Circuit Court for Baltimore County
Case No. C-03-CR-21-005135

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0187

September Term, 2023

JOSHUA ERIC PATTERSON

v.

STATE OF MARYLAND

Graeff,
Nazarian,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: April 30, 2024

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

O[1] was running late to work and had no way to make it to her job site on time. She explained her predicament in an Instagram post and an acquaintance, Joshua Eric Patterson, responded and asked her if she needed a ride to work. She accepted the offer. Mr. Patterson picked O up and after making various stops, took her to his apartment against her will. Once at the apartment, Mr. Patterson raped her. O went to the hospital to have a forensic sexual assault exam and report the rape. Police then went to Mr. Patterson's apartment to execute a search warrant, found Mr. Patterson there, and arrested him. Mr. Patterson was charged with (1) first-degree assault, (2) second-degree strangulation, (3) second-degree rape, and (4) first-degree rape.

Mr. Patterson's trial was delayed initially because of an administrative order issued by the Supreme Court of Maryland in response to the COVID-19 pandemic. Trial was delayed once more after the circuit court found good cause to do so. Mr. Patterson raised concerns about his right to speedy trial several times, with no success.

At trial, and over objection, two women testified about how they were sexually assaulted by Mr. Patterson and the State relied on this testimonial evidence to demonstrate that Mr. Patterson had assaulted, strangled, and raped O. Mr. Patterson was convicted of second-degree strangulation, second-degree rape, and first-degree rape and acquitted of first-degree assault. On appeal, he challenges the delay to his trial and the evidence used by the State. We affirm.

[1] We will refer to all victims in this case with initials selected randomly.

I. BACKGROUND

A. The Car Ride And The Sexual Assault.

O and Mr. Patterson met on Instagram in October 2018. Mr. Patterson told O that he was interested in her romantically, but the feeling wasn't mutual. The two became acquaintances and only saw each other in person four times between 2018 and 2021.

On November 18, 2021, O woke up late for work. As a result, there was no way she could make the subway or the shuttle on which she relied normally. She called around in hopes of getting a ride but no one was available. At the time, she couldn't afford to use a ride sharing service. In the meantime, she went on Instagram and began arguing with another woman and eventually created a post related to the dispute. Pretty quickly, Mr. Patterson responded to O's post and asked if she needed a ride to work. O admitted that she did and sent Mr. Patterson her address.

After Mr. Patterson arrived at O's home, she told him that she needed to stop by downtown Baltimore to pick up marijuana. The two went into the city, picked up some marijuana, and then drove back to O's home because she wasn't allowed to bring drugs to the job site. Once O dropped off the marijuana, she went back to Mr. Patterson's car so that she could go to work. Mr. Patterson told O that he needed his phone charger, and although O offered hers, he insisted that he needed a converter piece. The two went on their way. O then noticed that Mr. Patterson was not taking the route that leads to her job. Instead, it appeared Mr. Patterson was headed either to Towson or Essex.

In fact, Mr. Patterson drove O to his apartment without telling her and, on arriving, told O to get out of the car. O followed Mr. Patterson to his apartment, went inside, and

walked with him to his bedroom. For some reason, Mr. Patterson was rummaging around his belongings and used up a lot of time. He turned suddenly to O and said, "you know you should be dead, right?" He was angry that O had not chosen him as a romantic partner. This scared her and she tried to leave the apartment, but Mr. Patterson stopped her physically from escaping. She cursed at him and told him to let her leave, but he wouldn't listen.

Then Mr. Patterson picked O up and threw her on the bed. O tried crawling off the bed, but Mr. Patterson smothered her by putting his body on top of hers. At one point, he strangled her as well. Eventually, Mr. Patterson pulled down his pants and O's. Despite making it clear that she did not want to have sex, Mr. Patterson forced her to have sex and he ejaculated inside of her vagina. Once it was over, Mr. Patterson offered O a towel to clean herself with. Because O planned on pressing charges and receiving a forensic sexual assault exam, though, she only pretended to clean herself.

