

Circuit Court for Washington County  
Case No. 21-K-04-35009

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 302

September Term, 2017

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LILEY LEE GORDON

v.

STATE OF MARYLAND

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Woodward, C.J.  
Graeff,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: May 7, 2018

\*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.

Liley Lee Gordon appeals the denial, by the Circuit Court for Washington County, of his motion to correct an illegal sentence. We affirm.

In 2005, Gordon pled guilty to carjacking, second-degree assault, and other offenses and was sentenced to a total term of twenty-three years' imprisonment. He did not seek leave to appeal. In 2010, Gordon filed a motion to correct an illegal sentence pursuant to Rule 4-345(a) in which he alleged that his sentence was illegal because, among other reasons, he was sentenced “outside the terms of his plea agreement.” The circuit court denied the motion, and upon appeal this Court affirmed the judgment. *Gordon v. State*, No. 532, September Term, 2010 (filed May 11, 2011) (*Gordon I*), cert. denied, 421 Md. 558 (2011).

In 2017, Gordon again filed a motion to correct an illegal sentence, which the circuit court denied. Upon appeal, Gordon asserts that (1) “the trial court sentenced [him] outside of the terms of his plea agreement”; (2) “the trial court unilaterally altered the plea agreement after accepting it”; and (3) “the State breached the plea agreement” at sentencing. The State maintains that Gordon raised these issues in his previous illegal sentence case and, therefore, the law of the case doctrine bars relitigation. We agree. *Scott v. State*, 379 Md. 170, 183-184 (2004) (the law of the case doctrine, binding litigants and lower courts to an appellate ruling, applies also to a panel of the same appellate court in a subsequent appeal “unless the previous decision is incorrect because it is out of keeping with controlling principles announced by a higher court and following the decision would result in manifest injustice.”) (citations omitted); *State v. Garnett*, 172 Md. App. 558, 562-563 (Observing that “the law of the case doctrine would prevent relitigation of an ‘illegal

sentence’ argument that has been presented to and rejected by an appellate court.”), *cert. denied*, 399 Md. 594 (2007). Gordon has not pointed to any “higher court” decision which would render this Court’s decision in *Gordon I* incorrect and, thus warrant a review of claims previously litigated.

In reply to the State’s argument, Gordon concedes that his first two contentions were addressed in *Gordon I*, but insists that his third contention was not previously decided by this Court and, hence, it is not barred by the law of the case doctrine. We disagree.

In this appeal, Gordon asserts that, under the terms of the plea bargain, the State promised “to make no recommendation for a particular sentence,” and agreed instead to recommend a “sentence within the guidelines.” At sentencing the State informed the court that the “sentencing guidelines total four years to 14 years and three months” and urged the court to impose “the most serious penalty the court could give him.” The court sentenced Gordon to twenty years’ imprisonment for carjacking, which was the statutory maximum. Gordon maintains that the State breached the plea agreement by advocating for a sentence that exceeded the sentencing guidelines.

In *Gordon I*, this Court rejected “appellant’s contention that the plea agreement included the State’s recommendation that the court impose a sentence within the guidelines.” *Slip op.* at 14. After reviewing the plea hearing transcript, we concluded that, “[v]iewed objectively, the State did not agree to any terms regarding sentencing[.]” *Id.* at 15. We quoted the prosecutor informing the court that ““the State would expect a sentence with[in] those guidelines, but not arguing for *any* specific sentence.”” *Id.* at 14 (emphasis supplied in *Gordon I*.) We also noted that the court twice reviewed with Gordon the

maximum sentences he was facing for each offense. *Id.* at 15. In short, we concluded that that “a reasonable lay person in appellant’s position would have understood that there was no agreement regarding sentencing and that he was subject to the maximum penalties allowed by law.” *Id.* at 16.

Because all the issues raised in this appeal were addressed in *Gordon I*, we hold that the circuit court did not err in denying Gordon’s motion to correct an illegal sentence.

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