

Circuit Court for Harford County
Case No. 12-K-16-001745

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 818

September Term, 2018

JESSIE THOMAS ALIMONDO

v.

STATE OF MARYLAND

Berger,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 5, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Harford County, Jessie Thomas Alimondo, appellant, was convicted of conspiracy to distribute heroin. His sole contention on appeal is that there was insufficient evidence to support his conviction. Mr. Alimondo concedes that this issue is not preserved because, when making his motion for judgment of acquittal in the trial court, defense counsel submitted on the evidence and did not raise any of the contentions that Mr. Alimondo now raises on appeal. *See Peters v. State*, 224 Md. App. 306, 354 (2015) (“[R]eview of a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal.” (citation omitted)). In fact, during closing, defense counsel indicated that Mr. Alimondo was “not disputing” that the State had met its burden on the charge of conspiracy to distribute heroin and that if the jury took “the facts and applied them in this case . . . [it would] find Mr. Alimondo guilty of [that] charge[.]” He therefore requests that we engage in plain error review.

Although this Court has discretion to review unpreserved errors pursuant to Maryland Rule 8-131(a), the Court of Appeals has emphasized that appellate courts should “rarely exercise” that discretion because “considerations of both fairness and judicial efficiency ordinarily require that all challenges that a party desires to make to a trial court’s ruling, action, or conduct be presented in the first instance to the trial court[.]” *Ray v. State*, 435 Md. 1, 23 (2013) (citation omitted). Therefore, plain error review “is reserved for those errors that are compelling, extraordinary, exceptional or fundamental to assure the defendant of [a] fair trial.” *Savoy v. State*, 218 Md. App. 130, 145 (2014) (quotation marks and citation omitted). Under the circumstances presented, we decline to overlook the lack

of preservation and thus do not exercise our discretion to engage in plain error review. *See Morris v. State*, 153 Md. App. 480, 506-07 (2003) (noting that the five words, “[w]e decline to do so [,]” are “all that need be said, for the exercise of our unfettered discretion in not taking notice of plain error requires neither justification nor explanation.”) (emphasis and footnote omitted). Consequently, we affirm the judgment of the circuit court.

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