Circuit Court for Baltimore City
Case No. 122101001

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1573

September Term, 2022

KYE-REE KENNETH MARTIN YOUNG

v.

STATE OF MARYLAND

Zic,
Ripken,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: November 8, 2023

*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).

The State of Maryland charged Appellant, Kye-Ree Kenneth Martin Young ("Appellant") with multiple offenses arising from a traffic stop in February of 2022 and the ensuing execution of a search warrant in March of 2022. Subsequently, a jury in the Circuit Court for Baltimore City found Appellant guilty of the following offenses: two counts of unlawful possession of a regulated firearm after having been convicted of a disqualifying crime; wearing, carrying, or transporting a handgun in a vehicle; fleeing or eluding a police officer; and unlawful possession of ammunition. The court imposed an aggregate sentence of sixteen years of incarceration.[1] Appellant noted this timely appeal. For the reasons to follow, we shall affirm.

ISSUES PRESENTED FOR REVIEW

Appellant presents the following issues for our review:[2]

I. Whether plain error review of the court's issuance of a flight instruction is appropriate.

II. Whether the evidence was sufficient to sustain Appellant's convictions.

[1] The trial court imposed the following sentences: fifteen years for unlawful possession of a regulated firearm; three years to be served concurrently for transporting handgun in a vehicle; one year to be served consecutively to the unlawful possession sentence for fleeing and eluding a police officer; and one year to be served concurrently for possession of ammunition.

[2] Rephrased from:

1. Did the trial court err and abuse its discretion by propounding the flight instruction where, during a traffic stop, Mr. Young drove away only after the officers suddenly drew their guns on him?
2. Is the evidence insufficient to sustain Mr. Young's convictions?

FACTUAL AND PROCEDURAL BACKGROUND

A. The February Traffic Stop

In February of 2022, Detective Connor Johnson ("Det. Johnson") and another officer of the Baltimore City Police Department conducted a traffic stop, footage of which was captured by Det. Johnson's body worn camera. Video and audio of the traffic stop was admitted into evidence and shown to the jury.

Det. Johnson testified that while patrolling the 2000 block of East North Avenue in Baltimore City, he observed Appellant driving a silver Honda in a dedicated bus lane. Det. Johnson activated his emergency lights and siren and stopped the vehicle. The body worn camera footage shows that Det. Johnson exited his patrol car and approached the front passenger side of the silver Honda. When Det. Johnson reached the car, he identified himself and informed Appellant that the interaction was being recorded. Det. Johnson requested Appellant's driver's license and vehicle registration, both of which Appellant provided. Det. Johnson next requested proof of the car's insurance. Appellant proceeded to search his vehicle for proof of insurance and when he was unable to procure it, he obtained authorization to make a phone call to his father, the car's owner, to verify proof of insurance.

While Appellant was speaking on the phone with his father, another police officer used a flashlight to illuminate the backseat of the passenger side of the vehicle. Per Det. Johnson, Appellant then repositioned his body, leaning over the center console, at which point Det. Johnson noted Appellant's nervousness. At trial, Det. Johnson testified that:

> [Appellant] had twisted his body, he was sort of bent over the center console, almost between the front driver's seat and the front passenger seat of the vehicle, which seemed relatively odd to me. From that point, I walked around to the driver's side of the vehicle in an attempt to see if he would reposition his body or if he was using his body in an attempt to conceal something inside of the vehicle.

Det. Johnson and another officer then walked around the rear of the vehicle towards the driver's side. While the other officer spoke with Appellant, Det. Johnson testified that he "peered through the driver's side rear window" and using his flashlight "observed [the handle of] a black, semiautomatic handgun sitting on the floorboard beneath the driver's seat."[3] Upon seeing the handgun, Det. Johnson drew his service weapon and raised his voice, directing Appellant to put his hands on the steering wheel. The officer who had been speaking with Appellant also drew his service weapon and yelled "[h]ey, stop. . . . No, no. no[,]" while Appellant accelerated the vehicle and quickly departed from the scene. Police did not pursue Appellant's vehicle, but officers recorded the license plate number of the silver Honda and retained the driver's license that Appellant had previously provided to them.

