Circuit Court for Baltimore City
Case No. 113170036

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1622

September Term, 2016

BREYON CASON

v.

STATE OF MARYLAND

Eyler, Deborah S.,
Berger,
Fader,

JJ.

Opinion by Fader, J.

Filed: January 30, 2018

The Circuit Court for Baltimore City convicted Breyon Cason of accessory after the fact to murder in the first degree and false statement to a law enforcement officer. Ms. Cason alleges that: (1) the evidence was insufficient to establish that she intended her false statement to cause a new investigation, which is a required element of the false statement offense; (2) the State violated her right to a speedy trial; and (3) the trial court erred in failing to state on the record that her waiver of the right to a trial by jury was knowing and voluntary. We disagree, and so affirm.

BACKGROUND

Factual Background

Around 7:00 p.m. on May 24, 2013, several men approached a parked car on Cherry Hill Road in Baltimore City and shot into it, wounding Rashaw Scott and mortally wounding his son, Carter Scott. Two men fled the scene in a Toyota Solara belonging to Ms. Cason. Officers apprehended one man when the car crashed, but the other, who was later identified as Ms. Cason's boyfriend, Rashid Mayo, escaped on foot.

Later that night, Ms. Cason called 911 from the phone and residence of her friend "Mo" to report that the Solara had been stolen. In response, Officer David Paul traveled to Mo's residence and took Ms. Cason's statement. Ms. Cason told Officer Paul that she had lent the car to her sister, who in turn had informed Ms. Cason that it had been stolen. Officer Paul, who did not learn of the car's involvement in the shooting until after the interview, only asked Ms. Cason questions about her report of the stolen car.

The following day, Detectives Jonathan Jones and Steven Matchett interviewed Ms. Cason as part of the murder investigation. Ms. Cason told them substantially the same

story she had told Officer Paul. The officers were unaware that she had reported the car stolen until she informed them during the interview.

Five men were eventually arrested for the shooting, including Mr. Mayo. On May 30, 2013, the police arrested Ms. Cason for accessory after the fact to first-degree murder and for making a false statement to a police officer. She was released on bond on June 1, and later indicted for the same offenses. She remained free on bail until her trial.

Twelve Postponements

On August 7, Ms. Cason filed an omnibus motion making various requests, including "that she be granted a speedy trial." A week later, the State filed a motion to join Ms. Cason and the other five defendants into a single trial. There then followed a series of twelve postponements over the next 34 months, summarized in the table below:

Date requested	Length	Requested by	Reason given	Charged by circuit court to
9/9/2013	74 days	State	To facilitate consolidation of cases	State
11/22/2013	84 days	Joint	Defendants needed time to prepare and State recently provided new evidence	Defendants
2/19/2014	69 days	Joint	Cason's attorney was unavailable; State was awaiting DNA results; working on consolidation	Both
4/24/2014	97 days	Ms. Cason	Ms. Cason's counsel was not available	Ms. Cason
7/30/2014	180 days	Joint	Ms. Cason's counsel was not available	Ms. Cason
1/26/2015	87 days	Unclear	Working on Consolidation	Unclear
4/23/2015[1]	28 days	State	Personal conflict for the prosecutor	Unclear
5/21/2015	60 days	Neither	Lack of available courtrooms	Neither
7/20/2015	85 days	Joint	Neither defense counsel nor the State were available	Both
10/13/2015	98 days	Joint	To facilitate consolidation	Both
1/19/2016	51 days	Joint	To await outcome of other trial	Unclear
3/10/2016	110 days	Joint	Lack of an available courtroom	Neither

At some point between February 19 and April 24, 2014, Ms. Cason's case was severed from those of the other defendants. The State and Ms. Cason's counsel then reached an agreement that Ms. Cason's trial would occur after the murder trial involving the other defendants. Although she was present during at least four hearings at which that agreement was referenced, Ms. Cason never indicated any objection. However, on March

[1] The record is unclear as to the reasons and attribution for the delay for the April 23, 2015 postponement. Ms. Cason attributes it to a personal conflict for the prosecutor and the State does not challenge that characterization.

