

Circuit Court for Prince George's County
Case No.: CT970577B

UNREPORTED

IN THE APPELLATE COURT
OF MARYLAND*

No. 329

September Term, 2025

ANTHONY JOHNSON

v.

STATE OF MARYLAND

Reed,
Shaw,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 4, 2025

*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.

In 2006, a jury in the Circuit Court for Prince George’s County found appellant, Anthony Johnson, guilty of first-degree murder and use of a handgun in the commission of a crime of violence. The court sentenced him to life imprisonment for murder and to a consecutive 20 years’ imprisonment for the handgun offense. On direct appeal, this Court affirmed the judgments. *Johnson v. State*, No. 1188, September Term, 2006 (filed unreported June 3, 2008).

In March 2025, Johnson, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he asserted that his conviction for first-degree murder is illegal because the jury had acquitted him of second-degree murder, thus rendering his life sentence illegal. The circuit court denied relief, stating that Johnson “incorrectly asserts that he was found not guilty of Second-Degree Murder, a lesser included offense.” Johnson appeals. For the reasons to discuss, we conclude that Johnson’s sentence is not inherently illegal and, therefore, we shall affirm the judgment of the circuit court, albeit on different grounds than the circuit court.

Pursuant to an indictment, Johnson was charged with first-degree murder, use of a handgun in the commission of a crime of violence, and conspiracy to commit murder. At the close of all the evidence, the court granted Johnson’s motion for judgment of acquittal on the conspiracy count. The jury was asked to determine whether Johnson was guilty or not guilty of three counts: first-degree murder, second-degree murder, and use of a handgun in the commission of a crime of violence. The jury found Johnson guilty of first-degree murder, not guilty of second-degree murder, and guilty of the handgun offense. Because there was a single victim in this case, the jury’s finding of guilt on the first-degree murder

count and not guilty on the second-degree murder count was legally inconsistent. Johnson, however, did not object to the legal inconsistency.¹ Nor did Johnson raise the issue on direct appeal.

As the State points out, when Johnson was convicted in 2006, inconsistent jury verdicts in criminal cases were tolerated in Maryland. *Pitts v. State*, 250 Md. App. 496, 513-14 (2021). Legal inconsistencies, such as the one at issue here, were accepted until the Maryland Supreme Court in *Price v. State*, 405 Md. 10 (2008), reversed course and held that inconsistent verdicts in criminal cases would no longer be tolerated in Maryland. *See also Pitts*, 250 Md. App. at 517 (observing that “it is undisputable that with respect to inconsistent jury verdicts in a criminal case, a seismic shift occurred on June 9, 2008[,]” the date the Court’s opinion in *Price* was filed). Prior to *Price*, legally inconsistent verdicts were tolerated and, therefore, not disturbed on appeal. *Id.* at 517-18.²

Johnson insists, however, that his argument is not that the guilty verdict for first-degree murder is simply inconsistent with the jury’s verdict of not guilty of second-degree murder, but rather “the acquittal of the lesser included offense (second degree murder) has

¹ A verdict of guilty of first-degree murder and not guilty of second-degree murder is a “legal inconsistency.” *Pitts v. State*, 250 Md. App. 496, 509-10 (2021).

² This Court’s decision affirming Johnson’s convictions on direct appeal was filed on June 3, 2008, six days before the *Price* opinion was filed on June 9, 2008. Johnson did not raise the issue he is raising here on direct appeal. Nor did he raise the issue before the trial court. Accordingly, he was not entitled to the benefit of the holding in *Price*. *See Price*, 405 Md. at 29 (“[W]ith regard to the instant case, *similarly situated cases on direct appeal where the issue was preserved*, and verdicts in criminal cases rendered after the date of our opinion in this case, inconsistent verdicts shall no longer be allowed.” (emphasis added)).

nullified the single murder count.” As such, he maintains that the life sentence for first-degree murder is inherently illegal because “no sentence should have been imposed in the first place.” In other words, he asserts that “[a]n acquittal is an acquittal, even when the jury returns inconsistent verdicts.”

We disagree. The jury found Johnson guilty of first-degree murder. It then announced that it found him not guilty of second-degree murder,³ rendering these verdicts legally inconsistent. *See Judge Harrell’s concurring opinion in Price*, 405 Md. at 37-38 (describing a “legal inconsistency” in jury verdicts as when “an acquittal on one charge is conclusive as to an element which is necessary to and inherent in a charge on which a conviction has occurred” and similarly, where “the essential elements of the counts of which the defendant is acquitted are identical and necessary to prove the count of which the defendant is convicted”) (quotation marks and citations omitted).

Moreover, we addressed and rejected a similar claim in *Pitts* where the defendant (convicted in 1997) was found guilty by a jury of first-degree, but not guilty of second-degree murder of the same victim. We held that his sentence for first-degree murder was not inherently illegal. 250 Md. App. at 526-27. *Pitts* is controlling here.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**

³ The jury was not instructed that it need not consider whether Mr. Johnson was guilty or not guilty of second-degree murder if they found him guilty of first-degree murder.