After Appellant's rapid departure from the area, Det. Johnson informed other officers that he saw a gun under the seat. When Det. Johnson returned to his police car, he described the interaction to a trainee officer, explaining that when he walked around to the other side of Appellant's car, he was able to observe through the window the handle of a firearm protruding from under the car's seat.

[3] During cross examination, Det. Johnson clarified that he "was able to see the handle, the rear of the slide as well as the rear sights" of the handgun.

Following the traffic stop, Det. Johnson obtained an arrest warrant for Appellant, in addition to a search and seizure warrant for 2870 Mayfield Avenue ("the residence"), the address listed on the driver's license Appellant provided during the traffic stop.

B. March Search and Seizure of Residence and Arrest of Appellant

In March of 2022, Det. Johnson and other members of the Baltimore City Police Department executed a search and seizure warrant and an arrest warrant at the address listed on Appellant's driver's license. While awaiting the arrival of additional officers, Det. Johnson conducted surveillance of the residence. Det. Johnson witnessed Appellant leave the residence and get into the passenger side of a car parked in front of the residence, which Det. Johnson identified as the same silver Honda that had been the subject of the February traffic stop. Det. Johnson and other officers approached the vehicle and arrested Appellant.

While executing the search warrant on the house, law enforcement officers searched a rear bedroom, and in the bedroom closet, discovered a black Taurus Millennium G2 semi-automatic handgun and ammunition. In the same bedroom, police also located mail addressed to Appellant, and a Walmart credit card, which identified Appellant as the cardholder.

Appellant was subsequently indicted on multiple counts relating to the February 2022 traffic stop, which included the unlawful possession of a handgun as a prohibited person and fleeing or eluding a police officer ("the traffic stop offenses"), as well as multiple counts arising from the March 2022 execution of the warrant, and the subsequent discovery of the firearm and ammunition at the residence ("the residence offenses").

C. Flight Instruction

During the course of the two days of trial proceedings, Appellant's counsel objected to the issuance of a flight instruction being given to the jury on four occasions. The pattern flight instruction informs jurors that:

> [a] person's flight immediately after the commission of a crime or after being accused of committing a crime is not enough by itself to establish guilt, but is a fact that may be considered by you as evidence of guilt. Flight under these circumstances may be motivated by a variety of factors, some of which are fully consistent with innocence. You must first decide whether there is evidence of flight. If you decide that there is evidence of flight, you then must decide whether this flight shows consciousness of guilt.

Maryland Criminal Pattern Jury Instruction ("MPJI-Cr") 3:24. Initially, while making a pretrial motion to sever the charges, Appellant contended improper prejudice, positing that should the instruction lead the jury to infer consciousness of guilt arising from defendant's flight during the traffic stop, they would impermissibly extend that inference to the possession of weapons and ammunition at the residence. Defense counsel also asserted that any curative instruction would be insufficient, due to the State's allegation that the handgun recovered from the residence was the same firearm police observed in Appellant's car during the traffic stop. Defense counsel reasserted the same argument when the court provided its proposed jury instructions.

Later, after the State rested, Appellant's counsel again objected to the flight instruction, and argued that "going back to the issues raised on the severance motion," "no curative instruction [could] be appropriately crafted to cure that prejudice." However, in the event the court elected to give a flight instruction, defense counsel requested a modification to the pattern instruction. Defense counsel's requested addition specified that

"the permitted inference of flight as consciousness of guilt can only be considered as to the February 27th [traffic stop]. . . . And further that [the jury] . . . shall not consider flight in any way as evidence of guilt on the March 9th execution of the search warrant[.]" The court, after considering Appellant's argument, gave a modified version of the pattern jury instruction. The court added the following statement to the end of the pattern instruction on flight: "[y]ou shall not consider flight in any way as consciousness of guilt as to the March 9th date." Asserting the same grounds, Appellant's counsel renewed the objection when the court completed instructing the jury.

