

Circuit Court for Baltimore City  
Case No.: 120344056

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 1151

September Term, 2022

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DEVANTE DEEVER

v.

STATE OF MARYLAND

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Nazarian,  
Tang,  
Wright, Alexander, Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: April 27, 2023

\*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

\*\*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.

Devante Deaver, appellant, was convicted by a jury in the Circuit Court for Baltimore City of wearing, carrying, and transporting a handgun and resisting arrest. Following the verdict, the court moved to sentencing. Deaver requested a postponement because his counsel did not “have a mitigation package together for him.” The court denied this request because Deaver “should have been prepared[,]” and the court was “ready to sentence.” Deaver then, personally and through counsel, presented statements and argument in mitigation of punishment. The court sentenced him to three years’ incarceration for each conviction to run consecutively—totaling six years’ incarceration. On appeal, Deaver contends that the sentencing court erred in denying his postponement request.

We first note that we disagree with the State’s contention that this matter is not preserved. Clearly, Deaver sought a postponement and the court ruled, denying the request. *See Somers v. State*, 156 Md. App. 279, 319 (2004). That he did not present further argument and instead moved into mitigation does not rise to the level of acquiescing to the ruling of the trial court. *See Banks v. State*, 213 Md. App. 195, 203 (2013). We will therefore address the merits of Deaver’s argument.

We next note that Deaver requested a postponement to prepare “a mitigation package,” which we understand to mean general evidence in mitigation of sentence. Deaver acknowledges that this differs from a postponement request to complete a presentence investigation report under Md. Code Ann., Corr. Servs., § 6-112(b)(1), which is what the cases cited by the parties address. Although we disagree with Deaver’s assertion that this distinction is “immaterial,” the cases nevertheless provide a useful analytical framework.

“[W]hether to grant a postponement is within the sound discretion of the [sentencing court].” *Mainor v. State*, 475 Md. 487, 499 (2021) (cleaned up). We will not disturb the court’s denial of a postponement request absent a “clear showing of abuse of discretion[.]” *Id.* (cleaned up). A sentencing court abuses its discretion if it denies postponement requests as a matter of course. *See Armstead v. State*, 195 Md. App. 599, 614 (2010). But it does not abuse its discretion in denying a request where the defendant fails to give a reason why further investigation is needed. *See Somers*, 156 Md. App. at 319-20.

Here, the statements made by the trial court do not indicate that the denial of Deaver’s request for a postponement was made based on any rule, or without consideration to the facts in his case. Further, the only reason Deaver offered to support his request was that his counsel had not prepared information for mitigation. We see no difference between this and a defendant who requests a presentence investigation under Md. Code Ann., Corr. Servs., § 6-112(b)(1) based solely on the fact that one had not been done but gives no reason as to why one is needed. *See Somers*, 156 Md. App. at 319-20. The record also reflects that the court justified its ruling based on the fact that Deaver’s counsel had entered into the case nearly six months prior, which the court thought was “quite enough time to provide whatever information was necessary as to mitigation of sentence.” Therefore, the court did not abuse its discretion in denying the postponement because Deaver offered nothing to show a need for further investigation.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**