Circuit Court for Montgomery County
Case No. 134629C

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

CONSOLIDATED CASES

Nos. 1717 and 2562
September Term, 2019

MARTHA ANN AKERS
v.
STATE OF MARYLAND

Berger,
Wells,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, J.

Filed: March 3, 2022

The State charged the appellant, Martha Ann Akers, with first-degree and second-degree assault in the Circuit Court for Montgomery County. Akers discharged her assigned public defender. The trial court ruled that Akers had waived her right to counsel by inaction, and Akers represented herself at trial before a jury. That jury deadlocked, and the court declared a mistrial.

The State decided to retry the case. Between the mistrial and retrial, Akers obtained the assistance of two different public defenders, and, later, Akers discharged them. Before the retrial, the court held a hearing and denied Akers' motions to dismiss and to suppress evidence. Akers then filed a notice of appeal. This Court docketed that appeal as Case Number 1717 of the September 2019 Term.

Before the retrial, the court ruled that Akers had waived her right to counsel by inaction once again. During the retrial, Akers represented herself, and that jury found Akers guilty of second-degree assault, but acquitted her of first-degree assault. The court sentenced Akers to three years of incarceration, with all but six months suspended, and two years of supervised probation. Akers filed a notice of appeal from that final judgment, and this Court docketed that appeal as Case Number 2562 of the September 2019 Term.

In April 2020, the circuit court modified Akers' sentence because of the COVID-19 emergency. The court resentenced Akers to three years of incarceration, with all but time served (116 days) suspended, and two years of supervised probation. Akers, on her own

behalf, filed a brief[1] and an amended brief[2] in Case Number 1717. The Office of the Public Defender ("OPD") appointed Akers' appellate counsel to represent Akers in this Court.

[1] Akers' brief in Case Number 1717 raises the following issues that are listed in the table of contents of that brief:

I. How respondents erred.

II. No other plain, speedy, or other adequate remedy.

III. Proceeding with criminal prosecution violated the right to speedy trial is a fundamental constitutional violation.

IV. Irreparable harm - A defendant subjected to jail without bail on the grounds of exercise of his first amendment rights.

V. Appointment of a public defender, Allen Wolf.

[2] Akers' amended brief in Number 1717 raises the following fourteen issues listed in the table of contents of that brief. Akers numbered these issues with Roman numerals with numeral VII omitted:

I. The information relief upon by the judge in the Charging and Arrest Application, page 3 entered by Officer C. Stuckey is submitted with reckless disregard for the truth. Page 3 certifies material facts about the initial DVD when he swore out his affidavit on 08/31/2018. evidence of the falsity. The arrest warrant is void. Franks v. Delaware, 438 U.S. 154, 164-65 (1978) & Sykes v. Anderson, 625 F.3d 294.

II. Police Officer 2 - Gave false testimony at the second trial which was different from the testimony given at the First Trial.

III. Belay Lingereh, Store Manager - Gave false testimony at the Second Trial which was different from the testimony given at the First Trial.

IV. Body Cam, 10 second edited DVD - Evidence may excluded if its probative value is substantially outweighed by the danger of unfair prejudice.

Counsel for Akers filed a brief in Case Number 2562. Akers' counsel moved to consolidate both cases on appeal because Akers had filed the appeal in Case Number 1717 prematurely.[3] This Court granted that motion to consolidate. Akers' counsel asks this Court to consider the issues that Akers raised in Case Number 1717.

V. Notice of the Arraignment & Plea Hearing was withheld, further all matters 08/31 thru 11/15/18 to prevent Akers attendance and being informed of the issues.

VI. The complete Discovery was withheld until 03/05/2019, Trial date: 03/06/2019.

VIII. Akers ineffective assistance of counsel.

IX. The Appellant invoked 42 U.S. Code § 1983 and 28 U.S. Code § 1343(3) and (4).

X. Conspiracy to violate the right to speedy trial to Akers.

XI. Akers incarceration prevented her from engaging and preparing a defense.

XII. Public defender Allen Wolf, fraudulent representation.

XIII. Public Defender Theresa Chernosky, fraudulent representation.

[XIV.] Motion pending before during & after trial.

XV. Motion for three judge panel review of sentencing violations.

[3] The OPD appointed Akers' appellate counsel to represent Akers. Akers moved for removal of her appellate counsel in this Court. The OPD then moved to strike the appearance of counsel. After conducting a hearing with Akers present, this Court denied both motions because this Court found no meritorious reason to discharge Akers' appellate counsel, and Akers did not request to represent herself or obtain private counsel.

For clarity, we have rephrased and reformatted the issues that Akers presents in Case Number 1717 as follows:

1. Does Akers' ineffective assistance claim entitle Akers to relief?

2. Did the trial court err when it denied Akers' motion to dismiss the case on speedy trial grounds?

3. If preserved, were the State's remarks during closing argument permissible?

4. Did the trial court err when it declined to impose a discovery sanction?

5. Do Akers' remaining claims entitle Akers to relief?

Akers' counsel also filed a brief in Case Number 2562. That brief presents these two questions for our review:

6. Did the lower court err in finding that Ms. Akers had waived her right to counsel by inaction and in failing to conduct an inquiry into whether she was entitled to court-appointed counsel?

7. Did the trial court err in propounding *voir dire* questions that left the determination of fairness to individual jurors?

The State moves to dismiss the appeal in Case Number 1717 because Akers' brief in that case lacked references to the transcripts in the record. On her own behalf, Akers filed a motion in this Court entitled "Claim for Privilege and Protection and Request for Injunction[.]" For the reasons to be discussed, we shall deny the parties' motions and affirm the circuit court's judgment.

BACKGROUND

On the morning of August 23, 2018, Getnet Anley was working at a 7-Eleven in Silver Spring when Akers entered the store. Akers paid for ten dollars of gas and asked if

she could have some water for tea. Anley agreed that Akers could take some hot water. Anley noticed that Akers also used some sugar and asked Akers to pay for the cost of the refill ($1.48). Akers refused to pay, and Anley threatened to deduct the cost of the refill from the ten dollars that Akers had given him for gas. As Akers held a cup of hot water, Akers threatened, "if you do that, I would pour the hot water on you."

Akers then went behind the checkout counter and threw hot water on Anley that burned part of Anley's neck. As Anley tried to block the water, Akers grabbed him by the neck. Anley slipped on the wet floor and injured his arm. **[**Around that time, Akers bit and choked Anley.

