Circuit Court for Baltimore City
Case No. 122228004

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1998

September Term, 2023

VICTOR SHURON, II

v.

STATE OF MARYLAND

Tang,
Albright,
Hotten, Michele D.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Albright, J.

Filed: July 30, 2025

*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 Rule 1-104(a)(2)(B).

A jury in the Circuit Court for Baltimore City found the appellant, Victor Shuron, II, guilty of attempted voluntary manslaughter and five related firearms offenses stemming from a shooting that Mr. Shuron claimed was self-defense. The trial court sentenced Mr. Shuron to thirty-five years, with all but twenty years suspended, no possibility of parole for the first ten years, and a five-year probationary term. Mr. Shuron presents two constitutional challenges in this appeal. We rephrase them as follows:[1]

I. Whether Mr. Shuron's Due Process rights were violated by the cumulation of the trial court's evidentiary rulings against him.

II. Whether Mr. Shuron's Second Amendment rights were violated when he was convicted for transporting a firearm and possessing a firearm after a previous disqualifying conviction.

Because neither challenge is preserved, we affirm Mr. Shuron's convictions.

FACTUAL AND PROCEDURAL HISTORY

A. The Shooting and Mr. Shuron's Charges

Shortly before 4:00 pm on May 13, 2022, police responded to a shooting at a restaurant in Baltimore, Maryland. Upon their arrival, officers discovered that a victim, Darnell Ward, had been shot once in the chest and had also sustained lacerations to his

[1] Mr. Shuron phrases his questions as:

1. Did the trial court violate Mr. Shuron's Due Process rights by (A) preventing him from testifying fully, and (B) preventing his counsel from inquiring fully into the adequacy of the investigation conducted by the police?
2. Did the trial court violate Mr. Shuron's Second Amendment rights by convicting him for (A) transporting a firearm, and (B) possessing a firearm, absent a valid disqualifying offense?

head. Fatima Ames (the restaurant owner and Mr. Ward's mother) and Stacy Jones (a restaurant employee) were also at the restaurant. Mr. Ward received emergency medical treatment and ultimately survived his wounds.

Mr. Shuron (the husband of Ms. Ames and Mr. Ward's stepfather) was identified as the shooter. Detectives located and arrested Mr. Shuron on July 20, 2022. Mr. Shuron was then indicted on one count of attempted first-degree murder, one count of attempted second-degree murder, one count of first-degree assault, one count of use of a firearm in the commission of a crime of violence, one count of illegally possessing a regulated firearm, one count of wearing, carrying and transporting a handgun on and about the person, one count of wearing, carrying and transporting a loaded handgun in a vehicle, and one count of discharging a firearm within the City of Baltimore.

B. Mr. Shuron's Trial

At trial, Mr. Shuron did not dispute that he shot Mr. Ward. Instead, Mr. Shuron claimed self-defense and disputed the sequence of events leading up to the shooting. Mr. Shuron did not contest that he was prohibited from possessing a firearm though.[2] The jury trial in the Circuit Court for Baltimore City began on June 20, 2023.

The State theorized that Mr. Shuron was the initial aggressor. To prove he was, the State called Ms. Ames, the investigating police officers, and a forensic scientist as

[2] The parties stipulated that "[t]he State and [Mr. Shuron] hereby agree and stipulate that [Mr. Shuron] is prohibited from possessing a regulated firearm due to a disqualifying conviction." Mr. Shuron was convicted in 2002 for "Possession with Intent to Distribute Narcotics."

witnesses. Although the State sought to call Mr. Ward to testify as a witness, too, Mr. Ward invoked his Fifth Amendment rights and the trial court denied the State's motion to compel his testimony. Ms. Jones did not testify at trial.

In her testimony, Ms. Ames provided an eyewitness account of what occurred at the restaurant on May 13, 2022. She had owned and operated the restaurant for several years and she had shown up early that morning to prepare the restaurant for its noon opening. Her husband, Mr. Shuron, had gone out in the morning to purchase restaurant supplies and a pizza for their lunch. Ms. Ames explained that Mr. Shuron and his friend, Matthews Dixon, were at the restaurant that day because they planned to hang up TVs in the restaurant later in the afternoon. Ms. Ames's son, Mr. Ward, was also there to help open the restaurant and was working at the front taking orders from customers while Ms. Ames operated the kitchen.

According to Ms. Ames, Mr. Shuron and Mr. Ward were arguing throughout the day of the shooting. None of Ms. Ames' children had a good relationship with Mr. Shuron, and Mr. Ward wanted to leave the restaurant because Mr. Shuron was there. Although Ms. Ames repeatedly asked Mr. Shuron to stay in the back area—away from Mr. Ward—where Mr. Shuron had been eating lunch and mounting the TVs with Mr. Dixon, Mr. Shuron came to the front part of the restaurant several times and "started an argument" with Mr. Ward. She then recalled Mr. Shuron inviting Mr. Ward to go outside.

Ms. Ames portrayed Mr. Shuron as the initial aggressor leading up to the shooting itself. At some point when Mr. Shuron came up to the front of the restaurant, Ms. Ames described that Mr. Shuron "lunged across the counter" where Mr. Ward was stationed in response to something Mr. Ward said to him. Ms. Ames recalled that Mr. Shuron then went to the back of the restaurant for nearly five minutes before returning to the front with a gun. Mr. Ward was preparing to leave. Ms. Ames testified that Mr. Shuron was "close up on" Mr. Ward when he shot him, and that Mr. Shuron "started beating him in the head with the gun" after Mr. Ward dropped to the ground. She further explained that she tried to wrestle Mr. Shuron off Mr. Ward and eventually succeeded when Mr. Dixon came from the back to help pull Mr. Shuron away. Mr. Shuron ultimately left through the back of the restaurant and drove away in his car. Ms. Ames then called 911.

