

Circuit Court for Baltimore County  
Case No: C-03-CR-23-003251

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 46

September Term, 2024

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ANTHONY GERALD JEFFERSON

v.

STATE OF MARYLAND

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Nazarian,  
Beachley,  
Harrell, Glenn T., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Harrell, J.

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Filed: September 19, 2025

\*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 Rule 1-104(a)(2)(B).

At the conclusion of a bench trial in the Circuit Court for Baltimore County, Anthony Gerald Jefferson, appellant, was convicted of second-degree assault. The court imposed a sentence of five years' incarceration, with all but eighteen months suspended, and three years of unsupervised probation. He noted timely this appeal, in which he presents the following question for our consideration:

Did the trial court fail to ensure [appellant's] jury trial waiver was knowing and voluntary?

For reasons to be explained, we shall affirm the judgment.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Trial was held on 5 March 2024. On the morning of trial, an attorney accompanying appellant, who we shall refer to hereafter as “defense counsel,” requested at the outset a postponement (over appellant's objection). Defense counsel explained that he had not entered yet his appearance in the matter, having met appellant only on the previous day. Because defense counsel was not appellant's counsel of record, he was unable to review body-worn camera footage containing statements by the State's witnesses.

For himself, appellant declaimed that he had been awaiting trial for approximately eight months and wished to proceed with trial that day, even it meant having to represent himself because defense counsel was unprepared. Defense counsel informed appellant that a new trial date could be as soon as 22 March 2024, only seventeen days later, but appellant stated that he preferred to “get it out of the way today.”

The circuit court denied defense counsel's postponement request. Following rejection by appellant of the State's offer of a plea, the following colloquy occurred:

THE COURT: . . . Would you like to advise him of his trial rights?

[DEFENSE COUNSEL]: Okay. In Maryland, you have two; there are two types of trial. There's a [c]ourt trial [where] just a judge hears the evidence and testimony and makes a decision based on that. There's also a [j]ury trial. And if you choose to have a [j]ury trial, you, myself, and the State's Attorney are going to participate in picking 12 people from the motor voter rolls of Baltimore County. They sit as one [j]ury. They would all have to agree that the allegations are true or not true. It's my understanding you want a [j]ury trial. Is that correct?

[APPELLANT] No.

[DEFENSE COUNSEL]: What do you want? Do you –

THE COURT: Do you want the [c]ourt –

[DEFENSE COUNSEL]: – want a bench trial?

[APPELLANT]: Yeah, right here, right now.

THE COURT: You want a [c]ourt trial. You don't want – you want a judge deciding it, not a [j]ury.

[APPELLANT]: Yes.

THE COURT: And do you understand the difference between a [c]ourt trial and –

[APPELLANT]: I understand.

THE COURT: All right. He wants a bench trial. All right.

The parties proceeded to trial before the court that afternoon. The trial judge confirmed that appellant had been advised on the record of his right to a jury trial. The trial judge did not address the jury trial waiver issue further. The circuit court found appellant guilty of second-degree assault.

## DISCUSSION

Appellant argues that the circuit court failed to ensure that his jury trial waiver was knowing and voluntary.<sup>1</sup> He contends that his waiver was not knowing because

(1) crucial information about the jury trial right was not provided, (2) some of the information that *was* provided was inaccurate, and (3) it can be inferred that [he] erroneously believed that he needed to waive his jury trial right in order to have a trial the same day rather than a postponement, which he did not want.

The State argues that the circuit court properly concluded that appellant waived knowingly his right to a jury trial because he had “some knowledge” of what the jury trial waiver entailed, and he was not misled or misinformed by the waiver colloquy.<sup>2</sup>

A criminal defendant is guaranteed the right to a jury trial under both the Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights. At any time prior to trial, however, he or she may waive this right and proceed by way of a bench trial. Md. Rule 4-246(a); *Boulden v. State*, 414 Md. 284, 294 (2010).

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<sup>1</sup> Although appellant claims that the trial court failed to ensure that his jury trial waiver was both knowing and voluntary, he advances no argument that he was threatened or coerced, or that his waiver was not made voluntarily. Accordingly, we shall address only his claim that his jury trial waiver was not made knowingly.

