

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2154

September Term, 2014

LEVON OUTLAW

v.

STATE OF MARYLAND

Eyler, Deborah S.,
Arthur,
Kenney, James A., III
(Retired, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: October 9, 2015

* 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.

Levon Outlaw, an inmate at the Maryland Correctional Training Center, appeals from the denial of his motion to correct an illegal sentence under Md. Rule 4-345(a). We affirm because Outlaw’s sentence was not “‘inherently’ illegal.” *Bryant v. State*, 436 Md. 653, 662 (2014) (quoting *Chaney v. State*, 397 Md. 460, 466 (2007)).

FACTUAL BACKGROUND

In 1999 the State brought two indictments against Outlaw in the Circuit Court for Baltimore City. The indictments arose from Outlaw’s highly unsuccessful attempt to rob two men, Leon Webber and Francis Peckay, near the Inner Harbor.¹

On the indictment pertaining to Webber, a Baltimore City jury convicted Outlaw of first-degree assault, second-degree assault, robbery with a dangerous and deadly weapon, robbery, theft of less than \$300.00, use of a handgun in a crime of violence, and wearing and carrying a handgun.

On the indictment pertaining to Peckay, the jury convicted Outlaw of first-degree assault, second-degree assault, attempted robbery with a dangerous and deadly weapon, attempted robbery, use of a handgun in a crime of violence, and wearing and carrying a handgun.

¹ Outlaw displayed a handgun and demanded money from his victims. One of the victims, Peckay, told Outlaw that his money was in his car. Outlaw allowed Peckay to go into the car to retrieve his money. Instead of retrieving money, Peckay, an off-duty Secret Service Agent, retrieved his service revolver and fired it at Outlaw. Outlaw fled. He was found bleeding in an alley near the Shot Tower. A trail of blood led from the scene of the aborted robbery to the place where Outlaw was found. It turned out that Outlaw’s handgun was unloaded.

After merging some of the convictions, the circuit court imposed its sentence on October 30, 2000.

For the offenses against Webber, the court sentenced Outlaw to 20 years' imprisonment for first-degree assault; 20 years, to be served concurrently, for robbery with a dangerous and deadly weapon; and 20 years, to be served consecutively, for the use of a handgun in a crime of violence.

For the offenses against Peckay, the court sentenced Outlaw to 20 years' imprisonment for first-degree assault, to be served consecutively to the sentences for the offenses pertaining to Webber; 20 years for attempted robbery with a dangerous and deadly weapon, to be served concurrently; and 20 years for the use of a handgun in a crime of violence, which was also to be served concurrently.

In short, under the sentences, as imposed by the circuit court in 2000, Outlaw faced 60 years of executed time – 40 years for the convictions pertaining to Webber and an additional 20 years for the convictions pertaining to Peckay.

On appeal, this Court held that Outlaw's convictions for first-degree assault merged, respectively, with his convictions for robbery with a dangerous and deadly weapon (of Webber) and attempted robbery with a dangerous and deadly weapon (of Peckay). *Outlaw v. State*, No. 2314, Sept. Term 2000 (filed June 27, 2001). Accordingly, this Court vacated both convictions for first-degree assault. *Id.*

In response to this Court's decision, the circuit court issued a new commitment record on March 29, 2002. The new commitment record stated that the total time for

Outlaw to serve was 40 years. For the offenses pertaining to Webber, Outlaw would serve 40 years for robbery with a dangerous and deadly weapon and a consecutive 20 years for the use of a handgun in a crime of violence. For the offenses pertaining to Peckay, Outlaw would serve a concurrent 20 years for attempted robbery with a dangerous and deadly weapon and a concurrent 20 years for the use of a handgun in a crime of violence.

DISCUSSION

Outlaw now claims that this sentence is “illegal,” because, he says, this Court’s earlier decision means that he should have been required to serve only 20, rather than 40, years. Even if his contention were correct – which it is not – the sentence would not be “illegal” within the contemplation of Rule 4-345(a).

Rule 4-345(a) allows a court to “correct an illegal sentence at any time,” even if the criminal defendant failed to object at the time of the proceedings. *See Bryant*, 436 Md. at 662. The rule applies, however, only “to sentences that are ‘inherently’ illegal.” *Id.* (quoting *Chaney*, 397 Md. at 466). An “inherently illegal” sentence is one in which “‘there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which it was imposed.’” *Bryant*, 436 Md. at 663 (quoting *Chaney*, 397 Md. at 466). By contrast, if the defendant complains only of a procedural error, the complaint does not concern an “illegal” sentence within the meaning of Rule 4-345(a). *See Tshiwala v. State*, 424 Md. 612, 619 (2012).

Here, the court did not impose a sentence on Outlaw for a crime of which he was not convicted. Nor is the court alleged to have imposed any sentence greater than the ones

allowed by law. Because Outlaw’s sentence, therefore, is not “inherently illegal” as the Court of Appeals has defined that term, it is not the proper subject of a motion to correct an illegal sentence under Rule 4-345(a).²

Outlaw’s real complaint is not that the sentence (as reflected in the 2002 commitment record) is inherently illegal, but that it reflects a computational error. He is incorrect. Although this Court vacated the assault convictions, the 20-year sentence for the use of handgun against Webber remained consecutive to the 20-year sentence robbery with a deadly weapon against Webber. Consequently, even if all of the sentences pertaining to Peckay are now deemed to run concurrently with the sentences pertaining to Webber, Outlaw still has 40 years of executed time.

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

² Outlaw claims that his sentence is illegal because the court failed to specify a commitment date and to give him pretrial credit and thus failed to pronounce sentence in accordance with the requirements of Rule 4-351. Outlaw admits, however, that his original commitment record reflects pretrial credit and a commitment date.