During her trial testimony, Ms. Ames stated that she could not recall if Mr. Ward had a knife during the altercation. As she explained it, there "was so much going on at the moment." However, she acknowledged previously telling detectives that Mr. Ward had a knife and that he cut Mr. Shuron across the face during the altercation, and that Mr. Ward had washed the knife after Mr. Shuron left.

The police investigators discussed the physical evidence related to the shooting. A single "fired cartridge casing" from a nine-millimeter handgun was found near the register area of the restaurant, fingerprints were lifted from the rear door of the restaurant, and suspected blood was swabbed from the area where Mr. Ward was shot as well as from the sink area—where two knives were located. The knives in the sink had not been

collected, though, because there was no obvious blood on them. Detective Christopher Ott confirmed that Ms. Ames told the police that Mr. Ward had washed the knife "immediately following Mr. Shuron's exit." The results from the fingerprint testing and blood swabs were not provided at trial.[3]

Detective Ott also discussed what video evidence existed. Investigators retrieved and reviewed footage from a camera on a residence behind the restaurant; this footage showed Mr. Shuron leaving the restaurant after the shooting but otherwise did not show him coming outside or going to his vehicle. Although the restaurant had several cameras inside, detectives were unable to access the footage and Ms. Ames had not made herself available to help.[4] During cross examination, Mr. Shuron's counsel attempted to ask Detective Ott whether he subpoenaed the camera footage from within the restaurant, but the trial court sustained the State's objection to the question. Instead, Mr. Shuron's counsel elicited from Detective Ott that the investigators had not used their "police powers" to obtain the footage.

Mr. Shuron testified that he acted in self-defense. He largely corroborated Ms. Ames's account from the morning of May 13, 2022, but his description of Mr. Ward's conduct differed. Mr. Shuron first noted that Mr. Ward was acting

[3] When asked about the results of the blood tests, Detective Ott testified that, as far as he knew, the blood swabs had been tested but "[n]othing came back for [the tests]."

[4] In her own testimony, Ms. Ames claimed that Mr. Shuron was the one who set up and controlled the restaurant's cameras, and that she was unable to access them herself.

disrespectfully to Ms. Ames after Mr. Ward arrived late for work at the restaurant. Mr. Shuron explained that he "just stayed out of it" but went to the front of the restaurant to get napkins for his lunch. Then, while he was up front, Mr. Ward disrespected him and "hurl[ed] insults" at him, too, so Mr. Shuron "invited [Mr. Ward]" to "come in the back and have a conversation as opposed to in the front where the customers were." At that point, Mr. Shuron recounted, Mr. Ward grabbed a knife and told him he was going to kill him.

Mr. Shuron testified that he shot Mr. Ward after Mr. Ward swung a knife at him and cut him across the face. According to Mr. Shuron, Ms. Ames had been between them, but Mr. Ward pushed her out of the way and came at Mr. Shuron with the knife. Mr. Shuron acknowledged he had a gun on him the entire time he was in the restaurant and claimed that he always carried one while at the restaurant "for protection of [himself] and [his] family." After he shot Mr. Ward once, Mr. Shuron explained that they were "tussling," and that he "struck [Mr. Ward] a couple times trying to get him off[.]" Mr. Shuron then left the restaurant. Mr. Shuron also refuted Ms. Ames's claim that he was the only one with access to the restaurant's camera system as "absolutely untrue." Instead, he claimed that he installed the app to control the cameras on Ms. Ames's phone rather than his own and he was unaware of any other way to access the system remotely.

Mr. Dixon also testified for the defense. A lifelong friend of Mr. Shuron, Mr. Dixon explained that he was at the restaurant helping Mr. Shuron mount TVs in the back portion of the restaurant. Mr. Dixon was only there for about fifteen minutes and

was about to start drilling into the wall for the TV mounts when he heard an argument from the front of the restaurant followed by a "pop." When he went to the front, "it looked like it was a lot of confusion going on." Mr. Dixon testified that Mr. Ward was "swinging a knife wildly," and Mr. Dixon saw blood on Mr. Shuron's face and on Mr. Ward's shirt. Mr. Dixon then grabbed Mr. Shuron by his shirt and helped drag him out towards the exit at the rear of the restaurant. Mr. Dixon left out the back after Mr. Shuron did.

The jury acquitted Mr. Shuron of attempted first-degree murder and attempted second-degree murder. Mr. Shuron was found guilty on charges of: (1) attempted voluntary manslaughter; (2) use of a firearm in the commission of a crime of violence; (3) illegal possession of a regulated firearm; (4) wearing, carrying, or transporting a handgun on or about the person; (5) wearing, carrying, or knowingly transporting a handgun in a vehicle; and (6) discharging a firearm within Baltimore City. He was sentenced to an aggregate term of thirty-five years, with all but twenty years suspended, no possibility of parole for the first ten years, and a five-year probationary term.[5] Mr. Shuron then noted this timely appeal.

[5] Mr. Shuron's sentence breaks down as follows: (1) fifteen years for the use of a firearm in a felony or crime of violence; (2) a consecutive ten-year term, with all but five years suspended but without the possibility of parole, for the illegal possession of a firearm; (3) a concurrent three-year term for wearing, carrying, or transporting a handgun in a vehicle; (4) a concurrent one-year term for discharging a firearm; and (5) a consecutive ten-year term, fully suspended in favor of five years' probation, for attempted voluntary manslaughter. Mr. Shuron's conviction for wearing, carrying, or transporting a handgun on the person merged with his use of a firearm in a felony or crime of violence conviction for sentencing purposes.

Additional facts are provided as necessary in our discussion.