D. Motion for Judgment for Acquittal

At the close of the State's case, Appellant's counsel moved for a judgment of acquittal as to all counts. With regard to the fleeing and eluding offense, counsel argued that the State failed to prove that Det. Johnson's "badge or other insignia of his office was prominently displayed," as he asserted was required by both the statute and charging document. Appellant's counsel then addressed the alleged deficiency of the evidence for the firearms offenses at the February traffic stop, arguing that Det. Johnson's testimony and body worn camera footage were insufficient to allow a reasonable jury to find that the object was in fact a regulated firearm.

Appellant's counsel also moved for judgment of acquittal as to the residence offenses. Counsel contended that the State failed to present evidence sufficient to show that Appellant knowingly possessed the regulated firearm and ammunition. Counsel emphasized that even if the State's theory of the case was constructive possession, Appellant's "presence at the residence is not enough" to establish constructive possession

of the regulated firearm and ammunition.

The court denied Appellant's motion for judgment of acquittal as to all counts. At the close of evidence, Appellant's counsel renewed the motion for judgment of acquittal and adopted all previous arguments. The motion was again denied, and the jury returned a verdict of guilty on all counts. Additional facts will be included as they become relevant to the issues.

DISCUSSION

I. WE DECLINE TO ENGAGE IN PLAIN ERROR REVIEW OF THE CIRCUIT COURT'S FLIGHT INSTRUCTION.

A. Parties' Contentions

Appellant asserts that the trial court committed plain error by giving the flight instruction, requiring the reversal of all convictions arising from the traffic stop. While his arguments at trial focused solely on potential prejudice as to the residence offenses, for the first time on appeal, Appellant argues the instruction was not generated by the evidence and was prejudicial as to his convictions for the traffic stop offenses. Supporting this assertion, Appellant contends that the flight instruction was incompatible with the reality that some "people, particularly Black men, live in legitimate fear of police officers," and describes the possibility that he fled from police due to consciousness of guilt, rather than fear of police violence, as "too tenuous" to produce a flight instruction. Appellant also contends that the flight instruction was confusing and misleading to the jury when combined with the instruction on the fleeing and eluding offense. At oral argument, Appellant acknowledged these arguments were not raised before the trial court, and now

urges us to exercise plain error review.

The State, as a threshold matter, agrees that Appellant's challenge to the flight instruction is unpreserved for our review. However, the State contends that we should decline to apply plain error review, arguing that while it is "sympathetic with the concerns and principles that [Appellant] develops," Appellant's contention was both not raised before the trial court, and is not supported by caselaw in any jurisdiction. The State notes that that "[p]lain error is a way to correct errors that are well-established under current law, not a way to make new law." The State also asserts that should we elect to reach the merits of Appellant's unpreserved claim, the instruction was properly supported by the evidence, was not unfairly prejudicial, and was neither confusing nor misleading to the jury.

We agree with both parties that Appellant's current argument as to the flight instruction was not raised before the trial court and is unpreserved. Thus, we examine the propriety of applying plain error review to Appellant's claim.

B. Standard of Review

"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." Md. Rule. 8-131(a). An argument is not preserved for our review if "the basis of the objection in the trial court differed from the issue raised on appeal[.]" *Watts v. State*, 457 Md. 419, 428 (2018). Requiring the preservation of issues serves the "salutary purpose of preventing unfairness and requiring that all issues be raised in and decided by the trial court." *Conyers v. State*, 354 Md. 132, 150 (1999). Our caselaw is explicit that the Maryland Rules "are not aspirational guidelines. Rather, they are 'precise rubrics established to promote the orderly

and efficient administration of justice and . . . are to be read and followed.'" *Montague v. State*, 244 Md. App. 24, 59 (2019) (quoting *Dorsey v. State*, 349 Md. 688, 700–01 (1998)).