B. The Medical Exam And Arrest.

O left the apartment as soon as she could, but before leaving made a note of Mr. Patterson's apartment address and license plate number. Once Mr. Patterson exited his apartment, O convinced him to give her a ride to work. As soon as O got to work, she reported the sexual assault to Human Resources. She was allowed to leave work and called a friend for a ride to the Greater Baltimore Medical Center ("GBMC").

Because O had informed hospital staff of the assault, officers were waiting to speak with her at GBMC. She told detectives about the assault and gave them Mr. Patterson's

identity, address, and license plate number. O met with a forensic nurse the following day for a sexual assault exam. The nurse found abrasions on the external part of O's vagina but no clear physical indication of strangulation. The nurse also collected DNA evidence that later would reveal a match to Mr. Patterson's DNA—a fact to which both parties stipulated at trial.

That same day, on November 19, 2021, Detective Maura Lane executed a search warrant at Mr. Patterson's apartment. Soon after arriving, she saw Mr. Patterson exit one of the buildings and enter a car. The car was stopped by police and Mr. Patterson was arrested. He was charged with (1) second-degree strangulation, (2) first-degree assault, (3) second-degree rape, and (4) first-degree rape.

C. Key Testimony At Trial And Conviction.

On December 1, 2022, and over Mr. Patterson's objections, the circuit court admitted testimony from two women who alleged that he had sexually assaulted them. The first woman, I, testified that she had an on and off relationship with Mr. Patterson. She explained that on September 4th, 2018, she and her friend had visited Mr. Patterson's home to "hang out." When I arrived at his home, she sat next to him on the couch. Mr. Patterson started kissing her without consent and pulled down her leggings. I asked Mr. Patterson repeatedly to stop, but he ignored her pleas and placed his penis into her vagina. Once the assault was over and I was able to escape, she reported the rape to police and went to the hospital to get a sexual assault examination.

The second woman, C, had been Mr. Patterson's on-and-off girlfriend for years. She testified that on June 30, 2020, she planned to see Mr. Patterson at his sister's graduation party. The two had no relationship at the time. When C arrived at the party, she went downstairs to the basement to wait for Mr. Patterson. Eventually, Mr. Patterson came to the basement to talk. After some discussion, Mr. Patterson grabbed C and took her to his bed. Despite not consenting, Mr. Patterson began touching C's breasts and waist. He then reached up her dress, pulled her underwear to the side and put his penis inside of her vagina. Mr. Patterson had also strangled C twice that night. C was forced to have sex with Mr. Patterson again to get her phone and purse back. When C finally was able to leave, she went to the hospital to get medically examined and report the sexual assault to the police.

At the conclusion of the trial, Mr. Patterson was found guilty of (1) second-degree strangulation, (2) second-degree rape, and (3) first-degree rape. He was found not guilty of first-degree assault. On March 30, 2023, the circuit court sentenced Mr. Patterson to thirty years, all but twenty-five years suspended, for the rape charge and a concurrent term of five years for the second-degree strangulation charge. Mr. Patterson timely appealed. Additional facts will be supplied below as appropriate.

II. DISCUSSION

Mr. Patterson presents four[2] issues on appeal, which we rephrase: whether the circuit court (1) erred in postponing Mr. Patterson's trial date, (2) denied Mr. Patterson his constitutional right to a speedy trial, (3) erred in admitting evidence of Mr. Patterson's prior sexual assaults, and (4) whether Mr. Patterson has presented a reviewable sufficiency of the evidence claim. We see no error and affirm.

A. There Was Good Cause To Postpone Mr. Patterson's Trial.

Mr. Patterson argues *first* that the circuit court postponed his trial date improperly.

[2] Mr. Patterson phrased the Questions Presented as follows:

> 1. Was Mr. Patterson denied his right to be tried within 180 days pursuant to Section 6-103 of the Criminal Procedure Article and Maryland Rule 4-271?
>
> 2. Was Mr. Patterson denied his constitutional right to a speedy trial?
>
> 3. Did the hearing court below abuse discretion by ruling that evidence of other sexually assaultive behavior was admissible?
>
> 4. Is the evidence legally insufficient to sustain Mr. Patterson's conviction of rape in the first degree?