Store manager, Lingereh Belay, and another 7-Eleven employee separated Akers and Anley. Belay called the police, and Akers left the 7-Eleven. Belay and Anley followed Akers outside, and Anley photographed Akers' vehicle. Anley went to the hospital, where he was treated for his injuries.

Officer Christopher Stuckey of the Montgomery County Police Department responded to the 7-Eleven and received a description of the vehicle that Akers was driving. Officer Stuckey found Akers' vehicle less than a mile away and initiated a stop. Akers did not stop the vehicle until after she had crossed into the District of Columbia. At that time, Akers got out of the car and told Officer Stuckey, "you can't do anything to me because I'm in D.C."

During the stop, Akers refused to provide the officer with her identification. Akers' license plate number was the same as the one in the photograph taken by Anley. Officer

Stuckey confirmed Akers' identity based on a photograph in the Motor Vehicle Administration database.

Around that time, Officer Hassan Custis reviewed the surveillance footage from the 7-Eleven. Officer Stuckey watched the surveillance video and recorded a portion of it using his body camera. Belay's boss tried to save the surveillance footage to a disc, but it did not record. When police returned to the 7-Eleven to obtain another copy of the footage, it was no longer saved in the surveillance system. We supply additional facts as necessary below.

CASE NUMBER 1717

I. We Decline to Grant the State's Motion to Dismiss.

The State argues that we should dismiss the appeal in Case Number 1717 because Akers' brief, which she filed on her own behalf, did not include references to the transcripts. Md. Rule 8-503(b) provides as follows: "If the case falls within an exception listed in Rule 8-501(b), references to the transcript of testimony contained in the record shall be indicated as (T .....)[.]" Because this is a criminal case, this case falls within an exception listed in Md. Rule 8-501(b). The State argues that "this Court will have to delve through the 22 different transcripts Akers filed . . . and try to pinpoint the portions of the record to which Akers refers in her brief." After the State had filed its brief, which contains the motion to dismiss on this basis, Akers filed an amended brief. In that amended brief, it appears that Akers made some attempt to cite the transcripts. Under Md. Rule 8-602(c)(6), this Court has discretion to dismiss an appeal if the contents of the brief fail to

comply with Md. Rule 8-503. We shall exercise our discretion and deny the State's motion to dismiss.

II. Akers' Ineffective Assistance of Counsel Claim Is Not Properly Before This Court.

A. Parties' Contentions

Akers argues that she is entitled to relief because her assigned public defenders provided ineffective assistance of counsel. Akers alleges that her counsel below failed to gather supporting evidence and failed to move to dismiss the case. **[**The State first responds by noting that this Court does not ordinarily entertain ineffective assistance of counsel claims on direct appeal. The State also notes that Akers proceeded *pro se* after she had discharged her assigned public defenders, and thus her ineffective assistance of counsel claims should fail.

B. Analysis

The Court of Appeals has repeatedly explained that a post-conviction proceeding is generally the most appropriate mechanism for raising a claim of ineffective assistance of counsel. *See, e.g.*, *Bailey v. State*, 464 Md. 685, 703-05 (2019). This is because "the trial record rarely reveals why counsel acted or omitted to act, and such proceedings allow for fact-finding and the introduction of testimony and evidence directly related to allegations of the counsel's ineffectiveness." *Mosley v. State*, 378 Md. 548, 560 (2003). To consider

a claim of ineffective assistance of counsel on direct appeal, "the trial record clearly must illuminate why counsel's actions were ineffective[.]" *Id*. at 561.

Akers claims that her assigned public defenders failed to gather supporting evidence. She also argues that her assigned public defenders ignored her request to move to dismiss the case based on an alleged discovery violation. But the trial record does not illuminate Akers' allegations of ineffective assistance of counsel. As a result, we decline to review Akers' ineffective assistance of counsel claims in this appeal.

III. The Trial Court Did Not Err When It Denied Akers' Motion to Dismiss for Prosecutorial Delay.

A. Parties' Contentions.

At a hearing in September 2019, the trial court denied Akers' motion to dismiss on speedy trial grounds. Akers challenges that ruling here and claims that the length of the delay warrants dismissal. The State contends that Akers' argument misses the mark because Akers measures the length of the delay from the date of the indictment, rather than the date that the court declared a mistrial.

B. Analysis

The Sixth Amendment of the United States Constitution guarantees that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy . . . trial[.]" U.S. CONST., amend. VI, cl. 1. That guarantee applies to the states through the Fourteenth

Amendment. *Klopfer v. North Carolina*, 386 U.S. 213, 221-23 (1967). Article 21 of the Maryland Declaration of Rights also provides the accused with a right to a speedy trial.

When assessing whether a defendant's right to a speedy trial has been violated, we conduct our own independent constitutional analysis. *Glover v. State*, 368 Md. 211, 220 (2002). While we conduct a *de novo* constitutional appraisal, we accept the lower court's findings of fact unless they are clearly erroneous. *Id*. at 221. We use the balancing test announced by the Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 530 (1972). *See also State v. Kanneh*, 403 Md. 678, 687 (2008). The Supreme Court identified four factors in that test: "[l]ength of delay, the reason for the delay, the defendant's assertion of [their] right, and prejudice to the defendant." *Barker*, 407 U.S. at 530. We engage in a two-step analysis. *Id*. First, we ask whether the length of the delay is presumptively prejudicial. *Id*. If so, we then consider the other three factors in *Barker*: the reason for the delay, the defendant's assertion of the right, and prejudice to the defendant. *See id.* ("Until there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance.").

Length of the Delay

Generally, the "speedy trial clock starts ticking when a person is arrested or when a formal charge is filed against [them]." *Clark v. State*, 97 Md. App. 381, 387 (1993) (quoting *State v. Bailey*, 319 Md. 392, 410 (1990)). An exception to that general rule exists for cases involving serial trials. Absent extraordinary circumstances, when analyzing serial trials under *Barker*, this Court examines "the period between the next prior trial and a

subsequent trial[.]" *Icgoren v. State*, 103 Md. App. 407, 435 (1995). *See also Hallowell v. State*, 235 Md. App. 484, 513-14 (2018) (generally, when there is a retrial following a mistrial, we examine the time between the mistrial and the retrial to compute the length of delay).