As an infrequent exception to Rule 8-131(a)'s preservation requirement, the plain error doctrine allows appellate courts the discretion to review unpreserved errors that are "compelling, extraordinary, exceptional, or fundamental to assure the defendant of a fair trial." *Newton v. State*, 455 Md. 341, 364 (2017) (quoting *Robinson v. State*, 410 Md. 91, 111 (2009)). Our discretion to consider unpreserved issues is one that we "should rarely exercise," as for reasons of fairness and judicial efficiency, our system ordinarily requires that all challenges to the trial court's action be in the first instance presented to that court, so that "(1) a proper record can be made with respect to the challenge, and (2) the other parties and the trial judge are given an opportunity to consider and respond to the challenge." *Kelly v. State*, 195 Md. App. 403, 413 (2010) (citations and quotations omitted).

In order to take the "extraordinary step" of reviewing an unpreserved claim under the doctrine of plain error, *Austin v. State*, 90 Md. App. 254, 261 (1992), the Supreme Court of Maryland has noted the following four conditions must be satisfied:

> (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, 455 Md. at 364 (internal quotation marks omitted) (quoting *State v. Rich*, 415 Md. 567, 578 (2010)). Appellate review under the plain error standard "1) always has been, 2) still is, and 3) will continue to be a rare, rare phenomenon." *Morris v. State*, 153 Md. App. 480, 507 (2003). Moreover, the "plain error hurdle, high in all events, nowhere looms larger than in the context of alleged instructional errors." *Peterson v. State*, 196 Md. App. 563, 589 (2010) (internal quotation marks omitted).

C. Plain Error Review is Applied Only in Circumstances of a Clear or Obvious Deviation from a Legal Rule.

Appellant admits that he has failed to preserve his claim, but requests that we exercise our discretion to review the flight instruction for plain error. Appellant contends that his explanation for his flight is more plausible than the State's in light of the danger posed by police-citizen interaction, particularly to Black men.[4] Because he considers his explanation of events more likely, Appellant contends that the flight instruction was not supported by the evidence. However, Appellant does not cite caselaw in support of this theory. We note that review of unpreserved claims under plain error is

> a discretion that that appellate courts should rarely exercise, as 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 so that (1) a proper record can

[4] To be sure, as Appellant correctly notes, the Supreme Court of Maryland has recognized "the circumstance that people, particularly young African American men, may flee police for innocent reasons." *Washington v. State*, 482 Md. 395, 434 (2022). That case, however, did not concern a flight instruction or a fleeing and eluding charge, but rather the constitutionality of a *Terry* stop. *Id.* at 404–05. In *Washington*, the Court held that as part of assessing reasonable suspicion, a trial court could determine that flight from police could, depending on the circumstances, be considered either evidence of criminality, or wholly consistent with innocence. *Id.* at 435.

> be made with respect to the challenge, and (2) the other parties and the trial judge are given an opportunity to consider and respond to the challenge.

Chaney v. State, 397 Md. 460, 468 (2007).

From the record available to us, we are unable to say that the trial court's flight instruction was "a deviation from a legal rule" that is "clear or obvious, rather than subject to reasonable dispute." *Newton*, 455 Md. at 364 (internal quotation marks omitted). We have, thus, not been persuaded to exercise our discretion to undertake the "rarely used and tightly circumscribed" step of reviewing Appellant's unpreserved challenge to the jury instruction.[5] *Malaska v. State*, 216 Md. App. 492, 524 (2014).

II. THE EVIDENCE WAS SUFFICIENT TO SUSTAIN YOUNG'S CONVICTIONS.

Appellant asserts that his firearms and fleeing and eluding convictions were predicated on insufficient evidence which he characterizes as "highly speculative" and circumstantial. With regard to the firearms offenses arising out of the traffic stop, Appellant contends that the State failed to prove beyond a reasonable doubt two of the three elements necessary to convict him of unlawful possession of a regulated firearm by a disqualified person: "[t]hat the defendant knowingly possessed a firearm" and "that the firearm was a regulated firearm."[6] MPJI-Cr. 4:35.6. Similarly, Appellant contends that the State's

[5] This is not to suggest that in the applicable circumstances, the choice of whether to give a flight instruction due to evidence of a defendant's reasonable fear of police officers would not be within the sound discretion of the trial judge. However, in this case, no such argument was raised in the trial court.

