

Circuit Court for Baltimore City  
Case No.: 118338020

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 165

September Term, 2021

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KARACA HYMAN

v.

STATE OF MARYLAND

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Kehoe  
Zic  
Moylan, Charles, E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: January 27, 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.

Following trial in the Circuit Court for Baltimore City in 2019, a jury found Karaca Hyman, appellant, guilty of second-degree murder, unlawful possession of a handgun, use of a firearm in a crime of violence, and manslaughter.<sup>1</sup> Thereafter, the court sentenced him to a total term of 55 years' imprisonment, with five years suspended, to be followed by five years of probation. We affirmed his convictions on direct appeal. *Hyman v. State*, No. 2167, Sept. Term, 2019 (filed unreported April 26, 2021).

On February 24, 2021, appellant, acting *pro se*, filed a motion for a new trial which, on March 1, 2021, the circuit court denied. The denial of that motion is the subject of this appeal. For the reasons that follow, we shall affirm.

Maryland Rule 4-331, titled “Motions for a New Trial; Revisory Power,” provides as follows:

(a) **Within Ten Days of Verdict.** On motion of the defendant filed within ten days after a verdict, the court, in the interest of justice, may order a new trial.

(b) **Revisory Power.** The court has revisory power and control over the judgment to set aside an unjust or improper verdict and grant a new trial:

(1) in the District Court, on motion filed within 90 days after its imposition of sentence if an appeal has not been perfected;

(2) in the circuit courts, on motion filed within 90 days after its imposition of sentence. Thereafter, the court has revisory power and control over the judgment in case of fraud, mistake, or irregularity.

(c) **Newly Discovered Evidence.** The court may grant a new trial or other appropriate relief on the ground of newly discovered evidence which could not have been discovered by due diligence in time to move for a new trial pursuant to section (a) of this Rule:

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<sup>1</sup> The jury acquitted him of first-degree murder.

(1) on motion filed within one year after the later of (A) the date the court imposed sentence or (B) the date the court received a mandate issued by the final appellate court to consider a direct appeal from the judgment or a belated appeal permitted as post conviction relief; and

(2) on motion filed at any time if the motion is based on DNA identification testing not subject to the procedures of Code, Criminal Procedure Article, § 8-201 or other generally accepted scientific techniques the results of which, if proved, would show that the defendant is innocent of the crime of which the defendant was convicted.

(Emphasis in original).

The basis of appellant’s motion for a new trial was that the trial court abused its discretion when it failed to question a jury member on the record after the juror wrote the judge a note explaining that the juror felt uncomfortable because of the way the prosecutor was staring at the jury.

Apparently, recognizing that his motion for a new trial was prohibited under subsections (a) and (c) of Rule 4-331, appellant filed his motion for a new trial pursuant to subsection (b) which permits, among other things, a court to grant a new trial, at any time, in the “case of fraud, mistake, or irregularity.”<sup>2</sup>

Without citation to authority, or elaboration, appellant baldly asserts that the trial court’s alleged error in not questioning the juror who wrote the note amounted to a mistake

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<sup>2</sup> Apparently, not recognizing that appellant’s motion was filed pursuant to subsection (b) of Rule 4-331, the circuit court denied appellant’s motion for a new trial on the basis that it did not comply with subsections (a) and (c) of the Rule. That error is of no moment, however. We may affirm the circuit court’s decision on any ground adequately supported by the record. *See Rush v. State*, 403 Md. 68, 103 (2008); *Powell v. State*, 139 Md. App. 582, 590 (2001) (appellate court may affirm trial court’s ruling on different ground where trial court reached correct result).

and irregularity as contemplated by Maryland Rule 4-331(b). We are not persuaded.

“As a grounds for revising an enrolled judgment, irregularity, as well as fraud and mistake, has a very narrow scope.” *Minger v. State*, 157 Md. App. 157, 171 (2004) (citation omitted). It is well-settled that “mistake,” as used in Rule 2–535(b), has uniformly been interpreted to mean jurisdictional error only.” *Minger*, at 172–73.<sup>3</sup> (citation omitted). In *Weitz v. MacKenzie*, 273 Md. 628, 631 (1975), the Court of Appeals explained that:

[I]rregularity, in the contemplation of the rule, usually means irregularity of process or procedure ... and not an error, which in legal parlance, generally connotes a departure from truth or accuracy of which a defendant had notice and could have challenged.

In *Minger*, we made the following observation about the policy supporting the idea that ordinary trial court errors do not amount to fraud, mistake, or irregularity:

Moreover, as this case illustrates, there are strong public policy reasons why the phrase “fraud, mistake, or irregularity” should be given a narrow interpretation, consonant with the reading given to the same terms in Rule 2–535(b). If, as appellant contends, “mistake” or “irregularity” were to encompass prejudicial trial court errors, such as errors in instructions never objected to at trial or even on direct appeal, almost no criminal conviction would be safe from belated attack. A convicted defendant could hold back a claim of error, wait until key witnesses die or move away, then complain of an “error” by way of a new trial motion. Such an interpretation of Rule 4–331(b), to say the least, would not comport with the main goal of the Maryland Rules of Procedure, which is to eliminate “unjustifiable expense and delay.”

*Id.* at 172.

Appellant alleged an ordinary trial error in his motion for a new trial. He did not

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<sup>3</sup> In *Minger*, this Court held that the words fraud, mistake, and irregularity, have the same meaning in both Maryland Rule 4-331(b), and its civil counterpart Maryland Rule 2-535(b). *Id.* at 172.

allege fraud, mistake or irregularity within the meaning of Maryland Rule 4-331(b). Moreover, just like in *Minger*, “[a]side from failing to allege fraud, mistake, or irregularity in his Rule 4–331(b) motion, [appellant’s] motion was also fatally defective because he failed to allege or in any way demonstrate that he acted with ordinary diligence” which is a “prerequisite to a successful 4–331(b) motion filed outside the ninety-day limit.” *Id.* at 175, citing *Skok v. State*, 124 Md. App. 226, 241-44 (1998).

The trial court, therefore, did not err or abuse its discretion in denying appellant’s motion for a new trial. Consequently, we shall affirm the judgment of the circuit court.

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