The State phrased the Questions Presented as follows:

> 1. Did the trial court properly exercise its discretion in finding good cause to postpone Patterson's trial date past the *Hicks* date?
>
> 2. Was Patterson tried in accordance with his constitutional speedy trial rights?
>
> 3. Did the trial court properly exercise its discretion by admitting evidence of Patterson's prior sexually assaultive conduct?
>
> 4. If considered, was the evidence legally sufficient to sustain Patterson's conviction for first-degree rape?

We disagree. "An administrative judge's determination that there is good cause for continuance is 'a discretionary matter, rarely subject to reversal upon review.'" *Tunnell v. State*, 466 Md. 565, 589 (2020) (*quoting State v. Frazier*, 298 Md. 422, 451 (1984)). "The defendant must show an abuse of discretion or a lack of good cause as a matter of law," *id.*, and Mr. Patterson hasn't established either in this case.

In Maryland, the trial date must be set within thirty days after either the appearance of counsel or the first appearance of the defendant before the circuit court, whichever is earlier. Md. Rule 4-271(a)(1). The trial itself must begin not later than 180 days after the earlier of those two dates unless the circuit court finds good cause to continue it. *Id.*; Md. Code (2001, 2018 Repl. Vol.) § 6-103(b)(1)(ii) of the Criminal Procedure Article ("CP"). Because the finding of good cause is discretionary, the decision "'carries a presumption of validity.'" *Marks v. State*, 84 Md. App. 269, 277 (1990) (*quoting State v. Green*, 54 Md. App. 260, 266 (1983)). An unjustified delay would violate the Rule and serve as grounds for dismissal. *Id.* at 275.

Mr. Patterson made his initial appearance on January 31, 2022. Typically, this appearance would have established the deadline for his trial date. But his initial appearance in this case occurred during the COVID pandemic, and the Supreme Court of Maryland had issued the "Interim Administrative Order of December 27, 2021 Restricting Statewide Judiciary Operations in Light of the Omicron Variant of the COVID-19 Emergency," which tolled the deadlines for certain trials. Under that Order, only *non-jury* trials could be held from December 29, 2021, to February 8, 2022. This Order eventually was extended

to March 6, 2022. Both the State and Mr. Patterson agree, then, that the trial date calculation in this case started running on March 7, 2022, and that the deadline to begin the trial was September 3, 2022.

But on May 27, 2022, the circuit court postponed Mr. Patterson's trial date until November 30, 2022 in response to a joint request grounded in delays in obtaining DNA analysis and a then-pending motion on the admissibility of testimony on other sexual assaults (an issue we will address below):

> THE COURT: Good morning. So, this is set in for a postponement?
>
> STATE: Yes, Your Honor. It's a joint request for a postponement. In terms of the State's need for a postponement, the DNA is still out, the DNA comparison is still outstanding in this case. Additional, there, I, I did file a Motion to admit other crimes evidence, specifically, other sexual assaultive type of crimes evidence in this case and we do need to have a Motions hearing regarding that request.
>
> * * *
>
> THE COURT: All right. The basis for the postponement request is for DNA testing to be completed and also to provide an opportunity for litigation of pre-trial Motions, including Motions that may be dispositive or, at a minimum, will have a substantial impact on the course of the trial.
>
> I find that there is good cause to grant the postponement request. I also find that there is good cause, based on the reasons for the postponement, to set the trial beyond the Hicks date. So, I'm going to find good cause for going beyond Hicks . . . . *Anything else on this case?*
>
> [COUNSEL FOR MR. PATTERSON]: *No*, Your Honor, thank you.

(Emphasis added). As a result, the circuit court concluded there was good cause to postpone Mr. Patterson's trial given the pending evidence and motion judgments. And importantly,

Mr. Patterson expressed no disagreement with or opposition to this request.