[6] Appellant does not dispute that due to a previous conviction, he is disqualified from owning firearms and ammunition under sections 5-133(b)(1) and 5-133.1(b) of the Public Safety Article ("PS") of the Maryland Code.

evidence did not support a finding that a handgun was in the vehicle, and therefore, his conviction for transporting a handgun cannot stand. With respect to the residence offenses, Appellant asserts that the State did not establish his constructive possession of the firearm and ammunition found during the execution of the search warrant. The State disagrees, maintaining that the evidence was sufficient to sustain Appellant's convictions.

Appellant also alleges that the evidence was insufficient to support his conviction of "willfully" fleeing and eluding a police officer. Appellant asserts that his departure from the traffic stop was not willful because he did not have "a bad purpose or . . . the intent to commit the act that is defined in the statute." Instead, Appellant maintains that he only drove away from the area because he was afraid the police interaction would become fatal after the officers drew their service weapons. As a threshold matter, the State argues that this issue is unpreserved for our review, but asserts that even on the merits, the evidence was sufficient to sustain the jury's findings.

A. Standard of Review

The standard of review for determining whether sufficient evidence exists to support a conviction is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jefferson v. State*, 194 Md. App. 190, 213 (2010) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). This standard "applies to all criminal cases, including those resting upon circumstantial evidence, since, generally, proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts." *State v. Smith*, 374 Md. 527, 534 (2003). In making this

determination, a reviewing court must give "due regard to the [fact finder's] findings of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses." *Id.* (quoting *Moye v. State*, 369 Md. 2, 12 (2002)) (internal quotations omitted). A conviction may rest entirely on circumstantial evidence, and in general, "proof of guilt based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts." *State v. Suddith*, 379 Md. 425, 430 (2004). Differing reasonable inferences may arise from the evidence, and the fact finder is permitted to select from among those inferences. *See Smith v. State*, 415 Md. 174, 183 (2010). A reviewing court may not "second-guess the jury's determination where there are competing rational inferences available." *Id.*

B. The Traffic Stop Firearms Offenses

Appellant asserts that the record evidence was insufficient to support the jury's finding that, during the traffic stop, a regulated firearm was inside his vehicle.[7] Appellant argues that Det. Johnson's testimony that he observed a gun in the vehicle was "highly speculative," pointing to Det. Johnson's statement that he saw only the handle of a gun under the car's seat, and notes that Det. Johnson never explicitly attested that the handgun recovered during the search of the residence was the same one he observed during the traffic stop. Appellant also notes that on cross examination, Det. Johnson agreed that as

[7] Appellant was found guilty of two firearms offenses stemming from the traffic stop: 1) possession of a regulated firearm by a prohibited person after previously being convicted of a disqualifying crime, and 2) wearing, carrying, or transporting a handgun in a vehicle. Md. Code PS § 5-133(b)(1), Criminal Law Article ("CR") § 4-203(a)(1)(ii). Appellant does not contest any other elements the firearm offenses arising from the traffic stop.

part of his duties as a police officer, he had previously "interact[ed] with . . . things that looked like regulation firearms but were not." We are unpersuaded by Appellant's contention that the evidence was insufficient to support the jury's conclusion.

The evidence was sufficient for the jury to find that Appellant both possessed the firearm in the vehicle during the traffic stop, and that the firearm was a regulated firearm under the law.[8] Det. Johnson's testimony, coupled with the body worn camera footage, provides evidence for a rational trier of fact to find that Appellant was in possession of a regulated firearm during the February traffic stop. Det. Johnson testified that he saw the handle of a black semiautomatic handgun sitting beneath the driver's seat. Furthermore, the body worn camera footage, which was admitted into evidence, provides contemporaneous corroboration of Det. Johnson's statement at trial that he observed the handle of a handgun; in the footage, immediately after Appellant's vehicle speeds off, Det. Johnson twice informs other officers he saw a gun under the driver's seat.

