

Circuit Court for Wicomico County  
Case No. C-22-CR-17-000392

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 337

September Term, 2018

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BYRON MAURICE SIMPSON

v.

STATE OF MARYLAND

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

JJ.

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PER CURIAM

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Filed: February 4, 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.

A jury sitting in the Circuit Court for Wicomico County convicted Byron Maurice Simpson, appellant, of sexual abuse of a minor, second-degree rape, and second-degree assault. Mr. Simpson appeals, asking this Court to review for plain error his unpreserved claim that the court erred in instructing the jury on the charge of sexual abuse of a minor. We decline to do so and affirm the judgments.

“The general rule is that the failure to object to a jury instruction at trial results in a waiver of any defects in the instruction, and normally precludes further review of any claim of error relating to the instruction.” *Lindsey v. State*, 235 Md. App. 299, 329 (citations omitted), *cert. denied*, 458 Md. 593 (2018)). *See also* Maryland Rule 4-325(e) (“[n]o party may assign as error the giving or the failure to give an instruction unless the party objects on the record promptly after the court instructs the jury, stating distinctly the matter to which the party objects and the grounds of the objection.”) A principal purpose of the rule “is to give the trial court an opportunity to correct an inadequate instruction before the jury begins deliberations.” *Lindsey*, 235 Md. App. at 329-30 (citations and internal quotation marks omitted). An appellate court may, however, “take cognizance of any plain error in the instructions, material to the rights of the defendant, despite a failure to object.” Md. Rule 4-325(e).

Mr. Simpson acknowledges his failure to object to the instructions and requests that we exercise our discretion to review the court’s instructions for plain error. We decline to do so. “[I]n the context of erroneous jury instructions, the plain error doctrine has been used sparingly.” *Taylor v. State*, 236 Md. App. 397, 447 (2018) (quoting *Conyers v. State*, 354 Md. 132, 171 (1999)). It is “reserved for those errors that are compelling,

extraordinary, exceptional or fundamental to assure the defendant of a fair trial.” *Hallowell v. State*, 235 Md. App. 484, 505 (2018) (quoting *Newton v. State*, 455 Md. 341, 364 (2017)). Moreover, where, as here, a party “affirmatively (as opposed to passively) waived his objection by expressing his satisfaction with the instructions as actually given[,]” we are “especially disinclined to take the extraordinary step of noticing plain error[.]” *Choate v. State*, 214 Md. App. 118, 130 (2013). We see no grounds for plain error review here.

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