Nonetheless, Mr. Patterson argues that the circuit court abused its discretion in finding good cause to postpone the trial because (1) the DNA evidence and the evidentiary hearing could have been dealt with sooner, and (2) "there was an impermissible delay of six months in commencing trial after the good cause finding." Even if the trial could have been held sooner—we'll assume it was possible despite the absence of concrete support for the proposition—Mr. Patterson never disagreed with the November 30th trial date, proposed anything sooner (and within the 180 days), or otherwise objected. And the reasons for delaying the trial were valid. At the time, there were motions that had not yet been ruled upon and would likely have affected the course and length of the trial. And regardless of which party is relying on DNA results, the delay in obtaining this evidence can provide good cause to postpone a trial date in itself. *Tunnell*, 466 Md. at 583. And although Mr. Patterson asserts there was an "impermissible delay of six months," that depicts the actual delay incorrectly. Because of the Supreme Court's tolling order, the new deadline for Mr. Patterson's trial became September 3, 2022, so beginning trial on November 30, 2022 means there was a little more than a two-month delay. This tracks the *Tunnell* case, where the Supreme Court not only found good cause to continue the trial but noted as well that the delay was only "a little over a month." *Id.* at 592. We find no abuse of the circuit court's discretion in postponing Mr. Patterson's trial date.

B. Mr. Patterson's Right To A Speedy Trial Was Not Violated.

Next, Mr. Patterson argues that he was deprived of his constitutional right to a

speedy trial. We review constitutional speedy trial claims *de novo*. *See Greene v. State*, 237 Md. App. 502, 511 (2018). We defer to the circuit court's findings of fact unless they're clearly erroneous. *Id.* And in this instance, we find no violation occurred.

Under the Sixth Amendment of the Constitution of the United States, "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. Const. amend. VI. We assess speedy trial violations by applying the four-factor balancing test articulated in *Barker v. Wingo*, which directs us to evaluate the "[l]ength of delay, the reason for delay, the defendant's assertion of his right, and prejudice to the defendant." 407 U.S. 514, 530 (1972). We do not regard any of "the four factors . . . as either a necessary or sufficient condition to the finding of a deprivation of the right of speedy trial. Rather, they are related factors and must be considered together with such other circumstances as may be relevant." *Id.* at 533. But before even reaching the speedy trial analysis, the defendant "'must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from "presumptively prejudicial" delay . . . since, by definition, he cannot complain that the government has denied him a "speedy" trial if it has, in fact, prosecuted this case with customary promptness.'" *Greene*, 237 Md. App. at 512 (*quoting Doggett v. United States*, 505 U.S. 647, 651 (1992)).

At the circuit court, Mr. Patterson filed a motion for a speedy trial on April 6, 2022. On August 2, 2022, a hearing was held to determine whether Mr. Patterson's right to a speedy trial had been violated. After the circuit court explained the 180-day rule to Mr. Patterson and the effect that COVID-19 had on the courts, it explained briefly why it was

finding no speedy trial violation:

> In this case, Judge Robinson found that there was good cause to postpone the case to November 30th, 2022, with a Motions hearing date on November 10th, 2022, and I completely concur with his assessment, that there was good cause to postpone that case beyond the Hicks date.
>
> The other thing that we have to find under the case is that there's no inordinate delay. That the State's not trying to make this case go slow just so you continue to sit in jail. That's not, we have not found that at this point in time. I'm not willing to find it based on what I know of the case so far.

So although the DNA results were available at the time of the speedy trial hearing, the circuit court found that the earlier decision to postpone Mr. Patterson's trial was justified.

