

Circuit Court for Baltimore County  
Case No.: 03-K-18-000690

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 3522

September Term, 2018

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JACK ANTHONY MARSZALEK

v.

STATE OF MARYLAND

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Fader, C.J.,  
Graeff,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 2, 2020

\*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 one-day jury trial in the Circuit Court for Baltimore County, Jack Anthony Marszalek, appellant, was convicted of theft under \$1,000 and sentenced to one year imprisonment for stealing jewelry from a woman for whom he had been hired to do certain home repairs.

Appellant’s sole contention on appeal is that some of the trial court’s statements during the sentencing proceeding could lead a reasonable person to infer that the trial court might have been motivated by impermissible considerations when imposing appellant’s sentence. Appellant acknowledges that he lodged no contemporaneous objection to the trial court’s statements, and that the issue is, therefore, not preserved for appeal.

Maryland Rule 8-131(a) provides that, “[o]rdinarily, the appellate court will not decide any other 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.” That preservation requirement is fully applicable to appellant’s complaint about the trial court’s comments during the sentencing proceeding. *Sharp v. State*, 446 Md. 669, 683 (2016); *Abdul-Maleek v. State*, 426 Md. 59, 69 (2012).

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 judgments of the circuit court.

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