

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0420

September Term, 2014

ROLAND BELL

v.

STATE OF MARYLAND

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

JJ.

Opinion by Kenney, J.

Filed: November 19, 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.

Roland Bell, self-represented appellant, appeals from the denial, by the Circuit Court for Baltimore City, of his motion to correct an illegal sentence.¹ Finding no error on the part of the circuit court, we affirm that court’s order.

¹Appellant, in his brief, couches the issue as follows:

- A. Where [sic] the docket entries and commitment records substantially different from the sentences evidenced by the transcripts of the proceedings?
- B. Did the court personnel err by providing the Division of Correction an inaccurate commitment record?
- C. Did the court below err when issuing a commitment record which did not comply with Rule 4-351?
- D. Did the court below err by lumping the appellant’s sentences together to make a total sentence of seventy years?
- E. Did the court below err by issuing a commitment order which indicated Case Nos. 18416415 and 18416421 were “consecutive” with one another but had identical commencement dates of May 25, 1984?
- F. Did the court err when ordering Case no. 18416403 consecutive to the sentences imposed May 25, 1984 giving that day as commencement date?
- G. Did the court err when ordering Case no. 18416421 consecutive to the sentences imposed May 25, 1984 giving that date as commencement date?
- H. Did the court below improperly impose the sentences by failing to embrace how each sentence relates to one another at the time they are imposed?
- I. Did the court below fail to acknowledge the law as it existed at the time of imposing the sentence?
- J. Was the language used at the point of imposition referring to the individual sentences erroneous and ambiguous enough to render the sentences ambiguous?
- K. Was the ambiguous language at the point of imposition of the sentence enough to render the sentences illegal?
- L. Was the commitment record so unclear that the correctional officials could not facilitate their statutory task?
- M. Did the ambiguity and lack of clarity contained in the commitment record adversely impact the correctional authorities’ ability to perform their statutory obligations in calculating the appellant’s sentence duration?

(continued...)

BACKGROUND

In the early morning hours of April 26, 1984, three people drove to the Murphy Homes Public Housing Project in Baltimore City to purchase cocaine. When they arrived, appellant and another man forced the trio into an apartment in the building at gunpoint, where appellant and several other men pistol whipped, burned, kicked and stabbed them. One of the victims was eventually able to grab a gun from one of the assailants and escape to approach a police officer.

Following a May 1985 trial, a jury convicted appellant of three counts of assault, one count of assault with intent to murder, three counts of kidnapping, and the use of a handgun in the commission of a crime of violence. The trial court sentenced appellant to a total of one hundred years in prison.² Upon direct appeal to this Court, the judgments against him were affirmed. *Roland Bell v. State*, No. 1641, September Term, 1985 (per curiam) (filed July 2, 1986). The Court of Appeals denied his petition for writ of *certiorari*. *Bell v. State*, 308 Md. 237 (1986).

At the end of his brief, appellant “abandons claims L and M.” All of appellant’s questions relate to the trial court’s denial of his motion to correct an illegal sentence.

² The trial court sentenced appellant:

Accordingly, the sentence as to the indictment ending in 12, the kidnapping of Myra Tyson, the sentence is thirty years to the Department of Correction; as to the kidnapping of Timothy Franklin the sentence is twenty years consecutive; as to the kidnapping of Michael Stokes the sentence is twenty years consecutive; as to the assault with intent to murder Myra Tyson the sentence is thirty years consecutive.

On the handgun charge and the simple assault charges, the court imposed sentences to run concurrently with the sentences listed above.

Following several petitions for post-conviction relief and applications for leave to appeal to this Court, all of which were denied, appellant, representing himself, filed a motion to correct an illegal sentence on September 18, 2007, raising essentially the same issues raised in his appeal brief. That motion was supplemented by counsel on July 29, 2009. Counsel argued that the one hundred-year sentence imposed by the trial court was impermissibly ambiguous because of the “Court’s failure to relate each of the ‘consecutive’ sentences to a term of confinement to which it should run consecutively.”

