

Circuit Court for Carroll County
Case No. C-06-CR-21-000153

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2328

September Term, 2022

DOUGLAS B. M.

v.

STATE OF MARYLAND

Arthur,
Leahy,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 4, 2024

*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 the Circuit Court for Carroll County of four counts of sexual abuse of a minor, one count of child abuse, and related offenses, Douglas B. M., appellant, contends that the court erred in admitting “a significant amount of highly prejudicial, inadmissible hearsay,” and using an erroneous definition of “beyond a reasonable doubt.” Acknowledging that defense counsel “did not object to the hearsay testimony” or “the trial judge’s articulation of the ‘reasonable doubt’ standard,” appellant requests that we review these issues “under the plain-error standard.” We decline to do so. Although this Court has discretion to review unpreserved errors pursuant to Rule 8-131(a) (“[o]rdinarily, an 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”), 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 CARROLL COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**