, 351 Md. 709, 730 (1998). Furthermore, “[a] trial court may either inform the defendant that he or she is ‘presumed innocent,’ or inform the defendant that he or she would not be convicted until proven guilty ‘beyond a reasonable doubt.’” *Ray v. State*, 206 Md. App. 309, 353-54 n.23, *aff’d*, 435 Md. 1 (2013) (citation omitted).

Applied here, the record before us shows that Mr. Robinson knowingly waived his right to a jury trial. In its colloquy, the court asked Mr. Robinson if his attorney had “explained . . . what a jury trial is[,]” to which Mr. Robinson affirmatively responded. The court then explained that a jury consists of 12 people who would all need to find him

“guilty beyond a reasonable doubt[.]”³ Mr. Robinson told the court that he had some awareness of the nature of jury trials.

Given the court’s on-the-record explanation of how jury trials differ from bench trials—including the specific number of jurors to be impaneled—its articulation of the “beyond a reasonable doubt” standard of guilt required for a conviction on each charge, and Mr. Robinson’s responses confirming his understanding of jury trials, we conclude that the record demonstrates Mr. Robinson’s waiver of his right to a jury trial was knowing.

We next analyze whether Mr. Robinson’s waiver was voluntary. A voluntary waiver is one given free from coercion and threats. *Abeokuto v. State*, 391 Md. 289, 317-18 (2006). In the absence of any fact suggesting otherwise, voluntariness may be inferred from the defendant’s demeanor and without specific questioning. *Aguilera v. State*, 193 Md. App. 426, 442 (2010).

Here, Mr. Robinson does not identify anything in the record suggesting that his waiver was not voluntary. To the contrary, we observe that Mr. Robinson was asked by

³ Specifically, the court explained that:

A jury is 12 people drawn from the motor and voter rol[l]s of Baltimore County We’d have a trial. A trial would be the same as this trial, meaning the State brings witnesses, you can cross-examine Those -- those rules are the exact same in both cases. The difference is the jury would have to find you -- find you guilty on any one of these charges or all of these charges. All 12 people would have to be unanimous to find you guilty And it’d be guilty beyond a reasonable doubt, which is the same standard that I do.

the circuit court whether “anyone ma[de] [him] do this[.]” Mr. Robinson then confirmed that he was “doing this [be]cause [he had] chosen to do it this way.” This specific line of questioning by the court sought to ensure Mr. Robinson’s decision to waive his right was the product of his own will, free from external pressure or influence.

The totality of the circumstances demonstrates that Mr. Robinson’s jury trial waiver was both knowing and voluntary. For this reason, we hold that Mr. Robinson’s waiver was not defective under either the Sixth Amendment or Articles 5, 21, or 24 of the Maryland Declaration of Rights.⁴

CONCLUSION

We hold that Mr. Robinson’s Maryland Rule 4-246(b) challenge was not preserved. Additionally, considering the totality of the circumstances, we hold that the circuit court ensured Mr. Robinson’s jury trial waiver was knowing and voluntary, and

⁴ We also note that Mr. Robinson appears to separately challenge the circuit court’s description of the jury selection process. Relevant to this issue, the court stated:

And then we would select out the people that would be inappropriate so far as if it was somebody who knew you or knew [the State] or had some kind of interest in the case or had some kind of prejudice. And ultimately, we would seat those 12 people And it’d be guilty beyond a reasonable doubt, which is the same standard that I do.

The cold reading of this explanation is somewhat unclear regarding who would be impaneled. That said, there is no requirement for the trial court to provide an explanation of the jury selection process during a jury waiver colloquy. *State v. Hall*, 321 Md. 178, 183 (1990) (“[t]he [trial] court was not required to advise . . . as to the details of the jury selection process”). Therefore, this explanation, without more, does not render Mr. Robinson’s jury trial waiver constitutionally defective.

thus satisfied the substantive requirements of the Sixth Amendment and Articles 5, 21, and 24 of the Maryland Declaration of Rights.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**