Mr. Patterson asserts that the four-factor *Barker* analysis demonstrates that his right to a speedy trial has been violated. We disagree. With regard to the *first* factor, the length of delay, Mr. Patterson claims that because his trial occurred a year after his arrest, this means necessarily that he was prejudiced. But this argument disregards his concession that the time did not start running until March 7, 2022, because of the COVID-19 Interim Administrative Order and that the ultimate deadline for trial was pushed to September 3, 2022. So although the length of time between arrest and trial appears to be significant, the reality is that he was prosecuted as soon as possible under the circumstances. *See id.*

For the *second* factor, the reason for delay, Mr. Patterson states that "[e]ven assuming for purposes of argument that the delay during a COVID-19 emergency court closure was a neutral reason, there was an additional delay of nearly eight months in starting trial after the Supreme Court authorized the resumption of jury trials as of March 7, 2022." This argument again dismisses the COVID-driven extension of the initial trial

deadline to September 2022. The trial was held in November, so there was a potentially impermissible delay of about two months, not eight months. And that COVID-19 order halted *all* jury trials, not just Mr. Patterson's, because the pandemic rendered jury trials unsafe. COVID-19 affected everyone, and this circumstance counts as a neutral reason for delay that makes this factor weigh against the finding of a speedy trial violation. *See Barker*, 407 U.S. at 531 ("A more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered . . . .").

Mr. Patterson argues that the *third* factor, the defendant's assertions of his right, was met because he (1) made a demand for a speedy trial on April 6, 2022, (2) raised concerns about not receiving a speedy trial in a *pro se* pleading, and (3) "asserted his right through defense counsel on August 2, 2022." Mr. Patterson raised the speedy trial issue continuously, which is important, but ultimately this factor weighs against him because on November 29, 2022—the day before trial—Mr. Patterson requested that the trial be postponed because he wanted time to obtain an expert to review photos in the State's Attorney's possession. This contradicts Mr. Patterson's argument that the trial should have started sooner. *See id.* ("Whether and how a defendant asserts his right is closely related to the other factors we have mentioned.").

The *fourth Barker* factor considers the prejudice that the individual experiences because of the delayed trial. *Id.* at 530. The right to a speedy trial protects specific interests. *Id.* at 532. The Supreme 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." *Id.* "Of these, the most serious is the last, because the inability of a defendant to adequately prepare his case skews the fairness of the entire system." *Id.* On this factor, Mr. Patterson states simply that he "experienced excessive pre-trial incarceration while he awaited the start of trial." But this doesn't demonstrate how he was prejudiced because his trial date was about two months after the September deadline, and he didn't object to having trial in November. Indeed, he sought a postponement the day before trial. And he has not argued or demonstrated that any "excessive pre-trial incarceration" prevented him from preparing a defense. Nothing in the record or in Mr. Patterson's brief establishes prejudice, and in light of the circumstances and the *Barker* factors, we agree with the circuit court that Mr. Patterson's right to a speedy trial was not violated.

C. The Circuit Court Did Not Abuse Its Discretion In Admitting Evidence Of Other Sexual Assaults.

Mr. Patterson's *third* argument is that the circuit court erred in admitting evidence of other sexual assaults he committed. When determining whether a circuit court admitted evidence of sexually assaultive behavior properly, we review that decision for abuse of discretion. *Woodlin v. State*, 484 Md. 253, 277 (2023). We don't reverse just because we wouldn't have made the same ruling. *Id.* To reverse, "the trial court's decision must be well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems minimally acceptable." *Id.* (cleaned up). Put another way, an abuse of discretion occurs when "no reasonable person would take the view adopted by the circuit court." *Id.* (cleaned up).

In general, Maryland law "prohibits the use of character evidence to show a person's propensity to act in accordance with their character traits or bad acts, but sexual assault trials have long been recognized as meriting a partial exception to the bar on propensity evidence." *Id.* at 261. But evidence of sexually assaultive behavior may be admitted if, among other things, the "probative value of the evidence is not substantially outweighed by the danger of unfair prejudice." Md. Code (2018, 2020 Repl. Vol.) § 10-923(e)(4) of the Courts & Judicial Proceedings Article ("CJ"). The Supreme Court in *Woodlin v. State* established a variety of factors to consider before admitting evidence of sexually assaultive behavior. But the relevant factors here relate to probative value and prejudice: the (1) "similarity or dissimilarity of the acts," (2) "temporal proximity and intervening circumstances," and (3) "frequency of sexually assaultive behavior." *Woodlin*, 484 Md. at 284–87. As for unfair prejudice, the circuit court may consider whether the evidence (1) "overshadow[s] the crime charged," and (2) contributes to "the jury's knowledge that a defendant previously was punished." *Id.* at 288–89.