STANDARD OF REVIEW

We review questions of law and constitutional interpretation de novo. *See, e.g.*, *State v. Hart*, 449 Md. 246, 264 (2016). *See also Pizza di Joey, LLC v. Mayor of Balt.*, 470 Md. 308, 309 (2020) ("The proper scope of a constitutional right, and its application to a particular set of facts, are issues of law.").

DISCUSSION

I. Mr. Shuron Failed to Preserve His Due Process Challenges.

A. The Parties' Contentions

Mr. Shuron first contends that the trial court violated his Due Process rights. First, Mr. Shuron asserts that the trial court impermissibly interfered with his trial testimony. Mr. Shuron notes ten specific points during his direct examination at trial where the trial court "curtailed his testimony," with a cumulative effect of preventing Mr. Shuron from presenting his own defense in his own words. Secondly, Mr. Shuron argues that the trial court impermissibly prevented him from a "full inquiry into the police investigation" during his cross examination of Detective Ott. By sustaining the State's objection to his question about the State's failure to subpoena the camera footage from inside the restaurant, Mr. Shuron asserts that the trial court prevented an important inquiry into the State's case against him. Mr. Shuron concludes that both errors "independently and cumulatively" violated his Due Process rights, and neither was harmless.

The State disagrees. As to Mr. Shuron's first contention, the State argues that Mr. Shuron's claims fail "for reasons of non-preservation, acquiescence, inadequate

briefing, lack of merit, and/or harmlessness." To the extent they are preserved, the State contends that Mr. Shuron's Due Process rights were not violated by the trial court excluding his testimony; rather, the trial court only exercised its ordinary function to exclude inadmissible testimony. Mr. Shuron's second contention fails, claims the State, because, again, the "trial court merely, and properly, barred a question about subpoenas."

B. Analysis

We begin our analysis of this issue by addressing the preservation of Mr. Shuron's arguments. "Ordinarily, an appellate court will not decide any [non-jurisdictional] issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]" Md. Rule 8-131(a)(1). The purpose of this appellate preservation requirement is to "ensure fairness" for the litigants as well as "to promote the orderly administration of law." *Ray v. State*, 435 Md. 1, 22 (2013). Moreover, "[i]t is particularly important not to address a constitutional issue not raised in the trial court in light of the principle that a court will not unnecessarily decide a constitutional question." *Balt. Tchrs. Union, Am. Fed'n of Tchrs., Local 340, AFL-CIO v. Md. State Bd. of Educ.*, 379 Md. 192, 205–06 (2004). As we understand it, although Mr. Shuron contends that the trial court's individual rulings were incorrect—both during his direct examination and his cross examination of Detective Ott—he instead focuses in this appeal on the cumulative effect of the trial court's rulings to argue that his constitutional Due Process was violated.

To be sure, an accused has a fundamental Due Process right to "present [their] own version of events in [their] own words." *Burnside v. State*, 459 Md. 657, 669 (2018)

(quoting *Rock v. Arkansas*, 483 U.S. 44, 52 (1987)). This right is a "necessary corollary" of the right "to be heard and to offer testimony" as well as the "guarantee against compelled testimony." *Rock*, 483 U.S. at 52. This right is not unlimited, however, and "may, in appropriate cases, bow to accommodate other legitimate interests in the criminal trial process." *Id.* at 55 (quoting *Chambers v. Mississippi*, 410 U.S. 284, 295 (1973)). Among the limitations on this right is that "state and federal rulemakers have broad latitude under the Constitution to establish rules excluding evidence from criminal trials." *United States v. Scheffer*, 523 U.S. 303, 308 (1998). Rules of evidence only violate an accused's Due Process rights if they are "arbitrary" or "disproportionate to the purposes they are designed to serve." *Id.* In other words, an exclusion of evidence only violates an accused's Due Process rights where a "weighty interest" of the accused is infringed upon. *Id.*

So, too, an accused's Due Process rights include "the right to raise a defense based on the lack of evidence presented by the State." *Atkins v. State*, 421 Md. 434, 452 (2011) (citing *Sample v. State*, 314 Md. 202, 207 (1988)). *See also Eley v. State*, 288 Md. 548, 551 (1980) (holding that the trial court erred by "precluding counsel from arguing the logical inferences from the facts and gaps in [the] evidence[.]"). In *Atkins*, the Court determined that the trial court violated the defendant's Due Process rights when it "effectively plugged a hold in the State's case" by providing a jury instruction that "invaded the province of the jury" by commenting on the lack of specific evidence. *Atkins*, 421 Md. at 453. In essence, the trial court's instruction "directed the jury to ignore

the fact that the State had not presented evidence connecting the knife to the crime, implying that the lack of such evidence is not necessary or relevant to the determination of guilt, and to disregard any argument by defense to the contrary." *Id.*

During Mr. Shuron's trial, however, he never raised any Due Process concerns with the trial court, and the trial court did not decide the issue of its own volition. Despite the trial court's repeated rulings excluding portions of Mr. Shuron's testimony[6] as well as its exclusion of Mr. Shuron's question during Detective Ott's cross examination about the use of a subpoena,[7] Mr. Shuron did not object to a violation of his Due Process rights.[8]

[6] We lay out the portions of Mr. Shuron's testimony during his direct examination that the trial court sustained objections to in Appendix 1.

[7] We provide the portion of Mr. Shuron's cross-examination of Detective Ott where the trial court sustained the State's objection to Mr. Shuron's subpoena question in Appendix 2.

[8] Moreover, Mr. Shuron did not even contest the trial court's rulings on each individual evidentiary ruling and thus failed to preserve challenges to the individual rulings as well. *See* Appendices 1 & 2.