7, 2016, shortly before the final postponement hearing, Ms. Cason filed a pro se motion to dismiss for lack of a speedy trial.[2]

Trial

At the outset of trial, after an on-the-record dialogue with her counsel confirming that she understood the differences between a jury and bench trial, Ms. Cason elected to proceed with a bench trial. The court accepted the waiver, but did not expressly find on the record that Ms. Cason's decision to waive her right to a jury trial was knowing and voluntary. Ms. Cason's counsel did not object to this omission. The court denied Ms. Cason's pro se motion to dismiss for violating her right to a speedy trial.

At the conclusion of the trial, the court convicted Ms. Cason on both counts and sentenced her to probation before judgment for accessory after the fact, and to a six-month sentence, all but one month suspended, and five years' probation, on the false statement count. Ms. Cason noted a timely appeal.

DISCUSSION

Ms. Cason presents three issues for our review.[3] First, she argues that her conviction for false statement to a law enforcement officer must be reversed because the evidence

[2] Ms. Cason also argued in her pro se motion that her counsel's agreement to the postponements had denied her the effective assistance of counsel. Ms. Cason has not raised that argument on appeal.

[3] Ms. Cason identifies her questions presented as:

1. Is the evidence sufficient to support a conviction for false statement to a police officer, when appellant did not provoke a police investigation?

showed, and the trial court found, that she intended her false statement to interfere with an existing police investigation, and thus not to start a new investigation. Second, Ms. Cason contends that the three-year delay between her indictment and trial violated her right to a speedy trial. Third, Ms. Cason asserts that the trial court erred by failing to state on the record that she knowingly and voluntarily waived her right to a jury trial. We address each of these claims in turn.

I. THERE WAS SUFFICIENT EVIDENCE FOR A RATIONAL TRIER OF FACT TO FIND THAT MS. CASON INTENDED TO INITIATE A POLICE INVESTIGATION WHEN SHE REPORTED HER CAR STOLEN.

Ms. Cason argues that the evidence at trial was insufficient to support a finding that she intended her false stolen car report to initiate an investigation, which is a required element of the crime of false statement to a law enforcement officer. In reviewing a sufficiency-of-the-evidence claim, we determine whether "'any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *State v. Suddith*, 379 Md. 425, 429 (2004) (quoting *State v. Smith*, 374 Md. 527, 533-34 (2003)); *see also Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (establishing this standard as required by the Due Process Clause of the Fourteenth Amendment). Evidence is reviewed in the light most favorable to the prosecution. *Spencer v. State*, 450 Md. 530, 549 (2016). "[D]ue regard" must be given "to the trial court's finding of facts, its resolution of

2. Did the court err in denying the motion to dismiss on speedy trial grounds?

3. Did the court err failing to make a finding that appellant's right to a jury trial was knowingly and voluntarily waived?

conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses." *McDonald v. State*, 347 Md. 452, 474 (1997).

Finders of fact have broad discretion to make inferences from the evidence, and a conviction can be based entirely on circumstantial evidence. *Suddith*, 379 Md. at 430; *Coleman v. Johnson*, 566 U.S. 650, 654-55 (2012). We must defer to those inferences and factual determinations; "the judgment of the trial court will not be set aside on the evidence unless clearly erroneous." *State v. Manion*, 442 Md. 419, 431 (2015). The application of the law to those facts, however, is reviewed de novo. *Polk v. State*, 378 Md. 1, 8 (2003).

The crime of false statement to a law enforcement officer is established by Criminal Law § 9-501(a), which prohibits a person from making "a statement, report, or complaint that the person knows to be false as a whole or in material part, to a law enforcement officer . . . with intent to deceive and to cause an investigation or other action to be taken as a result of the statement, report, or complaint." Four elements must be proven to support a conviction under § 9-501(a): (1) that the defendant made or caused to be made a false statement, report, or complaint; (2) to a law enforcement officer; (3) knowing it to be false in whole or in part; and (4) with the "intent to deceive" and to cause an investigation or other action to be taken. *Johnson v. State*, 75 Md. App. 621, 634-35 (1988).

