

Circuit Court for Montgomery County
Case Nos. 133937C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3145

September Term, 2018

BRANDON JAMAL SPRIGGS

v.

STATE OF MARYLAND

Kehoe,
Nazarian,
Gould,

JJ.

PER CURIAM

Filed: April 13, 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 Montgomery County, Brandon Jamal Spriggs, appellant, was convicted of wearing, carrying or transporting a handgun. His sole claim on appeal is that the evidence was insufficient to sustain his conviction because the State failed to prove that he was not “transporting the handgun . . . between bona fide residences” while it was “unloaded and carried in an enclosed case or an enclosed holster.” *See* Md Crim Law. Art., § 4-203(b)(3). However, this claim is not preserved as he did not raise it when making 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)). Rather, Mr. Spriggs’s sole contention in the trial court was that the State had failed to prove that “the gun ha[d] been worn or carried outside the house.”

Relying on *Testerman v. State*, 170 Md. App. 324 (2006), Mr. Spriggs alternatively asks us to conclude that his 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 Mr. Spriggs’s claim that his 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
MONTGOMERY COUNTY AFFIRMED. COSTS
TO BE PAID BY APPELLANT.**