Mr. Shuron's only claim of admissibility for the excluded evidence during his direct examination is that his testimony in each instance was nonhearsay or fell within a hearsay exception. Mr. Shuron, however, did not raise such theories of admissibility before the trial court as is required. *See Ndunguru v. State*, 233 Md. App. 630, 637 (2017) ("On appeal, the proponent cannot argue either that the evidence was admissible as nonhearsay or falls within a particular hearsay exception, unless the proponent made that particular argument below.") (citing 5 Lynn McLain, *Maryland Evidence, State and Federal*, § 103:20 (May 2017)). To the extent that Mr. Shuron's counsel did approach the

(footnote continued)

Nor did he attempt to raise such a claim at any other point in his trial. In other words, Mr. Shuron's arguments on appeal were never raised nor decided by the trial court. *See* Md. Rule 8-131(a)(1). Accordingly, this issue is not preserved for our review.

II. Mr. Shuron Failed to Preserve his Second Amendment Challenges.

A. The Parties' Contentions

Mr. Shuron next argues that his Second Amendment rights were violated by his convictions under Maryland Code, Criminal Law ("CR") § 4-203, and Maryland Code, Public Safety ("PS") § 5-133(c). He contends that these statutes are unconstitutional as applied to him.[9]

trial court in a bench conference to complain that he was "lost as to how the State is allowed to elicit what my client's statements were that day and I'm not allowed to[,]" we see no error in the trial court's ruling excluding Mr. Shuron from eliciting his *own* statements on direct examination despite allowing the State to previously elicit Mr. Shuron's statements. *See* Md. Rule 5-803(a) (excluding statements of a party *opponent* from the definition of hearsay).

As for his question about Detective Ott's use of a subpoena, Mr. Shuron did not offer a ground for admissibility at trial nor does he respond to the State's theories that the trial court could have found the use of the word "subpoena" to be inadmissible under Md. Rule 5-403. Instead, at trial, Mr. Shuron merely adjusted his questioning to use the term "police powers" instead of "subpoena"—to which he received no further objection.

[9] In a footnote within his brief, Mr. Shuron contends that "insofar as *Rahimi* and its family of Second-Amendment cases facially invalidate the firearms statutes under which Mr. Shuron was charged, his convictions under those statutes must also be reversed." Maryland Rule 8-504(a)(6), however, requires "[a]rgument in support of the party's position on each issue." As Mr. Shuron fails to provide any argument that the statutes he was convicted under for his firearms offenses are facially unconstitutional, we will not address a facial challenge to the statutes. *See Silver v. Greater Balt. Med. Ctr., Inc.*, 248 Md. App. 666, 688 n.5 (2020) ("A single sentence is insufficient to satisfy [Rule 8-504(a)(6)]'s requirement.").

As to CR § 4-203, Mr. Shuron asserts that the statute makes a "faulty presumption" by entirely prohibiting carrying a handgun on the person and in a vehicle without an applicable exception. He further contends that "as applied to Mr. Shuron through the trial court's jury instructions, the statute provided for *no exceptions*," thus requiring "the jury to convict merely for finding Mr. Shuron was exercising the right to carry a handgun on his person or in his vehicle."

Addressing his conviction under PS § 5-133(c), Mr. Shuron similarly argues that it is unconstitutional as applied to him. Since his predicate offense was a drug crime and "did not touch on a finding of violence," Mr. Shuron contends that it was "insufficient to justify a firearm-possession conviction[.]" Mr. Shuron asserts that he was prejudiced because "the State attempted to situate all of Mr. Shuron's actions in a foundation of illegality, by suggesting that he 'carr[ied] an illegal firearm' with him, and thus '[wa]s not safe.'"

Mr. Shuron acknowledges that he did not raise the unconstitutionality of either statute before the trial court and that he stipulated to his disqualification to possess a firearm under PS § 5-133(c). Mr. Shuron argues, however, that the U.S. Supreme Court's decision in *United States v. Rahimi*, 602 U.S. 680 (2024), warrants plain error review and negates his knowledge of the constitutional right he waived when he stipulated to his disqualification to possess a firearm.

In response to Mr. Shuron's arguments, the State disagrees that Mr. Shuron's unpreserved Second Amendment claims warrant plain error review. The State contends

that "*Rahimi* did not create the text- and history-based test for analyzing firearms regulations; that test was articulated in *Bruen*, decided about eleven months *before* [Mr.] Shuron's trial." In the State's view, Mr. Shuron failed to litigate any Second Amendment claim before the trial court, and plain error review is particularly inappropriate here where Mr. Shuron's counsel "conceded 'the gun count' and 'the handgun' during closing argument, raising the possibility that counsel's strategy was to give jurors the option to convict only on a firearm charge."

The State also contests Mr. Shuron's Second Amendment claims on the merits. The State argues that CR § 4-203 "could lawfully be applied to [Mr.] Shuron." According to the State, prohibitions on unlicensed public carrying of firearms are lawful, and Mr. Shuron was lawfully barred from obtaining a permit based on his prior drug felony conviction. Further, the State asserts that the trial court's jury instructions were not erroneous—and that Mr. Shuron never objected to them. As to his conviction under PS § 5-133(c), the State argues that, under Second Amendment jurisprudence, "the State's power to disarm convicted criminals is not limited to those with convictions for violent crimes." Thus, the State concludes that Mr. Shuron is not entitled to any relief.

B. The Second Amendment

The Second Amendment to the United States Constitution provides "[a] well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II. The Supreme Court has applied Second Amendment protections to the states through the Fourteenth

Amendment as part of the selective incorporation process. *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010).

"The analytical starting point in any modern-day Second Amendment case is the Supreme Court's decision in *Heller*." *Fooks v. State*, 255 Md. App. 75, 89 (2022). In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court extensively analyzed the language and construction of the Second Amendment to further delineate the protections it affords. Separating the Second Amendment's language into a "prefatory" clause and an "operative" clause, the Court determined that the prefatory clause "announces a purpose" for the operative clause. *Heller*, 554 U.S. at 577. Structured in that way, the Court concluded that the Second Amendment "surely elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home." *Id.* at 635. *See also McDonald*, 561 U.S. at 767 (quoting *Heller*, 554 U.S. at 599, that "individual self-defense is 'the central component' of the Second Amendment right.").

