

Circuit Court for Talbot County
Case No. C-20-CR-22-000018

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 371

September Term, 2023

CAROLYN M. DRAPER

v.

STATE OF MARYLAND

Ripken,
Tang,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 9, 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.

Following a jury trial in the Circuit Court for Talbot County, Carolyn M. Draper, appellant, was convicted of malicious destruction of property and trespass. Her sole contention on appeal is that there was insufficient evidence to sustain her convictions. Appellant concedes that this issue is not preserved because, when making a motion for judgment of acquittal in the trial court, defense counsel submitted on the evidence and did not raise any of the contentions that she now raises on appeal. *See Peters v. State*, 224 Md. App. 306, 353 (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)). Appellant 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. *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)). Consequently, we affirm the judgments of the circuit court.

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