Akers' claim is flawed because Akers measures the delay from the date that the indictment was filed. Rather, under *Icgoren*, we measure the delay here from the date that the mistrial was declared. 103 Md. App. at 435. Akers was indicted on October 25, 2018. The mistrial in the first trial was declared on April 16, 2019. Akers' second trial began on January 8, 2020. Thus, we measure the length of the delay as eight months and twenty-three days (April 16, 2019 to January 8, 2020).

The Supreme Court has observed that "[d]epending on the nature of the charges, the lower courts have generally found" that a delay is presumptively prejudicial "at least as it approaches one year." *Doggett v. United States*, 505 U.S. 647, 652 n.1 (1992). *See also Icgoren*, 103 Md. App. at 423 (a delay of eleven months and thirteen days was "barely" of constitutional dimension); *Carter v. State*, 77 Md. App. 462, 466 (1988) (a delay of seven months and twenty-five days was presumptively prejudicial in an uncomplicated case involving credit card misuse). Because the delay here might be considered presumptively prejudicial, we will address the remaining *Barker* factors. *See Lloyd v. State*, 207 Md. App. 322, 329 (2012) (addressing the remaining *Barker* factors based on a delay of eight months and fifteen days that "might" be considered presumptively prejudicial).

When a delay is presumptively prejudicial, the mere "fact that this delay is long enough to trigger a *Barker* inquiry does not, absent more, require dismissal." *Vaise v. State*, 246 Md. App. 188, 224 (2020), *cert. denied*, 471 Md. 86 (2020). "Indeed, the length of the delay, by itself, 'is the least determinative of the four factors that we consider in analyzing whether [a defendant's] right to speedy trial has been violated.'" *Id.* (quoting *Kanneh*, 403 Md. at 690). Delays far longer than the one here have been upheld. *See, e.g.*, *Barker*, 407 U.S. at 534-45 (five-year delay); *Vaise*, 246 Md. App. at 224 (thirty-four months); *Kanneh*, 403 Md. at 690 (thirty-five months).

Reasons for the Delay

The *Barker* Court addressed how the reasons for delays should be weighted:

> Closely related to length of delay is the reason the government assigns to justify the delay. Here, too, different weights should be assigned to different reasons. A deliberate attempt to delay the trial in order to hamper the defense should be weighted heavily against the government. A more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant. Finally, a valid reason, such as a missing witness, should serve to justify appropriate delay.

Barker, 407 U.S. at 531 (footnote omitted).

Akers' first trial ended in a mistrial on April 16, 2019 because of a deadlocked jury. The State needed time to reschedule the retrial — a neutral reason. During that time, Akers obtained the assistance of the OPD. Akers' then-counsel requested a trial date of August 12, 2019. Akers then failed to appear at hearings on July 24 and July 26, 2019. As a result, the court issued a bench warrant for Akers and withdrew the August 12, 2019 trial date.

On August 23, 2019, Akers appeared and discharged the OPD as her counsel. The court rescheduled the retrial for October 30, 2019.

On October 30, 2019, the State requested a continuance because Officer Custis had suffered the loss of his father two days earlier. The trial court found good cause for the State's postponement request and rescheduled the trial date for the first available date — January 8, 2020. The trial proceeded on January 8, 2020. To be sure, that delay — from October 30, 2019 to January 8, 2020 — is attributable to the State. But that delay was justified, and it does not weigh heavily in our analysis. *See Peters v. State*, 224 Md. App. 306, 364 (2015) (declining to heavily weigh a delay that stemmed from a witness's unavailability).

Assertion of the Right

The first time after the mistrial that Akers asserted her right to a speedy trial was on September 4, 2019. Akers again asserted her right to a speedy trial on October 30, 2019. These assertions weigh in Akers' favor, but this factor in the *Barker* analysis carries "only slight weight." *Hallowell*, 235 Md. App. at 519.

Prejudice

Ultimately, "the most important factor in the *Barker* analysis is whether the defendant has suffered actual prejudice." *Henry v. State*, 204 Md. App. 509, 554 (2012). In support of her claim that she experienced prejudice, Akers points to her pretrial incarceration, which she says generally impaired her ability to prepare for trial.

"We, in no way, discount the length of appellant's pre-trial incarceration and its attendant anxiety and concern, but the burden to show actual prejudice rests on the defendant." *Phillips v. State*, 246 Md. App. 40, 67 (2020). And "[o]ther than the fact of the incarceration itself," the record here contains no evidence of actual prejudice. *Wheeler v. State*, 88 Md. App. 512, 525 (1991). As a result, we are not persuaded that this factor should be weighed in Akers' favor.

On balance, the *Barker* factors do not weigh in Akers' favor. Thus, the trial court did not err in denying Akers' motion to dismiss.

IV. Akers' Complaint About the State's Closing Argument is Unpreserved for Appellate Review.

A. Parties' Contentions

Akers next claims that the prosecutor made an improper remark during closing argument. The State contends that Akers' claim is unpreserved, and even if it were preserved, Akers' argument fails on the merits.

B. Analysis

During closing argument, the prosecutor stated: Anley "encountered [Akers], who hurt him very badly, who did something that she absolutely should not do. She committed a first degree assault. I'd ask you to find her guilty of that count." Akers never objected to this remark, and thus it is unpreserved for our consideration under Md. Rule 8-131(a).

Akers, who was a *pro se* litigant at trial, is held to the same rules of preservation as attorneys. *Gantt v. State*, 241 Md. App. 276, 302 (2019).

Even if Akers' complaint about the prosecutor's argument were preserved for our review, Akers' claim is unpersuasive. The prosecutor's argument related to the serious physical injury element of first-degree assault. This argument could hardly have misled the jury because they acquitted Akers of first-degree assault. Reversal would be warranted when the State's arguments "actually misled or were likely to have misled the jury to the defendant's prejudice[,]" or when the arguments "trespass[ed] upon a defendant's Constitutional rights." *Wise v. State*, 132 Md. App. 127, 142 (2000). The prosecutor's argument here did not do any of those things. Consequently, reversal would be unwarranted, even if the issue were preserved.

V. The Trial Court Did Not Err When It Declined to Impose a Discovery Sanction.

A. Parties' Contentions

Akers next contends that the State committed a discovery violation because it responded to her discovery requests after an unspecified deadline, and thus the trial court should have suppressed the surveillance footage of the assault. Akers seems to be arguing that the trial court should have suppressed Officer Stuckey's body camera footage because Akers did not a receive a copy of the footage "within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant before the court[.]" Md. Rule 4-263(h)(1). The State responds by arguing that even if a discovery violation

occurred, the trial court did not abuse its discretion when it declined to exclude the evidence as a sanction.

