

Circuit Court for Baltimore County
Case No.: 03-K-09-007049

UNREPORTED

IN THE APPELLATE COURT
OF MARYLAND*

No. 402

September Term, 2025

DUANE JAMAR YARBROUGH

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 2010, a jury in the Circuit Court for Baltimore County found appellant, Duane Jamar Yarbrough, guilty of second-degree rape, second-degree assault, false imprisonment, and fourth-degree burglary. The court sentenced him to 20 years' imprisonment for second-degree rape, a consecutive 10 years for false imprisonment, and a consecutive three years for burglary. This Court affirmed the judgments. *Yarbrough v. State*, No. 2897, September Term, 2010 (filed unreported December 10, 2012).

In March 2025, Mr. Yarbrough, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he maintained that his sentence for false imprisonment should have merged with the sentence for second-degree rape. As grounds, he claimed that “it is not readily apparent that the factual basis for the jury’s guilty verdict on the false imprisonment count was separate from that of the guilty verdict on the second degree rape count and because all of the elements of false imprisonment should be merged into the conviction for second degree rape for sentencing purposes.” The circuit court denied relief, prompting this appeal. We shall affirm the judgment.

As the State points out, this Court addressed and rejected this issue on direct appeal where Mr. Yarbrough argued that the sentence for false imprisonment merged into the sentence for second-degree rape under the required evidence test, the rule of lenity, or fundamental fairness. *Slip op.* at 8. We disagreed. After reviewing the evidence before the jury, we concluded that “‘the charge of false imprisonment was supported by facts independent of the facts supporting’ the second degree rape, both preceding and following that assault.” *Id.* at 12 (quoting *Jones-Harris v. State*, 179 Md. App. 72, 100 (2008)). We

held, therefore, that Mr. Yarbrough’s “separate sentences for false imprisonment and second degree rape do not merge.” *Id.*

We fail to discern any difference in the argument made on direct appeal and the one Mr. Yarbrough made in his Rule 4-345(a) motion and makes in this appeal. Accordingly, because we have already addressed and resolved Mr. Yarbrough’s Rule 4-345(a) illegal sentence argument, the issue is barred. *State v. Garnett*, 172 Md. App. 558, 562 (2007) (observing that the law of the case doctrine prevents relitigation of an illegal sentence argument previously presented to and rejected by an appellate court). *See also Davis v. State*, ___ Md. App. ___, No. 2162, Sept. Term, 2023 (filed September 3, 2025) (reiterating that the law of the case doctrine bars an illegal sentence argument where the “same issue” has been presented to and rejected by an appellate court in a prior appeal in the same case).

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