Circuit Court for Baltimore City
Case No. 121026009

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2507

September Term, 2023

LAKEYRIA DOUGHTY

v.

STATE OF MARYLAND

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

JJ.

Opinion by Tang, J.

Filed: January 27, 2026

*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).

Following a jury trial in the Circuit Court for Baltimore City, the appellant, LaKeyria Doughty, was convicted of voluntary manslaughter of her girlfriend, Tiffany Wilson. On appeal, the appellant raises the following questions, which we rephrase:[1]

I. Did the court err in admitting a portion of the recorded interrogation where the detectives suggested that the appellant was lying and guilty?

II. Did the court abuse its discretion by refusing to *voir dire* and replace a juror who seemed to be sleeping during trial?

For the reasons that follow, we shall affirm the conviction.

BACKGROUND

The appellant and Tiffany Wilson were in a romantic relationship and lived together in Ms. Wilson's home. On New Year's Day, early in the morning, the police were called to the residence and discovered Ms. Wilson deceased with a stab wound.

According to the appellant, who testified at trial, the couple celebrated New Year's Eve separately. However, the two had a heated exchange over text messages in which Ms. Wilson expressed her desire to break up and asked the appellant to return the keys to her home.

[1] The questions presented in the appellant's brief were:

1. Did the trial court plainly err in permitting police officers to opine a.) that Appellant was guilty and b.) that Appellant lied during her interrogation by detectives?
2. Did the trial court abuse its discretion in failing to take action when it became clear that a seated juror was asleep during much of the trial?

The appellant went to Ms. Wilson's home to pack her belongings. She testified that before leaving the apartment, Ms. Wilson attacked her from behind, cutting her on the leg with a knife. A struggle occurred, and the appellant broke free, landing on her back while Ms. Wilson hit the kitchen counter. The appellant saw Ms. Wilson bleeding, and before she could react, Ms. Wilson collapsed to the floor. The appellant then called 911 and attempted to stop the bleeding.

During her trial testimony, the appellant admitted that she had not been truthful about the circumstances surrounding Ms. Wilson's death when speaking to the police. During her interrogation, she claimed that she found Ms. Wilson already lying in a pool of blood on the kitchen floor. Nevertheless, the appellant denied that she had stabbed Ms. Wilson.

After a multi-day trial, the jury acquitted the appellant of first-degree murder, second-degree murder, and possession of a deadly weapon, but found her guilty of voluntary manslaughter. The court sentenced the appellant to ten years' imprisonment.

This appeal follows. We will provide additional facts as they become relevant to the discussion.

DISCUSSION

I.

RECORDED INTERROGATION

The appellant argues that the circuit court erred by permitting the State to play for the jury certain parts of her recorded interrogation. She contends that the statements made

by the detectives during her interrogation were prejudicial. This is because the detectives expressed disbelief about her version of events, stating, among other things, that she was "leaving a big part of th[e] story out" and "contradicting" herself "over and over again." The appellant tacitly acknowledges that her claim is unpreserved and asks us to engage in plain error review.

The State responds that we should decline to engage in plain error review because the appellant, through counsel, affirmatively waived her right to challenge the admission of the disputed evidence. We agree with the State.

To successfully preserve for appeal the issue of admission of evidence, "[a]n objection . . . shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived." Md. Rule 4-323. Maryland Rule 8-131(a) provides in pertinent part:

> Ordinarily, an 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.

Although this Court has discretion to review unpreserved errors pursuant to Maryland Rule 8-131(a), 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) (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) (citation modified).

Before we can exercise our discretion to find plain error, four conditions must be met:

> (1) there must be an error or defect—some sort of deviation from a legal rule—that has not been intentionally relinquished or abandoned, i.e., affirmatively waived, by the appellant; (2) the legal error must be clear or obvious, rather than subject to reasonable dispute; (3) the error must have affected the appellant's substantial rights, which in the ordinary case means he must demonstrate that it affected the outcome of the [trial] court proceedings; and (4) the error must seriously affect the fairness, integrity or public reputation of judicial proceedings.

Newton v. State, 455 Md. 341, 364 (2017) (citation modified) (quoting *State v. Rich*, 415 Md. 567, 578 (2010)).

Regarding the first condition, the Supreme Court of Maryland has explained the difference between a waiver and a forfeiture: "Forfeiture is the failure to make a timely assertion of a right, whereas waiver is the 'intentional relinquishment or abandonment of a known right.'" *Rich*, 415 Md. at 580 (citation omitted). "Forfeited rights are reviewable for plain error, while waived rights are not." *Id.*; *see also Booth v. State*, 327 Md. 142, 180 (1992) (holding that plain error analysis was not required when defense counsel affirmatively advised the court he had no objection to an instruction given to the jury).

