

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1578

September Term, 2016

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ARMONDO DARANGAN

v.

STATE OF MARYLAND

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Woodward, C.J.,  
Kehoe,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: August 1, 2017

\*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 of attempted second-degree murder following a jury trial in the Circuit Court for Baltimore County, Armondo Darangan, appellant, contends on appeal that the State made impermissible arguments during closing. Because Darangan acknowledges that he did not object at trial, he requests us to exercise our discretion and engage in plain error review. We decline to do so and affirm Darangan’s conviction.

During the State’s closing argument, the prosecutor stated:

Defendant didn’t have to take the stand, but he did. And when he does, he puts his credibility at issue, just like all the State’s witnesses. Tells you he was never at the camp that day, even though the witnesses put him there. He was working at Popeye’s on September 5, 2015, and like every good national chain does, he was paid in personal checks. That doesn’t make any sense. Paid in personal checks. *Doesn’t have any personal checks to show, doesn’t have any time cards to show. He just says immediately, “Oh, I was working at Popeye’s that day, September 5, 2015. I remember.” Defendant never provides any real motive for anyone to lie on him. Everybody’s just crazy.*

Although Darangan did not object to this argument at trial he now claims that it was a “direct commentary on [his] failure to present evidence of his innocence,” that improperly shifted the burden of proof away from the State.

Following Darangan’s closing argument, during which he attacked the victim’s credibility, the prosecutor also made the following statement during rebuttal:

What motive does the victim have to lie? The victim taking the stand and lying puts him at risk for the defendant to be left out on the street, a very dangerous person to then come back after him.

Again, appellant did not object. However, he now contends that this argument improperly “inject[ed] the specter of witness intimidation and future criminality” and “bolster[ed] its

star witness’s credibility by inferring that he would face negative consequences should he testify untruthfully[.]”

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). Moreover, plain error review involves four prongs: (1) the error must not have been intentionally relinquished or abandoned; (2) the error must be clear or obvious, not subject to reasonable dispute; (3) the error affected appellant’s substantial rights, which means he must demonstrate that it affected the outcome of the court proceeding; and (4) the appellate court has discretion to remedy the error, but this ought to be exercised only if the error affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

Even if we assume that the prosecutor’s arguments in both instances were improper and that the trial court committed “clear or obvious” error by not addressing them, *sua sponte*, we are persuaded that the error did not affect “appellant’s substantial rights” or “the fairness, integrity, or public reputation of judicial proceedings.” In support of his request for plain error review, Darangan relies on *Lawson v. State*, 389 Md. 570 (2005). In that

case, the Court of Appeals reversed the appellant’s convictions for various sex offenses based on the prosecutor having made numerous improper arguments during closing. Specifically, the prosecutor twice made an improper “golden rule” argument, by asking the jurors to place themselves in the shoes of the victim’s mother; accused the defense of not providing a motive for the victim to lie; stated that the defendant was a “monster;” and insinuated that, if the jury acquitted the defendant, he would be able to molest other children. *Id.* at 580. The Court of Appeals noted that, standing alone, each argument might not have warranted reversal, but “*when taken as a whole, they could have prejudiced the jury in such a way as to deny the defendant a fair and impartial trial.*” *Id.* at 604-05 (emphasis added).

In our view, the prosecutor’s isolated remarks in this case, if improper, did not remotely approach the prejudicial impact of the collective arguments made by the prosecutor in *Lawson*. Moreover, in finding that *Lawson* was prejudiced by the prosecutor’s closing argument, the Court of Appeals noted that his case was “basically a ‘she said, he said’ case,” where the victim’s version of events, as related at trial, were inconsistent with her pre-trial statements to her mother and a social worker. *Id.* at 600, 605. However, the evidence against Darangan was substantially stronger than in *Lawson* because the victim’s testimony was corroborated by forensic evidence and the testimony of other witnesses. In short, when viewed in the context of the entire case, we do not believe that the prosecutor’s argument affected Darangan’s substantial rights.

We also note that any improper argument by the State was readily correctable by the trial court upon a timely objection. To permit appellant to refrain from objecting at

trial in order to raise the issue for the first time on appeal would run counter to the considerations of fairness and judicial efficiency discussed previously. *See Chaney v. State*, 397 Md. 460, 468 (2007). Consequently, we decline to exercise our discretion to engage in plain error review. *See Martin v. State*, 165 Md. App. 189, 195 (2005) (noting that it is “the extraordinary error and not the routine error that will cause us to exercise the extraordinary prerogative [of reviewing plain error]”).

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