

Circuit Court for Frederick County
Case No. C-10-CR-18-000452

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 380

September Term, 2020

DARNELL EUGENE MORRIS

v.

STATE OF MARYLAND

Graeff,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 12, 2021

*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.

In October 2018, Darnell Eugene Morris, appellant, pleaded guilty to distribution of 448 grams of cocaine and conspiracy to distribute cocaine in the Circuit Court for Frederick County. On the distribution count, the court sentenced Mr. Morris to a term of 20 years' incarceration, with 10 years suspended and the first five years to be served without the possibility of parole. The court also sentenced him to 20 years' incarceration on the conspiracy count, all of which was suspended, to be run consecutive to the sentence on the distribution count.

In May 2020, Mr. Morris filed an “Emergency Petition for Modification and/or Reduction of Sentence Due to Exposure Risk for Coronavirus” (the emergency petition), wherein he requested that his sentence be modified or reduced pursuant to Maryland Rule 4-345 because “the Secretary of DCSCS and the Commissioner of Corrections [had] failed to assure that [he was] reasonably protected from the COVID 19 virus[.]” On May 22, 2020, the court denied Mr. Morris's petition without a hearing. This appeal followed.

The denial of a motion for modification of sentence pursuant to Maryland Rule 4-345, is not an appealable order unless the court concludes that it lacks jurisdiction to consider the motion, which it did not in this case. *See Hoile v. State*, 404 Md. 591, 615 (2008) (“[T]he denial of a motion to modify a sentence, unless tainted by illegality, fraud,

or duress is not appealable.” (citations omitted)). Consequently, the appeal must be dismissed.¹

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANT.**

¹ In his informal brief, Mr. Morris primarily addresses the court’s denial of his petition for writ of mandamus, which was docketed as a separate civil action. However, that issue is not properly before us as the circuit court’s order denying the petition for writ of mandamus was issued in October 2020, after he filed the notice of appeal in this case. The denial of that petition is the subject of a separate appeal that has been docketed in this Court as Case No. 955, Sept. Term 2020.