Here, Mr. Patterson contends that the circuit court erred in admitting testimony from I and C because it created a "danger of unfair prejudice." Nonetheless, after considering each of the *Woodlin* factors, we agree with the circuit court that the probative value of the women's testimony outweighed any danger of unfair prejudice.

1. The probative value factors weigh against Mr. Patterson.

The first *Woodlin* factor evaluates the similarities or dissimilarities between the prior and current acts. *Id.* at 284. At least two categories should be considered: "(1) the

characteristics of the victim and (2) the nature of the defendant's conduct." *Id.* In Mr. Patterson's case, there were many similarities between O, I, and C, as the circuit court explained at an evidentiary hearing:

> There is a high degree of similarity between the allegations in this case and the allegations in the other two cases involving prior sexually assaultive behavior by [Mr. Patterson].
> First, the victims were all females who were nineteen or twenty years old at the time of the alleged sexual assaults.
>
> Second, the alleged prior sexually assaultive behavior occurred in locations over which [Mr. Patterson] had some level of control, such as an apartment or in his bedroom. It's not necessary that the prior sexually assaultive behavior occurred at the same exact location for the evidence to be admissible.
>
> Third, the alleged victims all had some type of prior relationship with [Mr. Patterson], whether it was formally recognized as a girlfriend/boyfriend arrangement or what one victim described as a situation-ship.
>
> Fourth, all of the incidents involved some allegation that [Mr. Patterson] somehow convinced the victims to come to a location so that he could sexually assault them. Whether it was a ride to work, simply hanging out or a graduation party.
>
> Fifth, all of the cases involve allegations that [Mr. Patterson] found a way to get the victims alone before becoming what was described as quote, handsy, by one victim. And engaging in unwarranted kissing behavior before engaging in increasingly aggressive behavior, including removing their clothes, getting on top of them, ignoring their requests to stop and then forcibly raping them.
>
> Sixth, all of the cases involve allegations that [Mr. Patterson] strangled or otherwise restricted the victims' ability to breathe. Whether it was with his hands or a bandana. It is not necessary that the exact same method be used to strangle or otherwise restrict the victims' ability to breathe. It is sufficient that the intended result was the same.
>
> Seven, the cases involve allegations that [Mr. Patterson] threatened to harm the victims if they resisted his sexual advances. Even if the wording of the threats may have been

> different. In one case, the victim recalled [Mr. Patterson] asking do you want to die. In another case, [Mr. Patterson] allegedly said something to the effect of, do you love your life and do you want to live.

The similarities among all three cases are glaring and Mr. Patterson does not explain how they're meaningfully different. Both the general characteristics of the victims and the nature of Mr. Patterson's conduct are almost identical. This factor weighs heavily in favor of finding probative value in the victims' testimony.

The *second* factor evaluates the time between each sexual assault. *Id.* at 286. This means that "the closer in time between the other sexually assaultive behavior and the crime charged, the more probative it becomes to proving the crime charged." *Id.* Here, the three sexual assaults happened within a relatively close period: O was raped in 2021, C was sexually assaulted in 2020, and I was sexually assaulted in 2018. That's almost one sexual assault per year, and the only break in this period of sexual assaults came while Mr. Patterson was incarcerated from June 2019 to April 2020 (for committing second-degree assault). These incidents were close enough in time to yield probative value from I and C's testimony.

The *third* factor considers the frequency of the sexually assaultive behavior: "the more frequent the defendant's other sexually assaultive behavior, the more probative it becomes of the crime charged." *Id.* at 287. And the fact that Mr. Patterson committed sexual assaults almost every year indicates that this behavior happens with frequency, and this final factor weighs against Mr. Patterson. The testimony had probative value.

