

IN THE COURT OF APPEALS OF MARYLAND

NO. 21

SEPTEMBER TERM, 1995

ROBERT M. JACKSON

V.

STATE OF MARYLAND

Murphy, C. J.
Eldridge
Rodowsky
Chasanow
Karwacki
Bell
Raker

JJ.

DISSENTING OPINION BY BELL, J.

FILED: December 7, 1995

The issue this case presents is whether a defendant's prior convictions¹4-75 (1994).

¹ The risk of prejudice is compounded when the impeachment evidence consists of more than one prior conviction for the same crime that is on trial. In that circumstance, the jury is even more likely to misuse the evidence - to conclude that because the defendant committed the same crime on more than one occasion, he probably committed it on this occasion. The majority contends that the effect of admitting multiple prior convictions for the same crime is not before us since it was not raised before the trial court. ___ Md. ___, ___, ___ A.2d ___, ___ (1995) [slip op. at 5 n.2]. We review the trial court's evidentiary ruling on the basis of the entire record. State v. Woodland, 337 Md. 519, 526, 654 A.2d 1314, 1317 (1995), citing Beales v. State, 329 Md. 263, 273-74, 619 A.2d 105, 110 (1993). Thus whether or not the issue was raised below, it was appropriately a part of the balancing process. In any event, Rule 8-131(a) gives this Court the discretion to consider issues not raised below where not to consider them would result in a miscarriage of justice. County Council of Prince George's County v. Offen, 334 Md. 499, 508-09, 639 A.2d 1070,