In *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), the Supreme Court discussed the Second Amendment test for analyzing regulations on firearm possession and usage. Addressing its previous decision in *Heller*, the Court explained that Second Amendment analysis requires a "methodology centered on constitutional text and history." *Id.* at 22. Thus, the proper standard for applying the Second Amendment is as follows:

> When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must

> then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. Only then may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command."

Id. at 24 (citation omitted). The Court acknowledged that "historical analysis can be difficult" and may require "nuanced judgments about which evidence to consult and how to interpret it." *Id.* at 25 (cleaned up).

In *Bruen*, the Court struck down the New York regulatory framework at issue as violative of the Second Amendment. The statute at issue prohibited the possession of firearms without a license—both inside and outside the home—and imposed a "proper cause" requirement for obtaining a license. *Id.* at 11–13. First, the Court had "little difficulty concluding" that the statute covered conduct (carrying handguns publicly for self-defense) protected by the Second Amendment. *Id.* at 32. Second, the Court determined that no appropriate historical comparison existed for a firearm regulation that "required law-abiding, responsible citizens to demonstrate a special need for self-protection distinguishable from that of the general community in order to carry arms in public." *Id.* at 70. Therefore, because it was not consistent with American historical tradition of firearm regulation, the statutory requirement for "proper cause" to obtain a permit to carry a handgun was unconstitutional. *Id.* at 38–39, 71.[10]

[10] The Court's opinion said nothing about the constitutionality of "shall-issue" permitting schemes. *Bruen*, 597 U.S. at 38 n.9. *See also id.* at 79 (Kavanaugh, J., concurring). In Maryland, a similar "proper cause" permitting scheme to the one struck down in *Bruen* has since been deemed unconstitutional. *See Matter of Rounds*, 255 Md. App. 205 (2022).

A year after Mr. Shuron's trial, the Supreme Court's decision in *United States v. Rahimi*, 602 U.S. 680 (2024), illustrated the nuance required when interpreting historical comparisons for firearm regulations. The petitioner in *Rahimi* challenged a federal statute prohibiting individuals subject to restraining orders predicated on domestic violence from possessing firearms. *Id.* at 684–86. A restraining order had been issued against the petitioner after findings of "family violence," and that he posed "a credible threat" to the physical safety of his girlfriend and child. *Id.* at 687. The restraining order also suspended the petitioner's gun license for two years. *Id.*

In essence, the Supreme Court's decision in *Rahimi* clarified that a modern firearm regulation need only have a "historical analogue," not a "historical twin," in order to satisfy the Second Amendment. *Rahimi*, 602 U.S. at 701. Thus, the Court reversed a determination by the Fifth Circuit that the statute did not have an adequate basis in American historical tradition of firearm regulation. *Id.* at 701. Instead, the Supreme Court upheld the statute's constitutionality following the conclusion that "[a]n individual found by a court to pose a credible threat to the physical safety of another may be temporarily disarmed consistent with the Second Amendment." *Id.* at 702.

Moreover, in *Rahimi*, the Supreme Court reiterated that "prohibitions, like those on the possession of firearms by 'felons and the mentally ill,' are 'presumptively lawful.'" *Rahimi*, 602 U.S. at 699 (quoting *Heller*, 554 U.S. at 626). *See also McDonald*, 562 U.S. at 786 ("We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as prohibitions on the possession of firearms by felons

and the mentally ill"); *Bruen*, 597 U.S. at 80–81, 129 (Kavanaugh, J., concurring; Breyer, J., dissenting).

After *Rahimi* was decided, the Maryland Supreme Court affirmed the presumptive validity of statutes that dispossess felons of firearms in *Fooks v. State*, ___ Md. ___, 2025 WL 1604460 (filed June 6, 2025). *Fooks* involved a Second Amendment challenge to the defendant's conviction under PS § 5-133(b)(2), prohibiting individuals from possessing firearms if they have a previous conviction for a common law crime and received a prison sentence of greater than two years. *Id.* at *2. Four years before being charged under PS § 5-133(b)(2), the defendant had been convicted of criminal contempt after willfully failing to pay child support and had received a four year and six-month sentence as a result. *Id.* at *3. The defendant raised both a facial and an as-applied constitutional challenge to his conviction under PS § 5-133(b)(2), claiming that the statute is overly broad because it disqualifies individuals from possessing firearms based on conduct that is not related to dangerousness—including his own criminal contempt conviction. *Id.* at *18.

The Court upheld the constitutionality of PS § 5-133(b)(2) both on its face and as applied to the defendant. *Id.* at *24. The Court first determined that PS § 5-133(b)(2) is the "equivalent of a prohibition on the possession of firearms by felons" because it only applies to individuals that committed offenses that the "legislative body has deemed serious enough to be eligible for a significant term of imprisonment." *Id.* at *16 (cleaned up). The Court then rejected the defendant's arguments that firearm regulations are only

constitutional when they are premised on the prohibited individual's dangerousness. *Id.* at *18–19. Instead, the Court relied on both the United States Supreme Court's "repeated assurances of the lawfulness of bans on the possession of firearms by felons[,]" as well as the "Nation's historical tradition of firearms regulation" of felons to reach the conclusion that PS § 5-133(b)(2) was facially constitutional. *Id.* at *2. And, because the defendant's previous criminal contempt conviction was a felony (due to the length of the prison sentence imposed), the law was constitutional as applied to him. *Id.* at *23.

