

Circuit Court for Somerset County
Case No. C-19-CV-22-000107

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 2053

September Term, 2022

IN THE MATTER OF DESMOND ROBERTS

Friedman,
Shaw,
Getty, Joseph, M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: September 17, 2024

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to MD. RULE 1-104(a)(2)(B).

Appellant Desmond Roberts argues that his constitutional due process rights were violated.¹ Finding that this issue was not preserved at the parole revocation hearing below, we affirm.

FACTS

On February 3, 2015, Roberts was sentenced to 14 years imprisonment with all but 9 years suspended for possession of drugs with an intent to distribute. On October 17, 2017, Roberts was conditionally released on parole, the terms of which required him to, among other things, obey all laws; not sell or use drugs; not possess firearms; and not present a danger to himself or others. On March 4, 2021, Roberts was arrested for drug and firearms charges. On January 13, 2022, Roberts was convicted of these new charges and sentenced to 20 years imprisonment with all but 5 years suspended.² On January 27, 2022, the Maryland Parole Commission charged Roberts with violating the conditions of his parole by, among other things, being arrested and convicted of drug and weapons charges. On June 13, 2022, Roberts had a parole revocation hearing before Parole Commissioner Steven DeBoy, Sr. At that hearing, Roberts was represented by counsel. Roberts did not contest that he had violated the terms of his parole described above. Commissioner DeBoy found that he had violated the conditions of his parole, revoked his

¹ Roberts' rights to due process before the State may deprive him of his liberty are protected by the 14th Amendment to the U.S. Constitution and Article 24 of the Maryland Declaration of Rights.

² This recitation is abbreviated. Roberts had additional arrests and convictions—both before and in the midst of the legal proceedings that we are describing—which are not necessary for us to describe here.

parole, gave Roberts no credit for his “street time,” and stripped him, by operation of law, of any diminution credits he had previously earned while incarcerated. Roberts petitioned for judicial review in the Circuit Court for Somerset County, where he argued, as he does here, that he did not receive adequate notice, have the opportunity to select his own counsel, was prevented from calling witnesses, and did not have an opportunity to defend himself. The circuit court affirmed the decision of the parole commissioner, finding that Roberts had not raised these alleged defects below and therefore had waived them. This appeal followed.

ANALYSIS

The State of Maryland begins by moving to dismiss Roberts’ appeal as not authorized by law.³ Assuming without deciding that Roberts has the right to appeal, however, we hold that by not raising these issues at his June 13, 2022, parole revocation hearing, he has waived them. *See, e.g., Brodie v. Motor Vehicle Admin.*, 367 Md. 1, 4 (2001); *Dept. of Health v. Campbell*, 364 Md. 108, 123 (2001). We observe that Roberts was represented by counsel at the parole revocation hearing. Moreover, Roberts helped defend himself, asking the parole commissioner to give him credit for his “street time.” At no time during his parole revocation hearing did Roberts or his counsel

³ The State makes a novel argument that the appeal is not authorized by the enabling statute, which the State argues, is similar and analogous to the enabling statute that was at issue in *Rowe v. Md. Comm’n on Civil Rights*, 483 Md. 329 (2023). Because of the complexities of the statutory interpretation necessary to evaluate that claim, we prefer to consider it in a case with full and careful briefing by both sides.

raise any allegations of a violation of Roberts' due process rights. Because he did not raise these issues at the time of his parole revocation hearing, they are waived.

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