B. Analysis

The remedy for a violation of the discovery rules is within the sound discretion of the trial judge. *State v. Graham*, 233 Md. App. 439, 457 (2017). When deciding what sanction to impose, if any, "'a trial court should consider: (1) the reasons why the disclosure was not made; (2) the existence and amount of any prejudice to the opposing party; (3) the feasibility of curing any prejudice with a continuance; and (4) any other relevant circumstances.'" *Id*. (quoting *Raynor v. State*, 201 Md. App. 209, 228 (2011)). The purpose of the discovery rules is "to prevent a defendant from being surprised and to give a defendant sufficient time to prepare a defense[.]" *Jones v. State*, 132 Md. App. 657, 678 (2000). "The most accepted view of discovery sanctions is that in fashioning a sanction, the court should impose the least severe sanction that is consistent with the purpose of the discovery rules." *Thomas v. State*, 397 Md. 557, 571 (2007).

The State had made its initial discovery disclosure to Akers' former counsel before Akers discharged her. Then, the State served Akers with the discovery in open court, but the sheriffs prohibited Akers from taking the disc with her into the jail. In March 2019, the State agreed to make Akers another copy of the disc and leave the disc with the jailer for Akers to take when she was released from custody. Before the first trial, the court held a hearing in April 2019 on Akers' claim of a discovery violation. At the end of that hearing,

the trial court declined to impose a sanction. Under these circumstances, the trial court properly exercised its discretion when it declined to impose a discovery sanction.

VI. Remaining Matters.

Akers' amended brief in Case Number 1717 contains the following:

- an allegation that the arrest warrant is void;
- a claim that the witnesses at trial were not credible;
- a claim that the video evidence is false and edited;
- an allegation that Akers was not properly notified of court dates;
- an invocation of federal statutes (42 U.S.C. § 1983 and 28 U.S.C. § 1343);
- and a claim for a three-judge panel review of sentencing violations.

First, nothing in the record suggests that the arrest warrant is void. Second, it was within the province of the jury to assess the credibility of witnesses at trial. Third, the prosecutor at trial laid a proper foundation for the video evidence: a witness testified from first-hand knowledge that the video showed a fair and accurate depiction of the incident at the 7-Eleven. *Washington v. State*, 406 Md. 642, 651 (2008). The trial court properly admitted the video evidence, and thus the reliability of the video evidence was for the jury to decide. Fourth, nothing in the record suggests that the court failed to provide Akers with sufficient notice of court dates. Fifth, Akers' claims about 42 U.S.C. § 1983 and 28 U.S.C. § 1343 are misplaced in this appeal. Last, it is unclear if Akers is referring to this Court's appellate review of sentencing matters. *Cf.* Md. Code, Crim. Proc. §§ 8-101 to 8-109

(governing sentence review by circuit court panels). At any rate, nothing in the record suggests that a sentencing violation occurred.

CASE NUMBER 2562

VII. The Trial Court Did Not Err When It Found That Akers Waived Her Right to Counsel by Inaction.

A. Parties' Contentions

On the first day of the retrial, in January 2020, Akers appeared without counsel. After conducting an inquiry, the trial court made the following two rulings. First, Akers' reason for appearing without counsel was unmeritorious. Second, Akers waived her right to counsel by inaction. Akers argues that the trial court abused its discretion when it made those rulings. Akers contends that the court erred in failing to consider appointing counsel for her because she did not desire to represent herself. Akers also claims that a conflict of interest existed between her and the OPD, which entitled her to a panel or court-appointed attorney. The State responds by arguing that the trial court correctly concluded that Akers had no meritorious reason for appearing without counsel, and thus Akers had waived her right to counsel by inaction.

B. Analysis

The constitutionally protected right to counsel in a criminal trial is fundamental and essential to a fair trial. *Gideon v. Wainwright*, 372 U.S. 335, 342 (1963). Indeed, the right to counsel is "'basic to our adversary system of criminal justice, and . . . is guaranteed by the federal and Maryland constitutions to every defendant in all criminal prosecutions.'" *Grant v. State*, 414 Md. 483, 489 (2010) (quoting *Parren v. State*, 309 Md. 260, 281-82

(1987)). A criminal defendant's waiver of the right to counsel must be done knowingly and intelligently. *Brye v. State*, 410 Md. 623, 634 (2009). But a defendant may also waive the right to counsel through inaction. *Grant*, 414 Md. at 490.

Maryland Rule 4-215(d) governs the procedure to determine whether a defendant has waived the right to counsel by inaction in circuit court. If the defendant indicates a desire to have counsel, and the record shows that the court has complied with Md. Rule 4-215(a),[4] then the court must allow the defendant to explain the appearance without counsel.

[4] Md. Rule 4-215(a) requires the court to perform several tasks:

> At the defendant's first appearance in court without counsel, or when the defendant appears in the District Court without counsel, demands a jury trial, and the record does not disclose prior compliance with this section by a judge, the court shall:
>
> (1) Make certain that the defendant has received a copy of the charging document containing notice as to the right to counsel.
> (2) Inform the defendant of the right to counsel and of the importance of assistance of counsel.
> (3) Advise the defendant of the nature of the charges in the charging document, and the allowable penalties, including mandatory penalties, if any.
> (4) Conduct a waiver inquiry pursuant to section (b) of this Rule if the defendant indicates a desire to waive counsel.
> (5) If trial is to be conducted on a subsequent date, advise the defendant that if the defendant appears for trial without counsel, the court could determine that the defendant waived counsel and proceed to trial with the defendant unrepresented by counsel.
> (6) If the defendant is charged with an offense that carries a penalty of incarceration, determine whether the defendant had appeared before a judicial officer for an initial appearance pursuant to Rule 4-213 or a hearing pursuant to Rule 4-216 and, if so, that the record of such proceeding shows that the defendant was advised of the right to counsel.
>
> The clerk shall note compliance with this section in the file or on the docket.

