Circuit Court for Prince George's County
Case No. CT210944X

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 111

September Term, 2024

EDGAR GERARDO ESCOBAR SOSA

v.

STATE OF MARYLAND

Wells, C.J.,
Graeff,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 27, 2024

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a jury trial in the Circuit Court for Prince George's County, Edgar Gerardo Escobar Sosa, appellant, was convicted of two counts of first-degree murder, two counts of first-degree assault, and one count of possession of a firearm during the commission of a felony or crime of violence. He raises two issues on appeal: (1) whether the court erred in admitting his statement to the police that "whatever happened, happened" as an admission against penal interest; and (2) whether there was sufficient evidence to sustain his convictions because his statement to the police, even if properly admitted, "did not corroborate the corpus delicti of the State's case." For the reasons that follow, we shall affirm.

At approximately 8:40 a.m. on June 5, 2021, the police found the deceased bodies of Jose Lemos and Hilber Velasquez in the stairwell of an apartment building located at 5304 Hamilton Street in Hyattsville. The police smelled gunpowder and found seven 9 millimeter cartridges at the crime scene. The Deputy Chief Medical Examiner, who was admitted as an expert in forensic pathology, testified that the victims' deaths were homicides caused by multiple gunshot wounds.

Ten days after the murders, appellant waived his *Miranda* rights and agreed to speak with police. During that interview, which was admitted at trial, appellant admitted to being a member of a "clique." He indicated that on the day of the homicide members of the "clique" ordered him to conduct a "hit" on the victims and that he believed he would be "hit" if he did not comply with that order. The "clique" gave him a nine millimeter handgun and he went into the apartment alone. Then "what happened, happened, you know . . ."

On appeal, appellant first contends that his statement "what happened, happened" was hearsay, and that the court abused its discretion in admitting it as a statement against penal interest without conducting a parsing analysis as required by *Smith v. State*, 487 Md. 635 (2024). He acknowledges, however, that this claim is not preserved because he did not object at trial. 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 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) (quotation marks and 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 of this issue. *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 omitted)).

Appellant also asserts that the evidence was insufficient to sustain his convictions because his statements to the police "did not corroborate the corpus delicti of the State's case." However, at the close of the State's case appellant made a general motion for

judgment of acquittal, stating only that "the Defense makes a general motion for directed verdict." Then, at the close of all the evidence, he renewed the motion without further explanation. Consequently, this issue is not preserved for appellate review. *See Peters v. State*, 224 Md. App. 306, 353-54 (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." (quotation marks and citation omitted)). [1]

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[1] Although appellant does not specifically ask us to do so, we decline to exercise our discretion to engage in "plain error" review of this claim pursuant to Maryland Rule 8-131(a).