

Circuit Court for Charles County
Case No. C-08-CR-18-000388

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2967

September Term, 2018

BRIAN DOUGLAS PIERCE

v.

STATE OF MARYLAND

Graeff,
Reed,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: January 2, 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.

The appellant, Brian Douglas Pierce, was convicted in the Circuit Court for Charles County by a jury, presided over by Judge William R. Greer, Jr., of the second-degree murder of one victim, the first-degree assault on a second victim, and a variety of firearms-related offenses. On this appeal, he raises the single contention that Judge Greer erroneously failed to recuse himself from hearing the case.

A recitation of the convoluted background facts in this case is unnecessary because the facts have absolutely no bearing on the recusal issue before us. On the morning of the first day of trial, before jury selection, Judge Greer, at a bench conference, reminded counsel that he had once represented the appellant's uncle in a case.

We have no idea whether that representation of an uncle was in the recent past or in the more distant past. We have no idea whether the representation was in a criminal or civil matter. We have no idea whether that earlier representation ended up in a trial or not. In any event, we are belaboring the question with more analysis than is necessary since we have no intention of considering the contention on its merits.

The bench conference in its entirety consisted of the following:

JUDGE: I think I have made it clear previously that I have represented Mr. Pierce, and nobody had [a] problem with that. And I see in the courtroom today, and I think they may have been here at the last trial, and I made it clear that one of the guys who works at the bank, I know. He's here, so apparently is related to him because he is here today.

I assume nobody has any problem with me continuing on in the trial, but I just wanted to make sure that it was on the record and that was all clear.

[THE STATE]: No, no that's fine. I don't think his uncle is a witness.

JUDGE: No, he's not.

DEFENSE ATTORNEY: No.

[THE STATE]: Nor do I think whoever that individual is.

JUDGE: Yeah.

[THE STATE]: It's just the ones we have listed on there. And the State does not have any issue.

JUDGE: No, I don't know any . . . I don't know any of them.

DEFENSE ATTORNEY: And the Defense doesn't have any issues.

JUDGE: Okay, I just wanted to make sure.

(Emphasis supplied.) This matter was never referred to again.

The brief but complete answer to the contention is that it has not been preserved for appellate review. The appellant never asked Judge Greer to recuse himself. The appellant never objected to Judge Greer's non-recusal. Nothing in the course of the trial raised any suggestion that non-recusal had any bearing on the case. In his brief, moreover, the appellant did not request that we overlook non-preservation by taking notice of plain error. There is nothing before us.

**JUDGMENT AFFIRMED; COSTS
TO BE PAID BY APPELLANT.**