Here, Ms. Cason challenges the sufficiency of the evidence only as to the requirement of the fourth element that she intended her false report to start a new investigation. This, she contends, is because the evidence established that there was already an ongoing murder investigation when she reported her car stolen, so her report "did not provoke a brand new police investigation." Moreover, she stresses, the trial court,

in explaining its reasoning for convicting her of accessory after the fact, expressly found that Ms. Cason made her false report with an intent to obstruct the existing murder investigation.[4] She believes that finding to preclude a finding that she also intended her false report to initiate a new investigation.

To the contrary, the evidence was sufficient for a reasonable trier of fact to have determined, beyond a reasonable doubt, that Ms. Cason intended both to obstruct the shooting investigation and to cause a new investigation into her stolen car report. The trial court found that Ms. Cason made her false report with an intent to throw police officers off the trail of Mr. Mayo. But she did not wait to make that claim until officers conducting the shooting investigation found and questioned her. Instead, at the apparent urging of Mr. Mayo and perhaps others,[5] she proactively called in a stolen car report without identifying it as connected in any way to the shooting investigation. She then made herself available to be interviewed by the officer assigned to that separate, independent stolen car investigation, and again failed to mention the shooting.

[4] In the trial court, Ms. Cason had contested whether there was sufficient evidence to support the trial court's determination that she knew her stolen car report was false and that it was intended to deceive the officers. Ms. Cason has abandoned this argument on appeal.

[5] When she was arrested, Ms. Cason had in her possession a phone that had been used on the night of the murder to send a number of messages to Ms. Cason's friend, Mo, during a time when Ms. Cason was at Mo's residence. The trial judge could reasonably have inferred from the evidence at trial that the phone at issue was in the possession of Mr. Mayo, and that the messages were urging Ms. Cason to obstruct the investigation into the shooting. Ms. Cason does not challenge the sufficiency of that evidence on appeal.

Only after making her false report to Officer Paul was Ms. Cason interviewed as part of the shooting investigation. Whatever her reason for making the stolen car report independently—perhaps because she believed that a proactive report would be more believable, and thus more effective, than a claim raised for the first time in an interview related to the shooting—her behavior provided sufficient evidence for the trial court to conclude that she intended to initiate the separate and independent investigation that she did, in fact, initiate.

This result is entirely consistent with precedent. Section 9-501(a) criminalizes those false statements to police that "'instigate totally unnecessary police investigation,'" not those made during "'an interview as part of an ongoing police investigation.'" *Jones*, 362 Md. at 335 (quoting *Choi v. State*, 316 Md. 529, 547 (1989)). Thus, this Court affirmed a conviction under § 9-501's predecessor statute in *Thomas v. State*, where the suspect attempted to throw police off the trail of his involvement in a homicide by falsely informing a police officer that he had been shot in a drive-by shooting. 9 Md. App. 94, 100-02 (1970). And in *Sine v. State*, this Court affirmed a similar conviction where there was a conspiracy to make false statements regarding the cause of an accident that was staged as part of an insurance fraud scheme. 40 Md. App. 628, 630-31 (1978). In both *Thomas* and *Sine*, as here, the false statements were ultimately intended to throw the police off the trail of a crime. But in both of those cases, as here, the reports were made separate and apart from any investigation into the crime, they caused police to open a new investigation, and they were thus held sufficient to support a conviction for false statement to a law enforcement officer.

Ms. Cason's reliance on the Court of Appeals's decisions in *Choi* and *Jones* is misplaced. In both of those cases, unlike here, the false reports were made to police officers during interviews that were initiated by the officers as part of investigations that were begun based on reports by third parties. *Jones*, 362 Md. at 338-39 (finding no violation under predecessor to § 9-501 where defendant made false reports to officer who had tracked him down at the hospital after investigation was initiated by reports of shots fired at his house); *Choi*, 316 Md. at 532-33 (same where false statement was made by daughter of shooting suspect during interview as part of an investigation that had been initiated by 911 calls from suspect and his son); *see also Johnson*, 75 Md. App. at 639-40 (finding no § 9-501 violation where defendant provided false information while being booked, because there was no investigation the defendant intended to initiate). As articulated by the Court of Appeals, the rule of these cases is that "the offense of making a false statement to a police officer is not committed by one who, during an ongoing investigation, answers an investigating police officer's inquiries untruthfully. The offense is only committed by one whose false statement causes the police initially to undertake an investigation or other action." *Jones*, 362 Md. at 336. Ms. Cason's false statement did exactly that.