The circuit court denied appellant’s motion by order filed July 14, 2014. In its lengthy memorandum in support of its order, the court found no ambiguity or inherent illegality in the sentence announced by the trial court in 1985. Appellant, again representing himself, filed a timely notice of appeal and application for leave to appeal the court’s denial of his motion on August 1, 2014.³

DISCUSSION

Appellant alleges no substantive illegality in his sentence. Instead, he avers that the circuit court’s pronouncement of its sentence was impermissibly ambiguous and that the resulting commitment record was inaccurate, to the point that he was unsure of the exact sentence imposed upon him.

³ If a motion is made to correct an illegal sentence pursuant to Rule 4–345(a), a denial of the motion is immediately appealable. *Carlini v. State*, 215 Md. App. 415, 425 (2013). Therefore, appellant’s apparent attempt to “cover all his bases” by filing both a notice of appeal and an application for leave to appeal, was unnecessary. We will, therefore, deny appellant’s application for leave to appeal.

An illegal sentence could be challenged on direct appeal, but Maryland Rule 4-345(a) permits a challenge to an illegal sentence at any time, notwithstanding the fact that the defendant failed to object to the sentence at the trial level or failed to challenge the sentence by way of direct appeal.⁴ An illegal sentence as contemplated by a Rule 4-345(a) motion to correct an illegal sentence has been described consistently by Maryland courts “as limited to those situations in which the illegality inheres in the sentence itself; *i.e.*, 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 and, for either reason, is intrinsically and substantively unlawful.” *Chaney v. State*, 397 Md. 460, 466 (2007).

Despite some form of error, neither a procedural flaw nor a trial error committed during the sentencing proceeding is an illegality that inheres in the sentence itself, and any such errors must be raised during a timely filed direct appeal. *Carlini*, 215 Md. App. at 426 (quoting *Johnson v. State*, 427 Md. 356, 367 (2012)); *see also Tshiwala v. State*, 424 Md. 612, 619 (2012) (concluding that a sentence does not become an “illegal sentence” because of “some arguable procedural flaw in the sentencing procedure”). In other words, Rule 4-345(a) is not an “unlimited ‘Reopen Sesame,’ licensing the court to revisit and relitigate issues that have long since become *faits accompli[s]*.” *Matthews v. State*, 197 Md. App. 365, 375 (2011), *rev’d on other grounds*, 424 Md. 503 (2012).

⁴ Md. Rule 4-345(a) provides: “The court may correct an illegal sentence at any time.”

Appellant does not contend that he was sentenced for an offense of which he was not convicted, nor that the sentence imposed was not permitted for the crimes of which he was convicted; he merely offers purported ambiguities in the sentence as pronounced and inaccuracies in the commitment record in support of his motion to correct an illegal sentence. Neither alleged category of procedural error inheres in the sentence itself so as to trigger the application of Rule 4-345.

Moreover, in its memorandum in support of its denial of appellant’s motion to correct an illegal sentence, the circuit court thoroughly explained how the sentencing judge at appellant’s 1985 trial separately addressed each crime of which appellant had been convicted and “clearly established the sentence for each count, stated the date from which the original sentence was to run, stated which counts were to run concurrently versus consecutively and ensured that Defendant received credit for the time he had served prior to sentencing.” The circuit court further found no ambiguity in appellant’s commitment record, nor any discrepancy between the sentencing judge’s pronouncement of sentence and the commitment record.⁵

An independent review of the record reveals nothing to support a finding of ambiguity in appellant’s sentence as pronounced, much less any illegality inherent in his

⁵Pursuant to Md. Rule 4-351(b), an “omission or error in the commitment record or other failure to comply with this Rule does not invalidate imprisonment after conviction.” Even had the circuit court found ambiguity or error in the commitment record, appellant’s remedy would have been a correction to the commitment record.

sentence. The circuit court properly denied appellant's motion to correct an illegal sentence.

**APPELLANT'S APPLICATION FOR LEAVE TO
APPEAL DENIED; JUDGMENTS AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**