

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0475

September Term, 2015

IN RE: AMIR B.

Krauser, C.J.,
Berger,
Reed,

JJ.

Opinion by Krauser, C.J.

Filed: March 30, 2016

*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.

Found “involved” by the Circuit Court for Montgomery County, sitting as a juvenile court, in the crimes of robbery, conspiracy to rob, assault, and theft of property valued at less than \$1,000, Amir B. presents one issue for our review: Did the Circuit Court err in denying his motion to dismiss the juvenile complaint as untimely filed? Finding no error, we shall affirm.

BACKGROUND

On January 24, 2014, Amir was arrested and taken into custody for robbing and assaulting a fellow student, Christopher C., near the grounds of Northwood High School in Silver Spring, Maryland. Roughly nine weeks after his arrest, on March 31, 2014, a complaint was forwarded to the Department of Juvenile Services (DJS). On May 12, 2014, the State filed a juvenile petition in the Circuit Court for Montgomery County, sitting as a juvenile court, alleging that Amir was a delinquent because of his involvement in the robbery and assault.

At a motions hearing in mid-August 2014, Amir moved to dismiss his case on the grounds that the State, by delaying in filing the complaint, had violated Md. Code Ann., Courts & Judicial Proceedings (CJP) Art. § 3-8A-10(m)(1), which requires law enforcement officers to file such a complaint with an intake officer (a person assigned to the court by the DJS) within fifteen days of when a juvenile is taken into custody. *See* CJP § 3-8A-01® (defining intake officer). As Amir was arrested on January 24, 2014, and the complaint was

forwarded to the DJS on March 31, 2014, it was about seven weeks late under the statute. But the court, finding that he had not been prejudiced by the delay, denied that motion.

After Amir was found involved in robbery, conspiracy to rob, assault, and theft of property valued at less than \$1,000, following an adjudicatory hearing, his case was transferred to the Circuit Court for Baltimore City, sitting as a juvenile court, for disposition. That court then committed him to the care and custody of the Department of Juvenile Services and placed him in the home of his grandmother, who was also his guardian. Thereafter, appellant noted this appeal, presenting the following issue for our review.

DISCUSSION

Amir contends that the circuit court erred in denying his motion, requesting dismissal of the juvenile petition as there is no dispute that the State failed to file a timely complaint under CJP § 3-8A-10(m). Moreover, that delay, claims Amir, had a prejudicial impact. Specifically, he maintains that, as a result of the delay, he suffered “anxiety and concern” and that he was not, in his words, “provided with any of the ‘rehabilitation and treatment’ services expressly contemplated in the statute, such as ‘mental health and substance abuse screening of [him],’ which would have allowed any necessary medication, treatment or education” to begin more quickly. The State concedes that the delay violated § 3-8A-10(m) but maintains that the circuit court did not err in denying Amir’s motion to dismiss because Amir has shown no “actual prejudice.”

We review the trial court’s dismissal of Amir’s motion for abuse of discretion. *In re Elrich S.*, 416 Md. 15, 31 (2010). An abuse of discretion occurs “where no reasonable person would take the view adopted by the [trial] court.” *Fontaine v. State*, 134 Md. App. 275, 288, *cert. denied*, 362 Md. 188 (2000))(brackets in *Fontaine*)(quotation marks and citations omitted). “Thus, where a trial court’s ruling is reasonable, even if we believe it might have gone the other way, we will not disturb it on appeal.” *Id.*

As noted earlier, CJP § 3-8A-10(m) states that, in a juvenile case, a “law enforcement officer **shall** file a complaint with an intake officer” within 15 days after a law enforcement officer has taken a child into custody. (Emphasis added.) But it also provides that the court may only dismiss a petition for failure to comply with this section “if the respondent has demonstrated **actual prejudice**.” CJP § 3-8A-10(n) (emphasis added).

Because that statute does not define “actual prejudice,” we shall first look to the statute’s objectives for guidance. The objectives of the Maryland juvenile justice system are, among other things, to provide for accountability of the child to the victim and the community, to promote the competency and character development of the child, and to assist the child in becoming a responsible and productive member of the community. *See generally* CJP §3-8A-02(a). Such objectives are “not ordinarily best served by dismissal of the proceedings.” *In re Keith W.*, 310 Md. 99, 106 (1987). Indeed, the Court of Appeals has

declared, “[o]nly the most extraordinary and egregious circumstances should be allowed to dictate dismissal as the sanction for [a] violation of a procedural rule,” *In re Keith W.*, 310 Md. at 109. We reiterated that principle in *In re Cristian A.*, 219 Md. App. 56 (2014), when we stated: “[T]he judge must keep in mind the overriding purpose of the juvenile statute along with the fact that this purpose will ordinarily not be served by dismissal of the juvenile proceeding.” *Id.* at 66 (quoting *In re Keith W.*, 310 Md. at 109).

To assist us in determining what constitutes “actual prejudice,” we look, as we have done in the past, to the “prejudice component” of the constitutional speedy trial analysis for guidance. *See In re Thomas J.*, 372 Md. 50, 70-71 (2002), and *In re Cristian A.*, 219 Md. App. at 68. With respect to that component, the Supreme Court has stated:

Prejudice, of course, should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect. This Court has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system.

Barker v. Wingo, 407 U.S. 514, 532 (1972)(footnote omitted). *See also Wilson v. State*, 148 Md. App. 601, 639 (2002)(“The most important factor establishing prejudice . . . is the inability to prepare one’s defense.”).

Amir claims, without elaboration, that he suffered anxiety and concern as a result of the delay,¹ though, admittedly, anxiety is a consideration, it is, as the United States Supreme Court declared in *Barker v. Wingo*, 407 U.S. 514 (1972), a far less significant factor than the impairment of one’s defense as a result of the delay in question, which Amir does not allege. See also *Wilson*, 148 Md. App. at 639. He further claims that the untimely delay caused him not to receive “rehabilitation” services that he would have received had he been adjudicated sooner. But nothing in the record suggests that his case would have been adjudicated sooner or how much sooner had the police forwarded the complaint to the DJS in a timely manner. Nor does Amir specify what rehabilitative services he would have received that he did not. Thus, that claim amounted to mere speculation. And, speculation as to whether he would have received some unspecified services at some earlier time, as we have said, is “too hypothetical and attenuated” to support a finding of actual prejudice. *In re Cristian A.*, 219 Md. App. at 69 (rejecting petitioner’s argument that he was unable to participate in the intake proceeding because of the delay, and this caused him prejudice, because “[b]eyond hopefulness or speculation, nothing in the record supports [that] argument[.]”). We are

¹ We note that Amir does not allege, as he did below, that he was prejudiced by the delay because he suffered some unspecified “loss of memory.”

therefore persuaded that the circumstances here were not “extraordinary and egregious,” and, thus, the juvenile court did not abuse its discretion in denying Amir’s motion to dismiss.

**JUDGMENTS AFFIRMED.
COSTS TO BE PAID BY THE
APPELLANT.**