Md. Rule 4-215(d). If the court finds that there is a meritorious reason for the defendant's appearance without counsel, then "the court shall continue the action to a later time[.]" *Id.* But if the court finds that there is not a meritorious reason for the defendant's appearance without counsel, then the court may determine that the defendant has waived counsel by inaction. *Id*. The Court of Appeals has equated "meritorious" with "good cause." *See, e.g.*, *Dykes v. State*, 444 Md. 642, 652 (2015). As to the determination of whether the defendant's reason is meritorious, we have observed the following:

> While there is no set inquiry that must precede a trial court's finding of waiver of counsel by inaction in determining whether the defendant's reason is meritorious, the court's inquiry (1) must be sufficient to permit it to exercise its discretion, (2) must not ignore information relevant to whether the defendant's inaction constitutes waiver, and (3) must reflect that the court actually considered the defendant's reasons for appearing without counsel before making a decision.

Peterson v. State, 196 Md. App. 563, 573 (2010) (cleaned up). We review whether the trial court abused its discretion when it ruled that Akers waived counsel by inaction. *See Felder v. State*, 106 Md. App. 642, 651 (1995); *Moore v. State*, 331 Md. 179, 187 (1993). An abuse of discretion is a decision that is "'well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *Evans v. State*, 396 Md. 256, 277 (2006) (quoting *Gray v. State*, 388 Md. 366, 383 (2005)).

The court did not abuse its discretion when it ruled that Akers had waived her right to counsel by inaction. Before the retrial, Akers discharged her counsel on August 23, 2019. During the discharge inquiry, Akers stated that she wished to acquire an attorney,

and, if she could not acquire an attorney, then she would represent herself. Then, at a September 4, 2019 status conference, Akers said that she was making "preparations for [her] case" and "attempt[ing] to secure an attorney[.]" The trial court told Akers that she had until the trial date to obtain an attorney and warned Akers: "you will be deemed to have waived your right to counsel if you appear on the trial date and you don't have counsel." Akers confirmed that she understood that warning. At a subsequent hearing, Akers declined the trial court's offer to refer her to the OPD to reengage them as her counsel.

Although Akers had over four months to obtain counsel, she appeared on the first day of trial, January 8, 2020, without counsel. Akers expressed a desire to have counsel, so the trial court allowed Akers to explain why she was appearing without counsel. Akers explained that although she could not afford private counsel, she had tried several times to obtain counsel. Akers detailed various reasons she had refused to work with each of the public defenders that the OPD had assigned. According to Akers, those reasons included the following:

- A public defender took offense and did not answer Akers' inquiry about how long that public defender had been an attorney.
- A public defender said nothing during a court proceeding.
- Akers tried to call a public defender "a couple of times," but she could not reach him.
- A public defender did not file motions that Akers thought should have been filed.

- A public defender did not correct "discovery matters[.]"
- A public defender granted the State more time to provide discovery.
- A public defender stated that one of Akers' previously assigned public defenders had provided "excellent representation."
- A public defender did not enter their notice of appearance.

The court then found that Akers lacked a meritorious reason for appearing without counsel and that she had waived her right to counsel by inaction:

> The Court finds that the defendant was given the opportunity to obtain private counsel, but indicated that she was not able to retain private counsel.
>
> She was advised of her right to counsel by Judge Greenberg, and was advised of the fact that her counsel can be very helpful to a person who is facing criminal charges in disposing of her case, and that was done pursuant to Maryland Criminal Rule 4-215. . . .
>
> Now, the unusual thing about this case is, this defendant has had contact with five public defenders, [including the supervisor of the office.]
>
> Now, the upstart of all of that was, what this Court finds is that the defendant was not satisfied with the way counsel were handling the various procedures that were before the Court. And for some reasons known only to her, she substituted counsel's judgment with her judgment as to what should be done in her case. . . .
>
> It is unfortunate that Ms. Akers had conflicts with these attorneys, who were attempting to help her. This kind of thing can't go on in criminal cases. We can't have a situation where defendants are, essentially micromanaging how lawyers, pursuant to the Rules of Criminal Procedure, as well as the Rules of Professional Conduct, are handling cases.
>
> Pursuant to Maryland Criminal Rule 4-215, in pertinent part, if the court finds that there is no meritorious reason[] for the defendant's appearing without counsel, the court may determine that the defendant has waived -- that means given up -- counsel by failing or refusing to obtain counsel, and may proceed with trial . . . .

> [Akers is] a very intelligent person who understands these procedures, and the Court does find that she does understand the nature of the charges, and she does understand her right to counsel.
>
> She has discharged public defenders, and has indicated that she didn't want to be represented by the Office of the Public Defender. And the Court finds that she has, by default, elected to represent herself; and the Court finds that she's quite capable of that. She just has a different perspective of how the case ought to proceed, having had the opportunity to be represented by four of the County's members of the Office of the Public Defender. . . .
>
> We cannot have individuals, [who] have counsel appointed for them by the Public Defender's Office, [to be] given the opportunity to pick and choose which, if any, of those lawyers are going to represent her. So the Court finds that she's waived her right to counsel by inaction, that inaction being the refusal to cooperate with counsel that was present in court on four different occasions, at least, to represent her. And so for that reason, the matter will proceed.

The trial court complied with the requirements of Md. Rule 4-215(d). The trial court found that Akers had refused to cooperate with her assigned public defenders and attempted to micromanage them. *See Dykes*, 444 Md. at 648 ("While an indigent defendant is entitled to appointed counsel, that right should not be mistaken for a right to select the attorney of one's choice."). Akers repeatedly squandered opportunities to have the OPD represent her. Those relinquished opportunities do not produce a meritorious reason for Akers' appearance without counsel. *See Peterson v. State*, 196 Md. App. 563, 580 (2010) (the court did not abuse its discretion when it found that the appellant lacked a meritorious reason for failing to have counsel because the defendant "squandered every opportunity" to obtain an attorney).

Akers argues that the court should have appointed counsel for her. But Akers never requested a panel or court-appointed attorney. Also, the trial court did not err in concluding that Akers lacked a meritorious reason for discharging the OPD.