2. The prejudice factors demonstrate no unfair prejudice.

The *first* prejudice factor considers the degree to which the prior acts overshadow the charged crime. *Id.* When the prior sexually assaultive behavior is inflammatory and more "heinous" than the charged crime, this weighs against admissibility. *Id.* Instead, "this factor weighs in favor of admission when the sexually assaultive behavior is 'comparable to, or less than, that of the charged conduct[.]'" *Id.* Here, there was little risk that the prior acts would overshadow what happened to O. All three assaults had a multitude of similarities. No one assault was more heinous or inflammatory than O's. As all three are comparable, this factor weighs against the argument that the testimony was unfairly prejudicial.

The *second* factor concerns whether the jury knew that the defendant had been convicted previously for the past sexually assaultive behavior. *Id.* at 288. This is relevant because "[i]f a jury is not given the opportunity to speculate whether the other sexually assaultive behavior resulted in a conviction, then it is less likely to be swayed by the notion that the defendant previously escaped punishment." *Id.* There was no indication in this case, though, that Mr. Patterson had been *convicted* for the prior sexual assaults or that the State informed the jury of prior punishments. Although it is possible that this potential lack of information swayed the jury, its absence is not "automatically . . . a factor that weighs in favor of excluding evidence of the other sexually assaultive behavior." *Id.* at 289. Because there was no indication, explicit or implicit, that the jury was swayed by learning that Mr. Patterson had not been convicted for the prior assaults, this factor cuts against a

finding of prejudice. And since the women's testimony was both probative and not unfairly prejudicial, the circuit court did not abuse its discretion in admitting it.

D. Mr. Patterson's Sufficiency Of The Evidence Claim Is Unreviewable.

Mr. Patterson's final argument is that there was insufficient evidence to convict him of first-degree rape. But because his arguments on appeal differ from the motion at trial, we decline to reach the merits of this argument for the first time on appeal. In general, "an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court." Md. Rule 8-131(a). "In order to preserve an insufficiency claim . . . a defendant must move for judgment of acquittal during trial, specifying the grounds for the motion in accordance with Maryland Rule 4-324(a)." *Cagle v. State*, 235 Md. App. 593, 604 (2018). "The language of Rule 4-324(a) 'is mandatory, and review of a claim of insufficiency is available only for the reasons given by appellant in his motion for judgment of acquittal.'" *Id.* (*quoting Whiting v. State*, 160 Md. App. 285, 308 (2004)).

Mr. Patterson asserts that at trial, he moved for judgment of acquittal based on a theory that the State had not proven the strangulation component of the first-degree rape charge. The record confirms as much:

> [COUNSEL FOR MR. PATTERSON]: We would just be making a Motion for Judgment of Acquittal now that the State has rested. Even in the light most favorable to the State, we would argue that the State has not met its burden of proving that there was any type of strangulation or suffocation. So, we would just ask the Court to grant our Motion for Judgment of Acquittal based on what the State has put forth.

> THE COURT: Okay. And I, I appreciate your Motion. I, I disagree. I think the State has made out a, at least made out a prima facie case. They're certainly welcome to argue to the jury just how good a case they have made.

On appeal, though, Mr. Patterson argues that he was convicted erroneously of first-degree rape because (1) the requisite element of "force or threat of force" was not proven, (2) "[O] made several statements indicating that she had a level of comfort and familiarity with Mr. Patterson," (3) "[O's] testimony about the employment policies at her workplace suggests that [O] may have had a motive to lodge a complaint of rape to avoid termination resulting from her late arrivals at work," and (4) the State did not prove the requisite intent. But we may only review insufficiency of the evidence claims for the distinct reasons delineated at trial, *id.*, and in this case the disconnect between his trial motion and his arguments here preclude us from reviewing the latter now.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. APPELLANT TO PAY COSTS.