Circuit Court for Baltimore City
Case Nos. 112132013 / 112137015

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 477

September Term, 2018

EMANUEL DEMINDS

v.

STATE OF MARYLAND

Meredith,
Graeff,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 29, 2019

Emanuel Deminds appeals the denial, by the Circuit Court for Baltimore City, of his motion to correct an illegal sentence. Because his sentence is legal, we shall affirm.

Mr. Deminds was charged with conspiracy to commit murder, attempted first-degree murder, first-degree assault, illegal possession of a firearm, conspiracy to distribute a controlled dangerous substance (crack cocaine), and related offenses. On April 29, 2013, Mr. Deminds appeared in court for a plea hearing.[1] The State informed the court that, pursuant to a plea agreement, in exchange for guilty pleas to one count of conspiracy to commit murder and one count of conspiracy to distribute cocaine and Mr. Deminds's cooperation with the State in prosecuting his co-conspirators, the State would recommend a life sentence, with all but 15 to 30 years suspended, for conspiracy to commit murder and a concurrent term of 10 years for conspiracy to distribute cocaine, to be followed by a five-year period of supervised probation. When the court asked Mr. Deminds if he understood that "the maximum sentence . . . for conspiracy to commit murder is life" and that "a sentence of life is equal to but not greater than the maximum sentence that could be imposed," he replied, "Yes, I do."

On February 12, 2014, Mr. Deminds appeared in court for sentencing. The State informed the court that Mr. Deminds had cooperated with the State and, for that reason, the State recommended a life sentence, suspend all but 15 years, for the conspiracy to commit murder and a concurrent term of 10 years for the conspiracy to distribute cocaine,

[1] The transcript of the plea hearing is not in the record before us. The State, however, includes excerpts from that hearing in its brief and Mr. Deminds does not dispute the accuracy of those excerpts. The transcript of the sentencing hearing, held on February 12, 2014, is in the record before us.

followed by a five-year term of probation upon release. The court sentenced Mr. Deminds in accordance with the State's recommendation.

In 2018, Mr. Deminds filed a motion to correct an illegal sentence in which he asserted that "opposing statutes" created an ambiguity related to how much of his sentence he had to serve before he is parole eligible. He also claimed that his sentence to life, all but 15 years suspended, was illegal because it was essentially a sentence of 15 years without the possibility of parole, which he maintained was in excess of the sentence he had agreed to under the plea agreement. The circuit court summarily denied the motion.

On appeal, Mr. Deminds maintains that "the ambiguity in the sentence prevents DPSCS [Department of Public Safety & Correctional Services] from applying the law and granting parole consideration that [his] sentence entitles him to." He relies on § 7-301 of the Correctional Services Article to support his position. That statute, in relevant part, provides:

> [a](2) Except as provided in paragraph (3) of this subsection, or as otherwise provided by law or in a predetermined parole release agreement, an inmate is not eligible for parole until the inmate has served in confinement one-fourth of the inmate's aggregate sentence.
>
> ***
>
> (c)(1)(i) Except as provided in subparagraph (ii) of this paragraph, an inmate who has been sentenced to the Division of Correction after being convicted of a violent crime on or after October 1, 1994, is not eligible for parole until the inmate has served the greater of:
>
> 1. one-half of the inmate's aggregate sentence for violent crimes; or
> 2. one-fourth of the inmate's total aggregate sentence.

***

> (d)(1) Except as provided in paragraphs (2) and (3) of this subsection, an inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate's term of confinement under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle of this article.

Mr. Deminds asserts that this statute is ambiguous because it "mandates that an inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years," but allows for an inmate "who plead guilty to non-violent crimes [to be] eligible for parole after having served one-fourth of his aggregate sentence."[2] He further maintains that the "ambiguity created by the dual applicability of opposing statutes has led to [his] sentence exceeding the sentence agreed upon as part of the binding plea agreement" because "he was not told that the agreed upon 15-year sentence would have to be served without the possibility of parole." He claims that "the parole benefits of being convicted of a non-violent crime was understood to be an incentive to [him] pleading guilty" and "conspiracy to commit first-degree murder, despite its wording, is not a life sentence and should have no collateral consequences of a life sentence."

The State responds that Mr. Deminds's sentence is legal because it did not exceed the statutory maximum for conspiracy to commit murder. The State also asserts that there is no ambiguity in the statute, as it is clear that a person sentenced to life imprisonment

[2] Mr. Deminds correctly points out that conspiracy to commit a crime (even a violent crime) is not considered a "violent crime" for parole eligibility purposes. *See* § 7-101(m) of the Correctional Services Article and § 14-101 of the Criminal Law Article.

must serve 15 years (or its equivalent if diminution or time served credits are applicable) before becoming parole eligible. According to the State, "[t]hat the sentencing court suspended all of [Mr. Deminds's] life sentence except for the precise number of years that he must serve before becoming eligible for parole does not constitute a sentence 'without parole,' nor does it render his sentence illegal." And the State maintains that the sentence imposed did not breach the plea agreement, as the agreement provided that the State would recommend a life sentence, with all but 15 to 30 years suspended, and Mr. Deminds "received precisely what he bargained for."

We agree with the State. First, there is no ambiguity in the provisions regarding parole eligibility set forth in § 7-301 of the Correctional Services Article. The only provision of that statute relevant to Mr. Deminds is § 7-301(d)(1) ("an inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years[.]"). Second, the plea hearing transcript reflects that Mr. Deminds understood that he was facing a life sentence and the State agreed to recommend a life sentence, with all but 15 to 30 years suspended, in exchange for his pleas and his cooperation. Even if we assume that Mr. Deminds was not aware that he would have to serve 15 years before becoming eligible for parole, that fact did not make his plea invalid nor render his sentence illegal. *Yoswick v. State*, 347 Md. 228, 241 (1997) (holding that "parole eligibility is not a direct consequence of a plea and thus it follows that a defendant need not be informed of parole ramifications for a guilty plea to be voluntary").

Because his sentence is legal, the circuit court did not err in denying Mr. Deminds's motion to correct it.

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