

Circuit Court for Prince George's County
Case No. CT171115X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 190

September Term, 2018

STEVEN CHRISTOPHER CHUNG

v.

STATE OF MARYLAND

Wright,
Berger,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 4, 2019

*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 a jury trial in the Circuit Court for Prince George’s County, Steven Chung, appellant, was convicted of possession of a regulated firearm by a prohibited person and possession of ammunition by a prohibited person. On appeal, Mr. Chung contends that the court erred in denying his motion to suppress the gun and ammunition because, he claims, he was seized without reasonable suspicion. Mr. Chung concedes that he was not seized for Fourth Amendment purposes when the contraband was recovered because the evidence at the suppression hearing established that he immediately fled upon seeing the police and that the gun fell from his pants during the subsequent chase. *See California v. Hodari D.*, 499 U.S. 621, 628 (1991) (holding that in the absence of physical force, no seizure occurs until a person yields to the officer’s show of authority). He contends, however, that we should reject the Supreme Court’s definition of a seizure when interpreting Article 26 of the Maryland Declaration of Rights. Instead, he asserts that, under Article 26, we should hold that seizure occurs when a reasonable person would have believed that he was not free to leave. Because Mr. Chung’s claim is not properly before this Court, we affirm.

Mr. Chung’s contention that a seizure under Article 26 of the Maryland Declaration of Rights is different than a seizure under the Fourth Amendment was not raised in the circuit court. Consequently, it is not preserved for this Court’s review. *See Maryland Rule 8-131(a)* (“Ordinarily, the appellate court will not decide any other issues unless it plainly appears by the record to have been raised in or decided by the trial court.”); *Ray v. State*, 435 Md. 1, 19 (2013) (where a defendant advances one theory of suppression pursuant to Maryland Rule 4-252, but fails to argue an additional theory that it later asserts on appeal,

the defendant has “waived the right to have that claim litigated on direct appeal.”). Moreover, even if Mr. Chung had made this argument at the suppression hearing, he subsequently waived his challenge to the admissibility of the gun and ammunition when he informed the court that he had “no objection” to that evidence being admitted when the State moved to introduce it at trial. *See Jackson v. State*, 52 Md. App. 327, 331-32 (1982) (noting that the right of appellate review “can be waived in many ways” including when, after a motion to suppress is denied “appellant says he has no objection to the admission of the contested evidence” at trial). Consequently, we decline to address Mr. Chung’s claim on appeal.

**JUDGMENTS OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**