Akers' reliance on *Dykes v. State*, 444 Md. 642, is unpersuasive. *Dykes* dealt with the court's obligation to take some action to obtain counsel for indigent defendants who discharge their appointed counsel for a meritorious reason under Md. Rule 4-215(e)[5] and request new counsel. 444 Md. at 670. Dykes filed a "Motion to Fire Public Defender, claiming that the OPD had fabricated evidence against him and lied to him repeatedly." *Id*. at 662. At the hearing on that motion, the circuit court found that there was "a palpable and obvious distrust that [Dykes] has with respect to the Office of the Public Defender[,]" and there was "clearly a meritorious reason" for Dykes to discharge his public defender under Md. Rule 4-215(e). *Id*. at 663. Dykes then filed a motion for court-appointed counsel. *Id*. at 664. The circuit court denied that motion. *Id*. at 664-65. Dykes renewed

[5] Md. Rule 4-215(e) provides as follows:

> If a defendant requests permission to discharge an attorney whose appearance has been entered, the court shall permit the defendant to explain the reasons for the request. If the court finds that there is a meritorious reason for the defendant's request, the court shall permit the discharge of counsel; continue the action if necessary; and advise the defendant that if new counsel does not enter an appearance by the next scheduled trial date, the action will proceed to trial with the defendant unrepresented by counsel. If the court finds no meritorious reason for the defendant's request, the court may not permit the discharge of counsel without first informing the defendant that the trial will proceed as scheduled with the defendant unrepresented by counsel if the defendant discharges counsel and does not have new counsel. If the court permits the defendant to discharge counsel, it shall comply with subsections (a)(1)-(4) of this Rule if the docket or file does not reflect prior compliance.

his request for court-appointed counsel in court on his trial date, and the court denied that request again. *Id*. at 665. The Court of Appeals held that Dykes was entitled to appointment of new counsel for two key reasons. First, the circuit court found that Dykes had a meritorious reason to discharge counsel. *Id*. at 667-68. Second, Dykes's "request for new counsel was raised and repeated well before trial[.]" *Id*. at 667.

By contrast, the circuit court here found the following: Akers refused to cooperate with her assigned public defenders, she attempted to micromanage them, and she attempted to "pick and choose" which OPD attorney would represent her. *See id*. at 648 ("While an indigent defendant is entitled to appointed counsel, that right should not be mistaken for a right to select the attorney of one's choice."). *See also McCoy v. Louisiana*, 138 S. Ct. 1500, 1508 (2018) (quoting *Gonzalez v. United States*, 553 U.S. 242, 248 (2008) ("Trial management is the lawyer's province: Counsel provides his or her assistance by making decisions such as 'what arguments to pursue, what evidentiary objections to raise, and what agreements to conclude regarding the admission of evidence.'")). And unlike Dykes, who twice requested a court-appointed attorney after he had discharged his public defender for a meritorious reason, Akers never requested a panel or court-appointed attorney.[6] *See Dykes*, 444 Md. at 665.

[6] On appeal, Akers claims that she was entitled to a panel or court-appointed attorney because she had lodged a complaint with the Attorney Grievance Commission about her public defenders, thus creating a conflict of interest between her and the OPD on the January 8, 2020 trial date. The record does not support that claim. Akers did not specify the date that she had filed the complaint, against whom it was filed, or its basis. Nor did Akers mention that complaint at the discharge of counsel hearing on August 23, 2019. An attorney-client relationship no longer existed between Akers and the OPD on

Akers appeared at trial without counsel after she had been warned that she may have to represent herself at trial. Akers also provided no meritorious reason for her appearance without counsel. The circuit court thus did not err when it conducted the proper inquiry and ruled that Akers waived her right to counsel by inaction.

VIII. Akers Failed to Preserve Her Claim That the Trial Court Erred in Its Phrasing of *Voir Dire* Questions.

A. Parties' Contentions

Akers claims that, during *voir dire*, the trial court asked compound questions that impermissibly permitted the jurors to decide for themselves whether their feelings would interfere with their ability to be fair and impartial. The State argues that Akers failed to preserve this claim, and even if the claim were preserved, the court conducted *voir dire* in an appropriate manner.

B. Analysis

On appeal, Akers challenges two questions that the trial court asked the prospective jurors. To be clear, the court asked these questions in a manner that allowed the prospective jurors to respond to each question:

> Is there any member of the prospective jury panel who has political, religious, or philosophical beliefs about our system of criminal justice which would interfere with your ability to sit as fair and impartial jurors in this case?
>
> * * *
>
> [D]oes anyone harbor such feelings that would bias you in favor of the prosecution?"

the January 8, 2020 trial date when she mentioned the complaint. Thus, the record lacks a basis for the court to rule that Akers was entitled to appointed counsel because of a conflict of interest.

Akers now claims that these questions were improper under *Dingle v. State*, 361 Md. 1 (2000). The defendant in *Dingle* objected to the trial court's *voir dire* methodology. 361 Md. at 8 ("The petitioner objected to the use of the two part format on a number of grounds[.]"). Akers, however, did not object to the trial court's *voir dire* methodology or the questions asked. As a result, Akers failed to preserve her claim for our review. *See* Md. Rule 8-131(a) ("[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court").

At any rate, Akers' appellate counsel asks this Court to review this unpreserved claim because, according to Akers' appellate counsel, the trial court had improperly found waiver of counsel by inaction, and thus the lack of preservation should not be held against Akers as a *pro se* defendant at trial. But as we have explained above, the trial court did not err when it found that Akers waived counsel by inaction. And, Akers, as a *pro se* defendant at trial, is subject to the same rules of preservation as a defendant with counsel. *See Grandison v. State*, 341 Md. 175, 195 (1995) (defendants in criminal cases who choose to represent themselves are "subject to the same rules regarding reviewability and waiver of questions not raised at trial as one who is represented by counsel").

Although Akers has not requested plain error review of the *voir dire* questions that she now challenges on appeal, she is constrained to seeking plain error review because she failed to preserve this claim. Plain error review involves four prongs, the first three of which must be satisfied before this Court will consider exercising our discretion to review an error:

> First, there must be an error or defect—some sort of deviation from a legal rule—that has not been intentionally relinquished or abandoned, i.e., affirmatively waived, by the appellant. Second, the legal error must be clear or obvious, rather than subject to reasonable dispute. Third, the error must have affected the appellant's substantial rights, which in the ordinary case means [the appellant] must demonstrate that it affected the outcome of the . . . court proceedings. Fourth and finally, if the above three prongs are satisfied, [an appellate court] has the discretion to remedy the error—discretion which ought to be exercised only if the error seriously affects the fairness, integrity or public reputation of judicial proceedings.

State v. Rich, 415 Md. 567, 578 (2010) (cleaned up). The record shows that these prongs are absent here.

After the court had completed *voir dire* questioning, the court asked Akers if she was satisfied, and Akers responded in the affirmative. *See id*. (step one of the plain error test is that there must be an error or defect that has not been intentionally relinquished or abandoned, i.e., affirmatively waived, by the appellant). *See also Brice v. State*, 225 Md. App. 666, 679 (2015) (the defendant explicitly waived his claim about omitted *voir dire* questions when defense counsel affirmatively advised the court that there was no objection to the omitted questions).

