Circuit Court for Wicomico County
Case No. C-22-CR-18-000330

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1068

September Term, 2020

JAMEAL RASHAWN GOULD

v.

STATE OF MARYLAND

Graeff,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 25, 2022

*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.

Convicted by a jury in the Circuit Court for Wicomico County of first degree murder of Erica Gould ("Erica"), attempted second degree murder of Rasheeda Collier, and related offenses, Jameal Rashawn Gould, appellant, presents for our review two questions: whether the evidence is insufficient to sustain the convictions for first degree murder of Erica and attempted second degree murder of Ms. Collier, and whether the trial court plainly erred in "allowing the prosecutor to make impermissible closing arguments." For the reasons that follow, we shall affirm the judgments of the circuit court.

Erica was Mr. Gould's ex-wife and the mother of their son. At trial, the State called Ms. Collier, who testified that she was Erica's friend and had known Erica her "whole life." On April 1, 2018, Ms. Collier was visiting Erica at her residence in Salisbury, when she "left out to go to church." While Ms. Collier was on a phone call with her brother, Mr. Gould knocked on the door of the residence. Ms. Collier opened the door, and Mr. Gould asked: "[W]here's Erica?" When Ms. Collier replied that Erica was "at church," Mr. Gould "walked past [Ms. Collier] and . . . just stood there." Erica then returned and repeatedly asked Mr. Gould what he was doing in her house. Mr. Gould replied, "don't fuck with me, Erica," and "pulled out [a] gun."

Erica and Ms. Collier put their hands up, and Ms. Collier "put [Erica] behind" her. Mr. Gould "put the gun to [Ms. Collier], and . . . pulled the trigger," which "clicked." Ms. Collier told Erica that "real guns don't click," and Erica ran up the steps and into her bedroom. As Mr. Gould was "messing with the gun," he went upstairs and tried "to open the door." Mr. Gould "start[ed] kicking" the door, which "finally open[ed]." As Ms. Collier "went to the door" of the residence, she "heard two shots." Ms. Collier opened the

door and "tried to run, but then . . . looked up and" saw Mr. Gould "standing on the roof." Mr. Gould told Ms. Collier: "[N]ow you can call the cops."

Following Ms. Collier's testimony, the State presented expert testimony that Erica suffered gunshot wounds to her head, ear, and hand. The wounds to Erica's head and ear were "discharged at distant range," but the wound to her hand was "discharged at close range," which for "most handguns used in the United States" is "somewhere between 18" inches to "slightly greater than 24 inches." The State also played a recording of a phone conversation between Mr. Gould and his girlfriend Angela Nicklas, during which Mr. Gould stated: "[I]t's just, she was threatening to call the police on me, just threatening me with this stuff. I even let it get to me so bad."

Following the close of the State's case, Mr. Gould testified that at the time of the offenses, his relationship with Erica was "[p]robably more bad than good." Because Erica "was texting [Mr. Gould], basically, starting an argument, starting an issue between" them, repeatedly hanging up on Mr. Gould, and refusing to answer his phone calls, he became "upset" and "decide[d] to go to [Erica's] home" to "have a conversation with her." Mr. Gould admitted that he "had a gun on" him, because he "was selling drugs," and "when you [are] in that life style, . . . that's something that basically you got to have to protect yourself." When Erica entered the house and started "screaming," Mr. Gould "pulled that gun out," because he "just wanted her to be quiet and stop yelling." As Erica "was going up the steps," Mr. Gould pointed the gun at her and followed her up the steps. When asked whether he remembered "pulling the trigger," Mr. Gould testified:

> No, not really, I just remember, I just remember, uh, it's like I don't really remember what happened, I just came back, it's like I wasn't there but then I, like, came back to reality, or whatever. Like, when her phone, her phone shattered and the pieces of phone was, like, in the air and it was, like, moving in slow motion. And then I, like, kind of came back to reality. And I looked and I was on the roof. And then I, I just ran back, I went back in the window and I got back in the window and I just ran.

When asked why he was "so mad at Erica that [he] shot her," Mr. Gould stated: "It was just, like, so much stuff that had happened between us through the years when we were together[.]" Mr. Gould further stated: "All the emotions that I'd just bottled up, like everything just came back at one time, it all just came out at one time." During cross-examination, Mr. Gould admitted that Erica had insinuated that he was gay, which made him "very mad."

Mr. Gould first contends that the evidence is insufficient to sustain the conviction of first degree murder of Erica, because "there is no evidence of deliberation and premeditation." We disagree. The State produced evidence that Mr. Gould obtained a gun, went to Erica's home, waited for Erica to arrive, produced the gun, pursued Erica up the stairs and to her bedroom, kicked the door open, and fired two shots. The State also produced evidence that one of the shots was fired at close range, and that Erica suffered separate injuries to her head and ear. The State produced further evidence that Mr. Gould had been angry at Erica for "threatening to call the police on" him. Finally, Mr. Gould admitted during his testimony that his relationship with Erica was "[p]robably more bad than good," that Erica had been "starting an argument" or "issue between" them, that Erica was repeatedly hanging up on him and refusing to answer his phone calls, that he was angry because Erica had insinuated that he was gay, and that he had "bottled up" his "emotions"

about "so much stuff that had happened between [them] through the years when [they] were together." We conclude that this evidence could convince a rational trier of fact beyond a reasonable doubt that the killing of Erica was deliberate and premeditated, and hence, the evidence is sufficient to sustain the conviction for first degree murder.

Mr. Gould next contends that the evidence is insufficient to sustain the conviction of attempted second degree murder of Ms. Collier, because "there is no evidence of a specific intent to kill" her. We disagree. Ms. Collier testified that Mr. Gould "put the gun to" her and "pulled the trigger." We conclude that this evidence could convince a rational trier of fact beyond a reasonable doubt that Mr. Gould specifically intended to kill Ms. Collier and took a substantial step toward killing her, and hence, the evidence is sufficient to sustain the conviction for attempted second degree murder.

Finally, Mr. Gould contends that the court erred in "allowing the prosecutor to make impermissible closing arguments." Acknowledging that defense counsel did not object to the arguments, Mr. Gould requests that we review the error under our authority to review unpreserved errors pursuant to Rule 8-131 ("[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"). We decline to do so. Although this Court has discretion to review unpreserved errors pursuant to 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) (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 WICOMICO COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.