

Circuit Court for Baltimore City
Case No. 194221042

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 484

September Term, 2020

ERNEST TYNDALE

v.

STATE OF MARYLAND

Wells,
Gould,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 7, 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 1995, Ernest Tyndale, appellant, was convicted of first-degree murder following a jury trial in the Circuit Court for Baltimore City. The court sentenced him to a term of life imprisonment.

In May 2020, Mr. Tyndale filed a “Motion for Modification/Reduction [of Sentence] and Request to Expedite Hearing Due to Pandemic” (motion to modify sentence), wherein he requested the court to reduce his sentence and release him from custody based on Chief Judge Barbera’s April 14, 2020 “Administrative Order Guiding the Response of the Trial Courts of Maryland to the Covid-19 Emergency as it Relates to Those Persons Who Are Incarcerated or Imprisoned.” Specifically, he alleged that he was at high risk for contracting COVID-19 due to his age and underlying medical conditions and that the Department of Public Safety and Correctional Services was not able to adequately protect him from this risk, as evidenced by the fact that he had already contracted and recovered from COVID-19 while in prison. The State filed a response arguing that he was not an appropriate candidate for release due to the nature of his conviction and the potential risk that he posed to public safety. The court denied the motion to modify sentence without a hearing, noting that in doing so, it had “considered Defendant’s motion and the State’s response, and the fact that Defendant both contracted and recovered from COVID-19.” 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.

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