Second, even if Akers could clear the first hurdle to obtain plain error review, we are not persuaded that the *voir dire* questions that Akers now challenges were, in fact, errors (let alone "clear or obvious" errors that affected Akers' substantial rights and the fairness of the judicial proceedings). *Rich*, 415 Md. at 578.

"*Voir dire* is critical to implementing a defendant's right to a fair and impartial jury." *Collins v. State*, 463 Md. 372, 376 (2019). "'[I]n Maryland, the sole purpose of *voir dire* is to ensure a fair and impartial jury by determining the existence of specific cause for

disqualification.'" *Id*. (quoting *Pearson v. State*, 437 Md. 350, 356 (2014)). It is well settled that "'the trial court has broad discretion in the conduct of *voir dire*, most especially with regard to the scope and the form of the questions propounded[.]'" *Washington v. State*, 425 Md. 306, 313 (2012) (quoting *Dingle*, 361 Md. at 13-14). Indeed, "the trial judge is vested with broad discretion in the conduct of *voir dire*, subject to reversal for an abuse of discretion." *Collins v. State*, 452 Md. 614, 623 (2017). Akers cites a series of cases in which the Court of Appeals disapproved of the use of certain compound *voir dire* questions.

In *Dingle v. State*, 361 Md. 1 (2000), the Court held that a trial court erred in asking, over a defense objection, "a series of two part questions, the answers to which, the court instructed, need not be revealed unless a member of the venire panel answered both parts in the affirmative." *Id.* at 4. For example, the trial court asked: "'Have you or any family member or close personal friend ever been a victim of a crime, and if your answer to that part of the question is yes, would that fact interfere with your ability to be fair and impartial in this case in which the state alleges that the defendants have committed a crime?'" *Id.* at 5. The Court held that the compound questions "usurped the [trial] court's responsibility" to "determine, in the final analysis, the fitness of the individual" prospective jurors. *Id*. at 8-9.

The Court revisited the holding of *Dingle* in *Pearson v. State*, 437 Md. 350. In *Pearson*, the trial court asked the following *voir dire* question: "'Does any member of the panel hold such strong feelings regarding violations of the narcotics laws that it would be

difficult for you to fairly and impartially weigh the facts of this trial where narcotics violations have been alleged?'" *Id.* at 355. The Court acknowledged that the trial court's question was "phrased exactly as" the Court had "mandated" in a prior opinion on the subject. *Id.* at 361 (citing *State v. Shim*, 418 Md. 37, 54 (2011)). But the Court determined that the question "was phrased improperly." *Pearson*, 437 Md. at 361. The Court reasoned that this question, like the "compound questions" in *Dingle*, inappropriately "'shift[ed] from the trial [court] to the [prospective jurors] responsibility to decide [prospective] juror bias.'" *Id.* at 362 (quoting *Dingle*, 361 Md. at 21). The Court held that, "on request, a trial court must ask during *voir dire*: 'Do any of you have strong feelings about [the crime with which the defendant is charged]?'" *Pearson*, 437 Md. at 363. Then, an affirmative response to the question triggers another inquiry: "After the prospective juror is individually questioned by the attorneys or on request by the trial court, the trial court determines whether or not that prospective juror's strong feelings about the crime with which the defendant is charged constitute specific cause for disqualification." *Id*. at 364.

The Court reaffirmed the *Pearson* holding in *Collins v. State*, 463 Md. 372 (2019).[7] In *Collins*, the defendant was charged with first-degree burglary and theft of property with a value of less than $1,000. *Id.* at 378. During *voir dire*, the trial court refused to ask the defendant's two proposed questions: "Does any member of this jury panel have strong

[7] *Collins v. State*, 463 Md. 372 (2019) is not to be confused with *Collins v. State*, 452 Md. 614 (2017). *Compare Collins*, 463 Md. at 396 (the trial court abused its discretion by asking compound "strong feelings" questions and refusing to ask properly-phrased "strong feelings" questions during *voir dire*) *with Collins*, 452 Md. at 627-28 (trial court did not abuse its discretion during *voir dire* when it failed to inform the prospective jurors that they could approach the bench to respond to follow-up questions).

feelings about the offense of burglary? . . . . [D]oes any member of this panel have strong feelings about the offense of theft?" *Id*. at 382-83. Instead, the trial court asked these two *voir dire* questions over the defendant's objection:

> Does anyone on this panel have any strong feelings about the offense of burglary to the point where you could not render a fair and impartial verdict based on the evidence? . . .
>
> Does any member of this panel have strong feelings about the offense of theft to the extent that it would make you unable to be fair and impartial and base your decision only on the evidence in this case[?]

Id.

The Court held that the trial court had "abused its discretion by asking compound 'strong feelings' questions and refusing to ask properly-phrased 'strong feelings' questions during *voir dire*." *Id*. at 396. The Court reiterated that "it is improper for a trial court to ask the 'strong feelings' question in compound form, such as: 'Does any member of the jury panel have such strong feelings about [the charges in this case] that it would be difficult for you to fairly and impartially weigh the facts?'" *Id.* Indeed, "[c]ompound 'strong feelings' questions are improper," because, "where a trial court asks a compound 'strong feelings' question, 'each prospective juror decides whether his or her strong feelings (if any) about the crime with which the defendant is charged would make it difficult for the prospective juror to fairly and impartially weigh the facts.'" *Id*. at 397 (quoting *Pearson*, 437 Md. at 362).

In another case entitled *Collins v. State*, 452 Md. 614, the Court recognized that the Maryland State Bar Association's ("MSBA") Special Committee on *Voir Dire* has

developed guidance on how to best "eliminate any doubt or error in the [*voir dire*] process, inasmuch as is possible." *Id*. at 630 (quoting *Wright v. State*, 411 Md. 503, 512 (2009)). The Court stated that "[t]he Committee's Model Jury Selection Questions for Criminal Trials provides a flexible script with committee notes as a tool for judges in the voir dire process." *Collins*, 452 Md. at 630.