C. Mr. Shuron's Firearms Convictions

Mr. Shuron was convicted of firearm offenses under: (1) CR § 4-203; and (2) PS § 5-133(c).[11] These provide, in relevant part:

[11] Mr. Shuron was also convicted of firearm offenses under CR § 4-204 and Baltimore City Code ("BCC"), Article 19 § 59-2. The pertinent parts of these statutes provide:

CR § 4-204:

> (b) A person may not use a firearm in the commission of a crime of violence . . . or any felony, whether the firearm is operable or inoperable at the time of the crime.

BCC § 59-2:

> (a) If any person shall fire or discharge any gun, pistol, or firearm within the City, unless it be on some occasion of military parade, and then by order of some officer having the command, every such person for every such offense shall be guilty of a misdemeanor and, upon conviction, pay a fine not to exceed $1,000, or be imprisoned for a term not to exceed 1 year, or both.

Mr. Shuron's conviction under CR § 4-204 merged with his conviction under CR § 4-203, though, and he does not challenge his convictions under CR § 4-204 or BCC § 59-2 in this appeal.

CR § 4-203:

(a)(1): Except as provided in subsection (b) of this section, a person may not:

(i) wear, carry, or transport a handgun, whether concealed or open, on or about the person;

(ii) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State;

. . .

PS § 5-133:

(c)(1): A person may not possess a regulated firearm if the person was previously convicted of:

(i) a crime of violence;

(ii) a violation of § 5-602 . . . of the Criminal law article;

. . .

D. Analysis

On the threshold matter of preservation, Mr. Shuron did not preserve his Second Amendment claims by raising them before the trial court—a point he readily concedes. *See* Md. Rule 8-131(a) ("Ordinarily, an appellate court will not decide any [non-jurisdictional] issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]"). Instead, Mr. Shuron argues that his otherwise unpreserved claims warrant plain error review.

The "rare, rare phenomenon" of plain error review does allow an appellate court to address an otherwise unpreserved claim. *Pitts v. State*, 250 Md. App. 496, 528–29, *cert. denied*, 475 Md. 714 (2021). However, plain error review requires four conditions: (1) the appellant must not have affirmatively waived the error; (2) the error or defect must be "clear or obvious, rather than subject to reasonable dispute"; (3) the error must

affect the "substantial rights" of the appellant; and (4) the error must "seriously affect the fairness, integrity or public reputation of judicial proceedings." *Newton v. State*, 455 Md. 341, 364 (2017) (cleaned up). In short, the error must be "so material to the rights of the accused as to amount to the kind of prejudice that precluded an impartial trial." *Id.* (cleaned up).

Mr. Shuron stakes his claim for plain error review on the Supreme Court's decision in *Rahimi*. 602 U.S. 680.[12] According to Mr. Shuron, each of the four conditions for plain error review are met because: (1) Mr. Shuron could not have "intentionally relinquished" his arguments based on *Rahimi* because it was decided after his trial concluded; (2) the "constitutional error in the application of § 4-203 to Mr. Shuron through the [circuit] court's jury instruction is obvious"; (3) Mr. Shuron's substantial rights were affected because the State was relieved of the burden to prove all the elements of the offense; and (4) the error contravenes a fundamental constitutional right.

To be sure, we "may exercise plain error review when there is a failure to raise an issue at trial that becomes relevant when there is a relevant post-trial [United States] Supreme Court or [Maryland Supreme Court] ruling changing the legal standard

[12] To the extent that Mr. Shuron contends that this Court should apply plain error review due to erroneous jury instructions, he contends that the jury instructions were erroneous based on the United States Supreme Court's decision in *Rahimi* as well.

concerning the issue." *McCain v. State*, 194 Md. App. 252, 277–78 (2010).[13] Two important caveats are presented, however, within this principle. First, the decision requires a change in the relevant legal standard. *Id.* Second, our decision to take up plain error review under such circumstances remains a discretionary one. *See, e.g.*, *Lopez-Villa v. State*, 478 Md. 1 (2022) (declining to extend plain error review despite acknowledging a pertinent change in law).

We are unconvinced that *Rahimi* changed the standard we would apply to determine whether the firearm statutes applied to Mr. Shuron are constitutional. As we described above, *Rahimi* serves to clarify that the *Bruen* test does not require a challenged regulation to have "a 'dead ringer' or a 'historical twin'" to survive Second Amendment scrutiny. *Rahimi*, 602 U.S. at 692 (quoting *Bruen*, 597 U.S. at 30). Even Mr. Shuron acknowledges as much, arguing that "[t]he *Rahimi* Court *clarified* that a statute makes a 'faulty presumption'—and thus is not presumptively lawful—when it 'presume[s] that no citizen had [a right to carry], absent a special need." (emphasis added). In fact, the very language Mr. Shuron selects from *Rahimi* to support his position

[13] *McCain* was decided prior to a Maryland Constitutional Amendment that took effect in November 2022 that renamed (1) the "Maryland Court of Appeals" as the "Maryland Supreme Court"; and (2) the "Maryland Court of Special Appeals" as the "Maryland Court of Appeals." *See, e.g.*, *State v. Krikstan*, 483 Md. 43, 49 n.3 (2023). Although *McCain* identified the courts that may announce changes in relevant legal standards warranting plain error review as the "Supreme Court or Court of Appeals," *McCain*, 194 Md. App. at 278, we apply this to the same courts but by the names they use today.

comes from the *Rahimi* Court's rearticulation of its decision in *Bruen*. *See Rahimi*, 602 U.S. at 699–700.