<sup>2</sup> The State argues that appellant failed to preserve any claim regarding compliance with Md. Rule 4-246 because he did not object to the sufficiency of the jury trial waiver in the circuit court. Appellant concedes that he did not challenge the validity of his jury trial waiver in the circuit court, but argues that he is asserting a constitutional violation to his right to a jury trial. *See Hammond v. State*, 257 Md. App. 99, 121 (2023) (“Unlike a claim that the procedure in Rule 4-246(b) was not followed, a claim of a constitutional violation of the right to a jury trial does not require an objection to preserve the claim.”). Because the preservation requirement does not apply to appellant’s constitutional challenge, we shall review his claim to determine whether his jury trial waiver satisfied constitutional requirements.

“To waive properly the constitutionally protected right to trial by jury, the defendant must elect to do so by a knowing and voluntary waiver election.” *Abeokuto v. State*, 391 Md. 289, 316 (2006).

The procedure for a jury trial waiver is set forth in Md. Rule 4-246(b), which provides:

(b) **Procedure for acceptance of waiver.** — A defendant may waive the right to a trial by jury at any time before the commencement of trial. The court may not accept the waiver until, after an examination of the defendant on the record in open court conducted by the court, the State’s Attorney, the attorney for the defendant, or any combination thereof, the court determines and announces on the record that the waiver is made knowingly and voluntarily.

“Although Rule 4-246 provides the procedures for waiver of the right to trial by jury, the ultimate inquiry regarding the validity of a waiver is whether there has been an intentional relinquishment or abandonment of a known right or privilege.” *Boulden*, 414 Md. at 295 (cleaned up).

In conducting a waiver colloquy, “[t]here is no fixed incantation required, but the court must satisfy itself that the defendant has some knowledge of the jury trial right before being allowed to waive it.” *Hammond v. State*, 257 Md. App. 99, 121 (2023) (cleaned up); *Boulden*, 414 Md. at 295 (“There is no fixed dialogue that must take place with a defendant to affect a valid outcome, but the court should ensure that the record demonstrates an intentional relinquishment of a known right.”); *see also State v. Bell*, 351 Md. 709, 730 (1998) (“‘Knowledge’ in this context means ‘acquaintance’ with the principles of a jury and ‘knowingly’ means acting consciously or intentionally in waiving the right to a jury.”

(citations omitted)). Ultimately, the validity of the waiver “depends upon the facts and totality of the circumstances of each case.” *Abeokuto*, 391 Md. at 318.

Appellant argues that the circuit court failed to inform him properly as to the presumption of innocence, the State’s burden of proof, and the standard of reasonable doubt. He asserts also that his jury trial waiver was deficient because the circuit court did not provide him the additional jury trial information set forth in the Committee note for Md. Rule 4-246, specifically, that a hung jury would result in a mistrial, and in that event, the State could elect to retry the case, and that he had a right to a jury trial unless he elected to waive it.

The record shows that defense counsel explained to appellant the two types of trials – a trial by a judge and a jury trial. Defense counsel advised appellant that a judge would “hear[] the evidence and testimony and make[] a decision based on that[,]” and, in a jury trial, twelve people are chosen from Baltimore County “voter rolls[,]” and the jury would have to decide unanimously whether “the allegations are true or not true.” Following defense counsel’s explanation, appellant informed the circuit court that he wanted a bench trial. The circuit court judge clarified what appellant’s position was, did he want a judge deciding the case, not a jury. Appellant responded “Yes.” When the circuit court judge asked appellant if he understood the difference between a judge trial and a jury trial, he responded affirmatively that he understood the difference.

Although the advisement in this case did not include certain express language, specifically appellant’s presumed innocence, the State’s burden of proof beyond a reasonable doubt, the details of a hung jury, or that he had a right to a jury trial unless he

elected to waive it, we conclude that the record shows that appellant received sufficient information about his right to a jury trial, and that he relinquished knowingly his right to a jury trial in favor of a bench trial on March 5, at his insistence. There is no requirement that the court engage in “a fixed litany” or that any particular language be used as a condition of finding a “knowing” waiver. *See Abeokuto*, 391 Md. at 320 (explaining that no “fixed litany” or “boilerplate colloquy” is required where the record shows a knowing jury trial waiver). A defendant must have “some knowledge” of the differences between a jury trial and a bench trial, but his knowledge “need not be complete or entire” to demonstrate a valid waiver. *Ray v. State*, 206 Md. App. 309, 353 (2012) (cleaned up) (quoting *Walker v. State*, 406 Md. 369, 379 (2008)).