That Ms. Cason's intent to initiate a new investigation was itself in service of a goal of interfering with a separate investigation is of no moment to her false statement conviction. There was sufficient evidence to support a finding that her proactive stolen car report was intended to cause, and did cause, a new investigation, and thus to support her conviction under Criminal Law § 9-501(a).

II. MS. CASON WAS NOT DENIED HER RIGHT TO A SPEEDY TRIAL.

An appellate court conducts an "independent constitutional appraisal" of an alleged speedy trial violation. *State v. Bailey*, 319 Md. 392, 415 (1990); *see also Howard v. State*, 440 Md. 427, 446-47 (2014) ("An appellate court reviews without deference a trial court's conclusion as to whether a defendant's constitutional right to a speedy trial was violated.") This de novo review must be "in light of the particular facts of the case at hand," accepting the "lower court's findings of fact unless clearly erroneous." *Glover v. State*, 368 Md. 211, 221 (2002).

To determine if a delay violated a criminal defendant's right to a speedy trial, courts balance four factors first articulated by the Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 530 (1972): (1) length of the delay; (2) reasons for the delay; (3) defendant's assertion of her right to a speedy trial; and (4) prejudice to the defendant from the delay. Ms. Cason maintains that the trial court erred in its balancing of these factors. Although she admits that her counsel joined or consented to every postponement request, she contends that the proper balancing of the *Barker* factors nonetheless supports her claim.

The Sixth Amendment requires that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy . . . trial." *See Klopfer v. North Carolina*, 386 U.S. 213, 222-23 (1967) (applying the Speedy Trial Clause to the states). Article 21 of our own Declaration of Rights similarly requires that "in all criminal prosecutions, every man hath a right . . . to a speedy trial." "The speedy-trial right is 'amorphous,' 'slippery,' and 'necessarily relative,'" and is "'consistent with delays and depend[ent] upon circumstances.'" *Vermont v. Brillon*, 556 U.S. 81, 89 (2009) (quoting *Barker*, 407 U.S. at 522). If a delay in trial is

of sufficient length to be "presumptively prejudicial," a court must balance the four *Barker* factors to determine whether a criminal defendant's right to a speedy trial has been violated. *Barker*, 407 U.S. at 530-31. "None of these four factors alone establishes a violation of the right to a speedy trial; thus, a court considers the four factors 'together.'" *Howard*, 440 Md. at 447 (quoting *Barker*, 407 U.S. at 533). Balancing those factors here, we conclude that Ms. Cason was not denied her right to a speedy trial.

A. Length of Delay

The first factor is "a triggering mechanism," because "[u]ntil there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance." *Barker*, 407 U.S. at 530. A delay of more than a year is usually sufficient to trigger the rest of the speedy trial balancing test. *Howard*, 440 Md. at 447 (citing *Doggett v. United States*, 505 U.S. 647, 652 n. 1, 651 (1992)). Here, the approximately three-year wait for Ms. Cason's trial is sufficient to be of constitutional dimension.

Once this threshold is crossed, the length of the delay is also weighed with the three other factors, although it "is the least determinative of the four factors" in the analysis. *State v. Kanneh*, 403 Md. 678, 689-90 (2008). The weight given to the length of the delay "is necessarily dependent upon the peculiar circumstances of the case," with more complex cases naturally requiring more time to bring to trial. *Barker*, 407 U.S. at 530-31; *see also Glover*, 368 Md. at 224-25 (citing *Barker* and discussing the justification for delay in complex murder cases and to acquire DNA evidence).

Although Ms. Cason's own case was not overly complex, she (through her counsel) agreed that her trial would not occur until after the conclusion of the underlying multiple-defendant, first-degree murder and conspiracy trial, which involved DNA evidence, more than a dozen executed search and seizure warrants, and over two thousand pages of discovery. In that context, the weight of the length of the delay is minimal. *See, e.g.*, *Glover*, 368 Md. at 224-25.