In addition, Det. Johnson testified that he knew the item under the seat was a handgun because, as he stated:

> I carry a handgun every day while I'm at work. I carry a Glock 22 handgun, it's a semiautomatic handgun, polymer frame, has a metal slide on top with a removal box magazine. I observed a handle that was similar to the one that I carry with a removable box magazine underneath. And I could also see the rear sights on the back of the slide for the handgun.

[8] The Maryland Code defines a regulated firearm as "a handgun; or a firearm that is any of the following specific assault weapons or their copies[.]" The definition then lists numerous styles of assault weapons. Md. Code PS § 5-101(r). A handgun is defined as "a firearm with a barrel less than 16 inches in length." Md. Code PS § 5-101(n)(1).

The parties stipulated at trial that the Taurus PT111 Millennium G2 handgun recovered from the March search of the residence was a "regulated firearm." The evidence available to the jury included Det. Johnson's testimony of his observations at the traffic stop, as well as the weapon recovered from the residence itself; moreover, Det. Johnson's description of the handgun he observed during the traffic stop is consistent with the weapon recovered from the search of the residence. Thus, it was reasonable for a trier of fact to infer that the handgun recovered from the residence and the handgun that Det. Johnson saw in the vehicle were one and the same. Therefore, the evidence was sufficient to support the jury's determination that Appellant possessed a regulated firearm during the traffic stop, and Appellant's convictions for the firearms-related traffic stop offenses must be affirmed.

C. The Residence Offenses

"Possession may be constructive or actual, exclusive or joint." *Taylor v. State*, 346 Md. 452, 458 (1997) (citing *State v. Leach*, 296 Md. 591, 595 (1983)). In order to sustain a conviction, "the evidence must show directly or support a rational inference that the accused did in fact exercise some dominion or control over the prohibited" contraband. *Taylor*, 346 Md. at 458 (quoting *Garrison v. State*, 272 Md. 123, 142 (1974)) (internal quotation marks and brackets omitted). "[A]n individual ordinarily would not be deemed to exercise 'dominion or control' over an object about which he is unaware. Knowledge of the presence of an object is normally a prerequisite to exercising dominion and control." *Moye v. State*, 369 Md. 2, 14 (2002) (quoting *Dawkins v. State*, 313 Md. 638, 649 (1988)) (internal quotation marks omitted).

Relying on *Taylor* and *Moye*, Appellant argues that the State failed to prove that he

knowingly possessed the regulated firearm and ammunition which were recovered at the residence. *Taylor*, 346 Md. at 452; *Moye*, 369 Md. at 2. Appellant is correct in noting that "[p]ossession requires more than being in the presence of other persons having possession; it requires the exercise of dominion or control over the thing allegedly possessed." *Taylor*, 346 Md. at 459. However, the facts of the instant case are distinguishable from those of *Taylor* and *Moye*.

In *Taylor*, the defendant was convicted of possession of marijuana after officers discovered the contraband concealed within another person's bags in a motel room where the defendant was present along with several other individuals. *Id.* at 455. At trial, an officer's testimony "established only that Taylor was present in a room where marijuana had been smoked recently, that he was aware that it had been smoked, and that Taylor was in proximity to contraband that was concealed in a container belonging to another." *Id*. at 459. The Supreme Court of Maryland reversed where the record was clear that Taylor "was not in exclusive possession of the premises," "the contraband was secreted in a hidden place not otherwise shown to be within [Taylor's] control," and the evidence did not establish that Taylor had knowledge of the marijuana, which was concealed in a bag owned by another person. *Id.* at 459–60.