In *Robinson v. State*, 67 Md. App. 445, 456 (1986), this Court upheld a jury trial waiver where defense counsel’s advisement did not reference the standard of proof of guilt beyond a reasonable doubt.<sup>3</sup> In that case, this Court made clear that an explanation of reasonable doubt was not a mandatory requirement for a knowing waiver:

We hold, therefore, on the basis of clear signals from the [Supreme Court of Maryland], that the specific “reasonable doubt” language expressly required by the wordage of pre-1982 Md. Rule 735 is no longer required. It will only be necessary for the trial court to determine whether, under the totality of the circumstances as reflected by the entire record, the defendant is relinquishing his right knowingly and voluntarily.

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<sup>3</sup> In *Robinson*, the defendant’s challenge to the advisement was limited to the missing reference to the standard of proof of guilt beyond a reasonable doubt, though reference to the State’s burden of proof and the presumption of innocence were also absent from the advisement.

*Id.* We concluded in that case that the defendant understood what he was doing and that “he knowingly and voluntarily waived his right to a jury trial.” *Id.* We explained that allowing a claim to the contrary, based on his own lawyer’s failure to put the reasonable doubt standard on the record, would subordinate the substantive issue of whether the waiver was knowing to “a pointless review of form[,]” which we refused to do. *Id.*

Here, the record showed that appellant understood his right to a jury trial and that he waived knowingly that right, even though certain elements of a jury trial were not reviewed with him. *See, e.g., Bell*, 351 Md. at 730 (upholding a jury waiver where the defendant was told that a jury was comprised of twelve jurors and that the charges against him must be proved beyond a reasonable doubt, but he was not advised that the jury’s verdict must be unanimous); *State v. Hall*, 321 Md. 178, 183 (1990) (rejecting expressly the proposition that a jury trial waiver cannot be knowing absent an explanation of the details of the jury selection process); *Dedo v. State*, 105 Md. App. 438, 451 (1995) (holding that the defendant’s jury trial waiver was knowing even though he was not advised that he could participate in the jury selection process and that the jurors would be selected from his community), *rev’d on other grounds*, 343 Md. 2 (1996).

Appellant’s contention that the circuit court erred in accepting his waiver because he was denied “crucial” information contained in the Committee note to Rule 4-246 is without merit. The Committee note is a source of guidance providing suggested points for the trial court to cover in advising the defendant. The Committee notes are not part of the Rule they accompany, *see* Md. Rule 1-201(e), and they are not law. *See McKenzie v. State*, 407 Md. 120, 126 (2008) (noting that Committee notes are not law). Defense counsel’s



advisement in this case was not required to include every point contained in the Committee note to support a knowing and valid jury trial waiver.

Appellant argues further that defense counsel’s statement that during a bench trial, the “judge hears the evidence and testimony and makes a decision based on that[,]” whereas for a jury trial, “[twelve people] would all have to agree that the allegations are true or not true” implied inaccurately that evidence and testimony would be reviewed by a judge in a bench trial, but that evidence and testimony would not be offered in a jury trial. In our view, defense counsel’s statement did not rise to the level of misinformation that would undermine the circuit court’s finding that appellant’s waiver was made knowingly. The trial court confirmed with appellant that he understood the implications of waiving his right to a jury trial and the difference between trying his case before a judge versus a jury. Considering defense counsel’s statement in the context of his otherwise accurate explanation of a jury trial and bench trial, we conclude that appellant’s decision to waive his right to a jury trial was based on sufficient, accurate information of the jury trial process.

Appellant claims that his statement that he wanted a bench trial “right here, right now” implied that he was misled to believe that a jury trial would result in a postponement. Appellant asserts that, based on his comment, the court should have inquired further to confirm that he understood that he could have a jury trial that same day, with or without the assistance of counsel. We see nothing in the record suggesting that appellant was misled to believe that proceeding by jury trial required necessarily a postponement.

The record shows that defense counsel asked appellant if he understood that he had secured a new trial date that was only seventeen days later. Appellant responded that he

understood, but appellant was adamant that he would “rather get it out of the way today.” Appellant also stated that if counsel was not ready for trial, appellant would rather represent himself. Based on appellant’s colloquy, we are not persuaded that he was misled to believe that he had to waive his right to a jury trial solely to avoid a postponement of trial. Appellant’s statements to the court showed that he had “some knowledge” of his jury trial right, and that his decision to waive that right was knowing and intentional.

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