Circuit Court for Wicomico County
Case No. 22-K-16-000054

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 3081

September Term, 2018

WILLIAM LEON JONES

v.

STATE OF MARYLAND

Beachley,
Wells,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 26, 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.

Following a jury trial in the Circuit Court for Wicomico County, William Leon Jones, appellant, was convicted of two counts of possession of a controlled dangerous substance, two counts of possession with intent to contribute a controlled dangerous substance, and two counts of possession of drug paraphernalia. His sole contention on appeal is that there was insufficient evidence to support his convictions. Mr. Jones concedes that this issue is not preserved because, when making his motion for judgment of acquittal in the trial court, defense counsel submitted on the evidence and did not raise any of the contentions that Mr. Jones now raises on appeal. *See Peters v. State*, 224 Md. App. 306, 354 (2015) ("[R]eview of a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal." (citation omitted)). He therefore requests that we engage in plain error review.

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.[1]

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

[1] We note that, even if preserved, we would find no error. Because the drugs and drug paraphernalia were discovered within arms-reach of Mr. Jones in a car where he was the driver and sole occupant, the jury could reasonably infer that he possessed the contraband. *See Sellman v. State*, 152 Md. App. 1, 31 (2003) (holding that "a reasonable fact-finder . . . could infer that as the driver . . . of the vehicle . . . [defendant] not only knew of [the] existence [of the illegal drugs found in vehicle after traffic stop] but was exercising dominion and control over it by transporting it.").