More importantly, *Rahimi* offers no new insight into the presumptive lawfulness (or unlawfulness) of firearms regulations prohibiting felons like Mr. Shuron from possessing firearms.[14] In an attempt to overcome this conclusion, Mr. Shuron cites to numerous decisions from federal courts applying *Rahimi* to support his contention that *Rahimi* created a new principle that firearm regulations prohibiting individuals from possessing firearms based on prior drug convictions do not equate to an adequate historical analogue—and thus are unlawful.[15] However, these cases involve further extensions of *Rahimi* beyond the holding *Rahimi* itself presents. Indeed, *Rahimi* emphasized that "prohibitions, like those on the possession of firearms by 'felons and the mentally ill,' are 'presumptively lawful.'" *Rahimi*, 602 U.S. at 699 (quoting *Heller*, 554

[14] Mr. Shuron argues that his stipulation to being disqualified from possessing a firearm "no longer withstands constitutional scrutiny[,]" because he had no knowledge of the rights he was waiving since "the Supreme Court had not yet clarified the Second Amendment's application to circumstances such as this through *Rahimi*." Because we read *Rahimi* to not create any additional rights and as merely clarifying the test laid out in *Bruen*, we disagree that Mr. Shuron was unaware of the rights he was waiving by entering into the stipulation. Further, to the extent any error exists (which we do not decide), it was an invited error. *See Rich v. State*, 415 Md. 567, 575–76 (2010) (discussing the inapplicability of plain error review to invited errors).

[15] Mr. Shuron cites to *United States v. Connelly*, 117 F.4th 269 (5th Cir. 2024), *United States v. Hostettler*, 729 F. Supp. 3d 756 (N.D. Ohio 2024), and *United States v. Quailes*, 688 F. Supp. 3d 184 (M.D. Pa. 2023). Since we only engage in plain error review based on a relevant change in law from a United States Supreme Court or a Maryland Supreme Court decision, *see McCain*, 194 Md. App. at 277–78, we need not analyze whether these cases support Mr. Shuron's view of the case.

U.S. at 626). The plain language of *Rahimi* makes no distinction between felons with prior convictions for drug offenses from those who committed crimes of violence. Moreover, Maryland law post-*Rahimi* is unequivocal that prohibitions on the possession of firearms by felons are presumptively lawful. *Fooks*, 2025 WL 1604460 at *17–18. Consequentially, we see no new relevant legal rule to justify plain error review based on the Supreme Court's decision in *Rahimi*.

Accordingly, we decline to exercise our discretion to take up Mr. Shuron's Second Amendment arguments under plain error review. Even if *Rahimi* does offer a change in the relevant legal standard, we perceive no error in Mr. Shuron's case warranting the "rare, rare, phenomenon" of plain error review. *See Pitts*, 250 Md. App. at 528 (quoting *Morris v. State*, 153 Md. App. 480, 507 (2003), *cert. denied* 380 Md. 618 (2004)).[16] Because plain error review is inapplicable and Mr. Shuron otherwise failed to preserve his Second Amendment claims, we do not address them on the merits.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS ARE TO BE PAID BY APPELLANT.

[16] Indeed, even if we misinterpret *Rahimi* and it does announce a new legal standard, we fail to see how any change from *Rahimi* would advance Mr. Shuron's position. If anything, the novelty of *Rahimi* is that a firearm regulation only requires a "historical analogue" rather than a "historical twin" to withstand scrutiny. *See Rahimi*, 602 U.S. at 683. As a result, the scope of constitutional firearm regulations was *expanded* by *Rahimi*. Thus, it is unclear how *Rahimi*—that expands the universe of constitutional firearm prohibitions—would excuse Mr. Shuron's failure to raise any Second Amendment challenge whatsoever during the proceedings below.

APPENDIX 1

[DEFENSE COUNSEL]: Okay. Inside of that hour before Mr. Dixon arrived, did you have anything unusual occur?

[MR. SHURON]: Well, I'm not going to say it was unusual. But [Mr. Ward] arrived a little later than he was supposed to. And his mother began to, you know, admonish him for --

[PROSECUTOR]: Objection.

[DEFENSE COUNSEL]: Okay you --

[THE COURT]: Sustained.

[DEFENSE COUNSEL]: You can't say what other people say.

[MR. SHURON]: Okay. Well, he arrived late. And for whatever reason he had, you know, an attitude.

[PROSECUTOR]: Objection.

[THE COURT]: Sustained.

[DEFENSE COUNSEL]: Now, at this point in time, prior to the arrival of Mr. Dixon, and the only reason I'm segmenting that time is because that is when the TVs were to be moved. Now prior to that, were there any issues or altercations between you and anyone else?

[MR. SHURON]: Well, yes. In moving around the restaurant, putting things away, you know, in passing, [Mr. Ward] would, you know, do kind of like childish things like try to bump me, you know, kind of mean mug me. And this was something that happened quite regularly. He would do this. And then, you know, his mom would say -- well, babe, you know --

[PROSECUTOR]: Objection.

[THE COURT]: Sustained. You can't tell us what somebody said.

. . .

[DEFENSE COUNSEL]: Okay. While this was occurring, what, if anything, else happened?

[MR. SHURON]: In passing, [Mr. Ward], kind of, you know, tried to bump me like he does. And you know, I mentioned to my wife that --

[PROSECUTOR]: Objection.

[THE COURT]: Sustained.

[DEFENSE COUNSEL]: Without saying what your wife said, what did you mention to your wife?

[PROSECUTOR]: Objection.

[THE COURT]: No sustained.

[DEFENSE COUNSEL]: Your Honor, he is not allowed to say what he said?

[THE COURT]: It is an out of court statement. Isn't it?

[DEFENSE COUNSEL]: May we approach?

[THE COURT]: You may.

(Whereupon, a conference was held at the bench.)

[THE COURT]: Yes, he has to come.

[DEFENSE COUNSEL]: My client's --

[THE COURT]: Own statement, it is not against his penal interest, right? It is his own statement. It is his out of court statement offered for the truth of the matter asserted, right?