B. Reasons for Delay

Under the second *Barker* factor, we look to the reasons for the delay and which party bears responsibility for them. *Brillon*, 556 U.S. at 90-91. This factor is "[t]he flag all litigants seek to capture." *United States v. Loud Hawk*, 474 U.S. 302, 315 (1986). "'[D]ifferent weights should be assigned to different reasons,'" with things such as deliberate attempts by the prosecution "'to hamper the defense'" weighing heavily against the government and "'delay caused by the defense weigh[ing] against the defendant.'" *Brillon*, 556 U.S. at 90 (quoting *Barker*, 407 U.S. at 529, 531; *Doggett*, 505 U.S. at 657). Ms. Cason was charged on May 30, 2013 and her trial began on June 29, 2016, a delay of 1,126 days.

As to this factor, there is not much dispute. By Ms. Cason's own characterization, the vast majority of the delays (741 days) were neutral, because they were jointly requested. When taken together with the 180 days she attributes to herself, approximately 82% of the three-year delay is either neutral or weighs against finding a speedy trial violation. Although, "'it is not possible'" to determine the reasons for delay "with mathematical precision," *Bailey*, 319 Md. at 414 (quoting *Jones v. State*, 279 Md. 1, 7 (1976)), such

accumulations can be helpful when viewed within the context of the facts as a whole, *see Howard*, 440 Md. at 448 (using tabulations of days attributable to either party to determine the "aggregate" of the delay). Our own independent review of the record confirms that, considered together, the weight of the reasons for delay is neutral. Moreover, there is no suggestion in the record that any of the postponements or delays resulted from either party acting in bad faith or attempting to obtain an improper strategic advantage. To the contrary, the delays resulted primarily from the complexity of the underlying murder trial and the reasonable agreement of the parties to await the outcome of that trial.[6] Given that arrangement, the general agreement between the parties at all stages to the postponements, and the roughly even balance between delays caused by either party, the second *Barker* factor is neutral.

C. Assertion of the Right to Speedy Trial

The third consideration in the speedy trial balance is how vigorously the defendant asserted his or her right to a speedy trial. *Barker*, 407 U.S. at 530. "The defendant's assertion of his speedy trial right . . . is entitled to strong evidentiary weight in determining whether the defendant is being deprived of the right," and the court should "weigh the frequency and force of the objections." *Id.* at 529, 531-32. Indeed, "[t]he more serious the deprivation" caused by delay, "the more likely a defendant is to complain." *Id.* at 531. And the "failure to assert the right will make it difficult for a defendant to prove that he [or

[6] Had Mr. Mayo been acquitted of murder, the accessory charge against Ms. Cason would have been dropped. Thus, it was to Ms. Cason's advantage to postpone her trial until after the underlying murder trial was completed.

she] was denied a speedy trial." *Id.* at 532. The defendant's "assertions, however, must be viewed in the light of [her] other conduct." *Loud Hawk*, 474 U.S. at 314. When a defendant acquiesces to delays until very late in the process, the last-minute objection is given very little weight—and may even weigh the factor against the defendant. *Kanneh*, 403 Md. at 693.

Ms. Cason identifies two instances in which she asserted her right to a speedy trial over the course of the more than three years and twelve joint or consensual postponement requests between her arrest and her trial. Ms. Cason's first assertion, made as part of her counsel's first appearance in August 2013, was "a perfunctory motion for a speedy trial [at the outset] as part of an omnibus motion." *Lloyd v. State*, 207 Md. App. 322, 332 (2012); *see also Butler v. State*, 214 Md. App. 635, 661-62 (2013) (concluding that "pro forma" assertions were not entitled to much weight), *overruled in part on other grounds by Nalls v. State*, 437 Md. 674, 693-94 (2014). Her second assertion was in a pro se motion filed in March 2016, one week before the final postponement. The transcript of the hearing on that final postponement request reflects that Ms. Cason was present, she did not object when her counsel agreed to the postponement, and neither she nor anyone else present mentioned or indicated any awareness of her recently-filed pro se motion.