In *Moye*, the Court reversed a defendant's drug possession convictions on the basis the State had failed to demonstrate either his knowledge of the location of the drugs, or that he otherwise controlled them. 369 Md. at 24. In so deciding, the Court determined that "Moye had [no] ownership or possessory right" to the home in which the drugs were found, there was no evidence that Moye had been observed previously using or possessing the

drugs in question, and the State "failed to produce any evidence concerning Moye's presence . . . in the vicinity of the drugs." *Id.* at 18–20.

In contrast to *Taylor* and *Moye*, Appellant's exercise of dominion and control over the handgun was supported by more than his mere presence at the residence where the handgun and ammunition were located. Here, the address listed on Appellant's driver's license matched the address where the search warrant was executed, and Det. Johnson testified that he observed Appellant leave the residence and enter the same silver Honda which had previously been the subject of the traffic stop, which he asserted had previously contained a handgun.[9]

In support of Appellant's possessory interest in the rear bedroom specifically, a police detective who participated in the search testified that he recovered mail addressed to Appellant and a credit card bearing Appellant's name from the same room where the handgun was found. Circumstantial evidence further supports Appellant's knowledge of the firearm. Unlike in *Taylor* or *Moye*, where officers had not previously witnessed the defendants with the contraband at issue, in this case, Det. Johnson observed a handgun in Appellant's possession ten days prior to searching the residence. *Taylor*, 346 Md. at 459; *Moye*, 369 Md. at 20. Det. Johnson's testimony describing the handle of the handgun is not

[9] In his reply brief, Appellant relies on *State v. Leach* to assert that a driver's license is not determinative of a person's possessory interest in a residence. 296 Md. 591 (1983). The Court in *Leach* held that a defendant's driver's license was insufficient to support a finding of residency when the residence was a one-bedroom apartment, another person lived at the address and received mail there, and a witness testified that the defendant lived at a different address. *Id.* at 594–95. In addition to the factual differences between the instant case and *Leach*, there is additional evidence apart from the driver's license to support a finding that Appellant resided at the home where the firearm was recovered.

inconsistent with the photos of the recovered handgun, supporting the reasonable inference that the handgun found in the backpack is the same handgun observed during the traffic stop. Similarly, unlike in *Moye*, where the record did not show that the defendant had a possessory interest in the location where the contraband was found, the presence of mail addressed to Appellant and a credit card in Appellant's name in the same room where the gun was recovered supports a reasonable inference that Appellant had some degree of dominion or control over the room and its contents. 369 Md. at 18.

Viewing the evidence in the light most favorable to the State, we conclude that a rational factfinder could conclude that Appellant knowingly exercised dominion and control over the handgun and ammunition found in the rear bedroom. Therefore, the evidence was sufficient to sustain Appellant's convictions for possession of ammunition and a regulated firearm by a disqualified person.

D. The Unpreserved Fleeing and Eluding Argument

Appellant also contends the evidence was insufficient to convict him for the fleeing and eluding offense arising from the February traffic stop. At the close of the State's case, Appellant's counsel moved for a judgment of acquittal, and, as to the fleeing and eluding charge, made "two specific arguments." First, he asserted that the State failed to present evidence that prior to Appellant leaving the scene of the traffic stop, police had given him both "a visual and audible signal" to stop as was alleged in the charging document. He also argued that there was insufficient evidence in the record that Det. Johnson's badge was prominently displayed. Appellant does not renew these arguments on appeal; he now presents a wholly new argument, asserting that the State did not present sufficient evidence

to support a finding that he "willfully" fled from the officers within the meaning of the law. Appellant concedes this argument is unpreserved for our review.

As previously noted in Section I. *supra*, an appellant "is not entitled to appellate review for reasons stated for the first time on appeal." *Albertson v. State*, 212 Md. App. 531, 570 (2013) (quoting *Starr v. State*, 405 Md. 293, 302 (2008)). Appellant advocates for the plain error review of his unpreserved challenge to his fleeing and eluding conviction on the same basis offered for review of the flight instruction. For the reasons we have previously articulated, we decline to exercise our discretion to undertake plain error review as to Appellant's unpreserved argument. *See Morris v. State*, 153 Md. App. 480, 506–07 (2003).

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