We decline to engage in plain error review because the appellant affirmatively waived her right to challenge the admission of the disputed evidence. When the State sought to admit the interrogation video, which contained the purportedly prejudicial

comments by the detectives, the appellant's counsel stated that she had "[n]o objection" to its admission. Accordingly, we decline to exercise plain error review.

II.

JUROR NUMBER ONE

The appellant argues that the circuit court erred by not investigating whether "Juror Number One" was sleeping during the trial. She also contends that the court erred by failing to remove the juror and replacing her with an alternate juror.

The State argues that this issue is not preserved for appeal, as the record shows that the defense counsel acquiesced to the court's approach to addressing the juror that appeared to be sleeping during trial. We agree with the State.

On the third day of trial, the State played the recorded interrogation of the appellant. Defense counsel interrupted the playback and requested to approach the bench to report that Juror Number One had been sleeping "the entire time, really through the whole trial." Defense counsel then requested that the juror be removed and replaced with an alternate juror.

The court asked if defense counsel wanted it to "[j]ust sua sponte remove her." Defense counsel suggested bringing the juror to the bench first for a *voir dire*. The court responded, "Let's continue. I'll start paying attention to her more," to which counsel responded, "Okay." The court explained that it did not think it would be "appropriate" to bring the juror to the bench "right now" as it would "embarrass her" and "upset" the other jurors.

The court reiterated its intention to monitor this juror. Defense counsel said, "[O]kay, that's fine," and wanted to ensure that the court was aware of the issue. The court suggested that they could *voir dire* the juror later but indicated it did not "want to do it now." Defense counsel agreed, stating, "No, of course not, but after this is over, I'm just going to renew my request that she be removed but after the jury goes back and we voir dire her." The court replied that the decision to remove the juror would depend on what "she would say" and reassured that it would "watch her from now on."

After this exchange, the State resumed playing the appellant's interrogation video. After playing the recorded interrogation for some time, the court took a recess and excused the jurors. The court discussed Juror Number One with counsel. The court noted that it had observed the juror appearing to sleep but that she was actually writing something down on a couple of occasions. Defense counsel expressed concern that Juror Number One had been "nodding off sleeping," intermittently during the trial. The court indicated that it did not want to act "prematurely" and, "for right now," did not think "we should do anything." The following colloquy ensued:

> [DEFENSE COUNSEL]: Okay.
>
> THE COURT: And I just think it's going to cause more problems and it's like well why did you dismiss her. I mean, I don't know.
>
> [DEFENSE COUNSEL]: Right. So -- right, so my knee jerk reaction was what it was, but I think after you excuse the jurors, if you can ask Juror Number One to come back, if we decide that that's appropriate so that you can voir dire her about the evidence that's been shown to them, and then if you need to excuse her, then she just doesn't show up tomorrow; right, and no one needs to know why. So you're not embarrassing her for making the other jurors question whatsoever.

> THE COURT: All right. I don't even know, I'll think about what you're saying but I don't even think I was going to voir dire her today.
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> * * *
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> THE COURT: I mean, clearly she has been listening to some of the testimony. She was gung-ho to be the --
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> [DEFENSE COUNSEL]: The Foreperson.
>
> THE COURT: Yeah.
>
> [DEFENSE COUNSEL]: Well, look fortunately we do have three alternates that are paying attention if [sic] need to flip somebody in. Then I'll feel comfortable that we have 12 people that can deliberate and has, you know, they're taking notes and listening to everything.
>
> THE COURT: I agree.

After the jury returned from recess, the State resumed playing the interrogation video until the end of the day. Before adjourning, the court informed counsel at the bench that it had been observing Juror Number One and did not see her sleeping; instead, it noted that she had been writing. Defense counsel responded that this was "good." The court indicated that it would continue to discuss this matter, but that was the latest observation it had to offer.

At no point thereafter did defense counsel ask the court to revisit the issue concerning Juror Number One. Counsel did not request the court to rule on the previous motion to remove and replace Juror Number One, nor did counsel renew that request, as she had indicated she would. After closing statements, the jury retired to the jury room to deliberate, and the court excused the alternate jurors without any objection. Consequently, the appellant's claim regarding Juror Number One is not preserved for appellate review. *See Simms v. State*, 240 Md. App. 606, 617 (2019) ("[W]here a party acquiesces in a court's

ruling, there is no basis for appeal from that ruling."); *Grandison v. State*, 305 Md. 685, 765 (1986) ("By dropping the subject and never again raising it, [the appellant] waived his right to appellate review[.]"); *Banks v. State*, 213 Md. App. 195, 203 (2013) (holding that where an appellant responded "okay" in response to a court's ruling, he acquiesced to that ruling and waived his objection on appeal).

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