Ms. Cason now argues that her counsel's acquiescence to each postponement was without her knowledge or approval. However, an attorney acts as the defendant's agent in litigation, and so the attorney's actions are generally imputed to the defendant. *Brillon*,

556 U.S. at 90-91 (quoting *Coleman v. Thompson*, 501 U.S. 722, 753 (1991)).[7] There is no indication in the record that Ms. Cason was unaware of her counsel's consent to postpone the trial. To the contrary, the transcripts reflect that Ms. Cason was present for at least four of the postponement hearings at which the parties referenced the ongoing agreement to delay her trial until the conclusion of the underlying murder trial, and she never objected.

Given Ms. Cason's "perfunctory" assertion of her right to a speedy trial at the outset, her acquiescence over the next two-and-a-half years, her reassertion of the right only at the last minute, and that the delay was to Ms. Cason's benefit, this factor weighs against finding a speedy trial violation.

D. Prejudice

"Prejudice, of course, should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect." *Barker*, 407 U.S. at 532. The Supreme Court "has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired." *Id.* Of these, harm to the defendant's ability to defend herself, particularly through "dimming memories and loss of exculpatory evidence," is the most important. *Doggett*, 505 U.S. at 654 (citing *Barker*, 407 U.S. at 532); *see also Glover*, 368 Md. at 229-30 (same).

[7] Acts that constitute ineffective assistance of counsel are not counted against the defendant. *Coleman*, 501 U.S. at 753-54. Although Ms. Cason asserted an ineffective assistance of counsel argument in her pro se motion, this was rejected by the trial court and she does not challenge that determination here.

Ms. Cason was not incarcerated while awaiting trial, and she has not alleged any impairment to her ability to present a defense once the trial began. These two sub-factors, including the most important one, thus weigh against finding any violation of the right. *Divver v. State*, 356 Md. 379, 392 (1999).

As to the final sub-factor, Ms. Cason makes only general, non-specific allegations of anxiety and concern, with no detail or support. We cannot agree that they cause this factor to weigh in her favor. An assertion of these "intangible personal factors," without more, is insufficient to establish serious prejudice to the defendant. *Glover*, 368 Md. at 230. "Some indicia, more than a naked assertion, is needed to support the dismissal of an indictment for prejudice." *Id.* (citing *Bailey*, 319 Md. at 417). This is especially true here, where the record indicates that there was a sensible agreement between Ms. Cason and the State to postpone her trial until after the underlying murder trial concluded. Ms. Cason thus has not demonstrated actual prejudice, at least no more than any other defendant experiences while awaiting trial. *See Erbe v. State*, 276 Md. 541, 553 (1976) (holding that a court can reasonably make "[a]n inference that a defendant suffered no prejudice from his [or her] failure to assert the right . . . when a defendant is in a position to benefit from the delay").

In sum, we conclude that, in consideration of the record as a whole, the length of the delay does not weigh heavily against the State, the reasons for the delay are neutral, and Ms. Cason's acquiescence in the delay and the absence of prejudice from it weigh against finding a speedy trial violation. We thus conclude that Ms. Cason's right to a speedy trial was not violated.

III. MS. CASON FAILED TO PRESERVE HER CLAIM THAT THE TRIAL COURT FAILED TO ANNOUNCE THAT HER JURY TRIAL WAIVER WAS KNOWING AND VOLUNTARY.

Finally, Ms. Cason argues that the trial court's failure to announce, on the record, that her waiver of her right to a jury trial was knowingly and voluntarily made is reversible error. However, Ms. Cason concedes both that her counsel failed to object at the time and that the Court of Appeals has held that a contemporaneous objection is required to preserve such a claim. *Nalls v. State*, 437 Md. 674, 693-94 (2014). Although she may, of course, seek to make her argument that *Nalls* was "incorrectly decided" to the Court of Appeals, it has no traction here. "[B]y failing to object at the time the court accepted [her] waiver of [her] right to a jury trial, [Ms. Cason] has failed to preserve [her] claim of error for this Court's review." *Spence v. State*, 444 Md. 1, 15 (2015).

The Court of Appeals in *Nalls* exercised its discretionary authority under Rule 8-131 to decide the unpreserved argument for the purpose of clarifying the law. 437 Md. at 693; *see also Spence*, 441 Md. at 15; *Meredith v. State*, 217 Md. App. 669, 674-75 (2014). In light of *Nalls*, no similar purpose could be served in this case, and so we decline to exercise our discretion to review this unpreserved claim.

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