The first *voir dire* question that Akers challenges on appeal—the trial court's question about political, religious, or philosophical beliefs—is much like the "personal beliefs" question in the MSBA's model *voir dire*. *See* MSBA, Special Committee on *Voir Dire, Model Jury Selection for Criminal Trials*, Question 31 (2018) ("Do you hold any moral, religious, or ethical conviction or belief that would prevent you from weighing the evidence and returning a fair and impartial verdict?"). Also, in *Collins*, 463 Md. 372, the Court noted, with no apparent disapproval, that the trial court had asked a substantively identical question to the prospective jurors: "Does any member of this panel have any political, religious, or philosophical beliefs about our system of criminal justice that would make you hesitate to sit as a juror in this case?" 463 Md. at 380. *See also Moore v. State*, 412 Md. 635, 665-66, 665 n.2 (2010) ("general questions that delve into a venireperson's personal . . . beliefs" are "pertinent and necessary to uncover certain kinds of bias").[8]

[8] In *Moore*, the Court of Appeals held that the circuit court had abused its discretion in refusing to ask "the Defense-Witness question" to potential jurors. 412 Md. at 663-64. The defense-witness question asks the potential jurors whether they would tend to view defense witnesses' testimony with more skepticism than State witnesses' testimony merely because the defense witnesses were called by the defense. The Court rejected the argument that the defense-witness question was covered by another question about the potential jurors' personal beliefs: "Is there any member of the prospective jury panel who has any

In *Collins*, 463 Md. 372, the Court clarified that trial courts may ask three questions that require the prospective jurors to assess whether their emotions or other factors would affect their verdict: "To be clear, a trial court may ask the 'something in the past,' 'sympathy, pity, anger, or any other emotion,' and 'catchall' questions.'" *Collins*, 463 Md. at 400. The "something in the past," "sympathy, pity, anger, or any other emotion," and "catchall" questions asked during *voir dire* in *Collins*, 463 Md. 372, were as follows:

> General question, has any member of this panel had something happen to you in the past that would prevent you from either returning a verdict of guilty or not guilty in a criminal case under any circumstances? . . .
>
> Is there any member of this panel who would allow sympathy, pity, anger[,] or any other emotion to influence your verdict in any way in this case? . . .
>
> Is there any other reason that we have not already explained or discussed why any member of this panel cannot be a fair and impartial juror in this case, anything that we have not covered?

Id. at 380-83. While those questions are permitted, the Court held that those questions failed to substitute for a properly-phrased "strong feelings" question. *Id*. at 400. *See also Collins*, 452 Md. at 625 n.5 (2017) ("a voir dire process that involves compound questions is not automatically invalid."). The second *voir dire* question that Akers challenges on appeal—the question about whether the prospective jurors had feelings of bias toward the prosecution—is much like the "something in the past," "sympathy, pity, anger, or any other

political, religious, or philosophical beliefs about your system of justice that [] make you hesitate to sit as a juror in this case?" *Id*. at 665 n.2. More to the point here, the Court seemed to suggest that the personal beliefs question falls into the category of general questions that are "*pertinent and necessary* to uncover certain kinds of bias[.]" *Id*. at 665, 665 n.2 (emphasis added).

emotion," and "catchall" questions that the Court of Appeals expressly permitted. *Collins*, 463 Md. at 400.

For these reasons, we cannot conclude that the trial court erred. By extension, the alleged error is not clear or obvious, and thus plain error review is unwarranted. *See Winston v. State*, 235 Md. App. 540, 567 (2018).

IX. This Court Shall Deny Akers' Claims for Privilege, Protection, and an Injunction.

Lastly, Akers filed a "Claim for Privilege and Protection and Request for Injunction" in this Court. In that motion, Akers argues that the State's brief is "at all times false and illegal." We disagree with that characterization. The State's brief engages in proper advocacy. Akers contends that she is entitled to privilege, protection, and an injunction for several reasons. For the reasons we explain, we shall deny Akers' motion.

Md. Rule 8-425 governs injunctions pending appeal. Md. Rule 8-425(g) states that "[i]n determining whether injunctive relief should be granted under this Rule, the Court shall consider the same factors that are relevant to the granting of injunctive relief by a circuit court." A court must examine four factors before it issues injunctive relief:

> (1) the likelihood that the plaintiff will succeed on the merits;
>
> (2) the "balance of convenience" determined by whether greater injury would be done to the defendant by granting the injunction than would result from its refusal;
>
> (3) whether the plaintiff will suffer irreparable injury unless the injunction is granted; and
>
> (4) the public interest.

See, e.g., *DMF Leasing, Inc. v. Budget Rent-A-Car of Md., Inc.*, 161 Md. App. 640, 647 (2005). An examination of these factors leads to the conclusion that Akers is not entitled to injunctive relief. Akers is also not entitled to privilege or protection.

First, Akers again argues that her right to a speedy trial has been violated under *Barker*, 407 U.S. 514. In this opinion, we examined the caselaw, conducted a thorough analysis, and we concluded that, on balance, the *Barker* factors do not weigh in Akers' favor.

Second, Akers claims that false and contradictory evidence was introduced at trial. We reiterate that it was within the province of the jury to assess the credibility of witnesses at trial. Akers has argued that the video evidence introduced at trial was unreliable because it was fast moving, edited, false, and misleading. As we have explained, the prosecutor at trial laid a proper foundation for the video evidence: a witness testified from first-hand knowledge that the video showed a fair and accurate depiction of the incident at the 7-Eleven. *See Washington*, 406 Md. at 651 (a videotape is considered a photograph for admissibility purposes, and a videotape can be authenticated through the testimony of a witness with personal knowledge). As a result, the trial court properly admitted the video evidence. Once admitted, the weight of the video evidence was for the jury to decide.

Third, Akers argues that the "jury did not follow the instructions and guidelines for a conviction." We see nothing in the record supports Akers' claim of jury misconduct.

Fourth, Akers contends that she did not receive proper notice of orders under 28 U.S.C. § 1655. That statute deals with service on absent defendants in lien enforcement actions in federal court. That statute simply does not apply here.

Fifth, Akers claims that her appellate counsel has failed to perform several duties. After conducting a hearing with Akers present, this Court found no meritorious reason to discharge Akers' appellate counsel, and Akers did not request to represent herself or obtain private counsel.

Lastly, we, in no way, discount Akers' claim in her motion that this case has affected her health and well-being. But Akers' claims for privilege, protection, and an injunction are misplaced.

STATE'S MOTION TO DISMISS DENIED.

APPELLANT'S CLAIMS OF "PRIVILEGE, PROTECTION AND INJUCTION" ARE DENIED.

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