[DEFENSE COUNSEL]: No. Because he is just talking about what he said to his wife leading up to everything. And --

[THE COURT]: It is what he said.

[DEFENSE COUNSEL]: My client's statements are things that -- I'm just lost as to how the State is allowed to elicit what my client's statements were that day and I'm not allowed to.

[THE COURT]: I didn't hear any objections. I sure would have sustained some of them.

[DEFENSE COUNSEL]: Okay.

(Whereupon, the conference at the bench concluded.)

[DEFENSE COUNSEL]: Mr. Shuron, after your stepson bumped into you and had the other issues, what, if anything, did you do?

[MR. SHURON]: Told my wife I wasn't comfortable with --

[PROSECUTOR]: Objection.

[DEFENSE COUNSEL]: What actions did you do?

[MR. SHURON]: Just tried to keep my distance from him.

[DEFENSE COUNSEL]: Okay. And what happened next?

[MR. SHURON]: My wife went to the front to make some scallops for us that I picked up from the store. She just said hold on --

[PROSECUTOR]: Objection.

[DEFENSE COUNSEL]: You can't say what she said.

[MR. SHURON]: Okay.

[DEFENSE COUNSEL]: But when she is up in the kitchen and she is making the scallops, where is -- where is your stepson?

[MR. SHURON]: He is upstairs, I believe, on the third floor.

[DEFENSE COUNSEL]: Okay. What happened next?

[MR. SHURON]: She called him downstairs.

[DEFENSE COUNSEL]: Okay. And then what happened?

[MR. SHURON]: She asked me to go to the back while --

[PROSECUTOR]: Objection.

[MR. SHURON]: -- she have a conversation with him.

[THE COURT]: Overruled.

. . .

[DEFENSE COUNSEL]: And what happened when you came back to the front?

[MR. SHURON]: My wife says, Victor --

[PROSECUTOR]: Objection.

[THE COURT]: You can't tell us what somebody else said. So I think the question was what did you do.

[MR. SHURON]: I came back to the front and observed.

[DEFENSE COUNSEL]: Okay. And what did you observe?

[MR. SHURON]: I observed her tell him he could leave.

[PROSECUTOR]: Objection.

[DEFENSE COUNSEL]: You observed a conversation?

[MR. SHURON]: I observed them having an argument.

[DEFENSE COUNSEL]: Okay. And during the course of the argument, what happened next? In other words, just what happened next?

[MR. SHURON]: He turned to me and asked me what the F am I looking at.

[PROSECUTOR]: Objection.

[THE COURT]: So it is not the words that somebody says. It is either what you did or what you saw.

. . .

[DEFENSE COUNSEL]: So once you produced the gun, what happened next?

[MR. SHURON]: I just told him, that, you know, enough is enough. You know, it has gone too far. You know. It wasn't the first time that he has assaulted me --

[PROSECUTOR]: Objection.

[THE COURT]: Sustained.

[PROSECUTOR]: Motion to strike.

[DEFENSE COUNSEL]: Only talking about this day.

[MR. SHURON]: Okay.

[PROSECUTOR]: May we approach, Your Honor?

[THE COURT]: Ladies and gentlemen, you should disregard the statement that was made by the defendant in response to the last question. His attorney is going to ask the question again. The question will call for what did the defendant do. And his answer will be what he did.

. . .

[DEFENSE COUNSEL]: Okay. Did you have the ability to leave at that point in time? Did you believe it was safe for you to try and leave at that point?

[MR. SHURON]: I would say, you know, no. I wasn't -- I mean just given the fact that he, you know, actually swung and cut me with the knife kind of caught me off guard. And I -- you know, I wasn't going to like turn my back to him, you know.

[DEFENSE COUNSEL]: Would it be safe to say he is faster than you?

[PROSECUTOR]: Objection.

[THE COURT]: Sustained.

. . .

[DEFENSE COUNSEL]: Did you go there with any specific animosity and intent to inflict any harm on your stepson?

[MR. SHURON]: Absolutely not. I actually has [sic] been avoid --

[PROSECUTOR]: Objection.

[THE COURT]: No sir. We're going to wait for the next question.

(Emphasis added).

APPENDIX 2

[DEFENSE COUNSEL]: Now, the State asked you earlier about ring doorbell. And I know you said you're not an expert about it. But you do know the difference between a DVR system and a cloud based system, correct?

[DETECTIVE OTT]: Little bit.

[DEFENSE COUNSEL]: Okay. So the ring doorbell, it is not like you're going in there and there is a VCR that is recording everything?

[DETECTIVE OTT]: Right.

[DEFENSE COUNSEL]: It is cloud-based, correct?

[DETECTIVE OTT]: Correct.

[DEFENSE COUNSEL]: Okay. And so those can be retrieved either through the individual or can could [sic] also be retrieved via subpoena through the --

[PROSECUTOR]: Objection.

[DEFENSE COUNSEL]: -- the company, correct?

[THE COURT]: Sustained.

[PROSECUTOR]: Motion to strike.

[THE COURT]: Ladies and gentlemen, disregard the last question.

[DEFENSE COUNSEL]: Detective, in you [sic] police powers have you ever been involved in attempting to get electronic video surveillance from a company involved with a security system?

[DETECTIVE OTT]: Yes.

[DEFENSE COUNSEL]: And have you been able to retrieve that through the company itself?

[DETECTIVE OTT]: Yes.

[DEFENSE COUNSEL]: Okay. Were any of those steps attempted in this case?

[DETECTIVE OTT]: For the ring? For the ring camera.

[DEFENSE COUNSEL]: For anything regarding [the restaurant], the interior --

[DETECTIVE OTT]: No.

[DEFENSE COUNSEL]: -- system?

[DETECTIVE OTT]: No sir.