

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1035

September Term, 2022

DOMONT DEWAYNE CORNISH

v.

STATE OF MARYLAND

Berger,
Arthur,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 4, 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.

Following a jury trial in the Circuit Court for Somerset County, Domont Dewayne Cornish, appellant, was convicted of attempted robbery, attempted armed robbery, second-degree assault, and attempted theft of money valued at less than \$100. Appellant’s sole contention on appeal is that his defense counsel was ineffective in failing to move to suppress his custodial statements because, he claims, that he received invalid *Miranda* warnings. For the reasons that follow, we shall affirm.

We will review a claim for ineffective assistance of counsel on direct appeal only when “the critical facts are not in dispute and the record is sufficiently developed to permit a fair evaluation of the claim[.]” *In re Parris W.*, 363 Md. 717, 726 (2001). Here, the trial record is not sufficiently developed to demonstrate whether appellant received ineffective assistance of counsel as it does not reveal defense counsel’s reasons for not pursuing a motion to suppress. And, even if we assume that such a motion would have been successful had it been litigated, we cannot agree with appellant that there could be “no conceivable, objectively reasonable strategic reason” for defense counsel’s failure to do so under the circumstances. Rather, in this case “direct review by this Court would primarily involve the perilous process of second-guessing, perhaps resulting in an unnecessary reversal in a case where sound but unapparent reasons existed for counsel’s actions.” *Tetso v. State*, 205 Md App. 334, 379 (2012) (quotation marks omitted) (quoting *Addison v. State*, 191 Md. App. 159, 175 (2010), *cert. denied*, 415 Md. 38 (2010)). Consequently, this case does not present the unique situation where we should review an ineffective assistance of counsel claim on direct appeal.

Although appellant alternatively requests that we remand the case to the circuit court for an evidentiary hearing, we decline to do so. Rather, the Supreme Court of Maryland (formerly the Maryland Court of Appeals)¹ has consistently held that post-conviction proceedings are the appropriate venue to evaluate an ineffective assistance of counsel claim. *See generally Bailey v. State*, 464 Md. 685, 704-05 (2019); *Mosley v. State*, 378 Md. 548, 560-62 (2003). Consequently, we shall affirm the judgments of the circuit court.

**JUDGMENTS OF THE CIRCUIT
COURT FOR SOMERSET COUNTY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**

¹ At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See, also*, Md. Rule 1-101.1(a) (“From and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland....”).