

Circuit Court for Worcester County  
Case No. C-23-CR-21-000231

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1347

September Term, 2022

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CHRISTOPHER DALE MILLER, JR.

v.

STATE OF MARYLAND

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Arthur,  
Tang,  
Kenney, James A., III  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: September 27, 2023

\*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Convicted by a jury in the Circuit Court for Worcester County of armed robbery and related offenses, Christopher Dale Miller, Jr., appellant, presents for our review a single issue: whether the court “abandoned its neutral role” in questioning a defense witness. Acknowledging that “defense counsel did not voice an objection to the trial court’s questioning,” Mr. Miller asserts that “the trial court’s conduct in this case was so egregious as to rise to the level of plain or structural error.”

We decline to address the contention for two reasons. First, Mr. Miller does not cite any authority in which an unpreserved challenge to a court’s questioning of a witness *sua sponte* has been subjected to structural error review. Second, it is true that this Court has discretion to review unpreserved errors pursuant to Rule 8-131(a) (“[o]rdinarily, the appellate court will not decide any . . . issue unless it plainly appears by the record to have been raised in or decided by the trial court, but the Court may decide such an issue if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal”). But, the Supreme Court of Maryland 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) (internal 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) (internal citation and quotations omitted). Under the circumstances presented here, we decline to overlook the lack of preservation, and 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 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)).

**JUDGMENTS OF THE CIRCUIT COURT  
FOR WORCESTER COUNTY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**