

Circuit Court for Montgomery County
Case No: 101831

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 531

September Term, 2018

SHAHID TURNER-BEY

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: April 29, 2019

*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 2005, a jury sitting in the Circuit Court for Montgomery County convicted Shahid Turner-Bey, appellant, of robbery with a dangerous weapon, first-degree assault, conspiracy to commit robbery with a dangerous weapon, and use of a handgun in the commission of a crime of violence. He was sentenced to a total term of 40 years' imprisonment.¹ Upon direct appeal, this Court vacated his conviction and sentence for first-degree assault on the grounds that it merged with his conviction for robbery with a dangerous weapon, and otherwise affirmed. *Turner v. State*, No. 2373, Sept. Term 2005 (filed May 31, 2007).

In 2007, after the issuance of our mandate and following a hearing at which he was present with counsel, the court re-imposed Mr. Turner-Bey's sentences (minus the one vacated) to reflect a total term of 35 years' imprisonment.² He did not appeal, but in a subsequent motion to correct an illegal sentence he claimed that the re-sentencing resulted in an illegal increase in his overall sentence because of the way the sentences were structured to run. The circuit court denied the motion and upon appeal a panel of this Court

¹ The court imposed sentence as follows:

Robbery with a dangerous weapon (count 6):	20 years
First-degree assault (count 7):	15 years consecutive to count 6
Conspiracy to commit robbery (count 8):	15 years concurrent with count 7
Use of a handgun (count 9):	5 years consecutive to counts 6 & 7

² The amended commitment record reflected the following sentence:

Robbery with a dangerous weapon (count 6):	20 years
Conspiracy to commit robbery (count 8):	15 years consecutive to count 6
Use of a handgun (count 9):	5 years consecutive to count 6

concluded that the “results of the re-sentencing” must be vacated because the 2007 “re-sentencing hearing was held without authority and mandate from this Court.” *Turner v. State*, No. 646, Sept. Term, 2012 (filed November 7, 2013), *slip op.* at 3. Nonetheless, we agreed that Mr. Turner-Bey’s sentences should be served as the court had determined in 2007. *Id.* Accordingly, in 2014, the circuit court issued an amended commitment record to reflect a total term of 35 years’ imprisonment. (The 2014 commitment record mirrored that of 2007; *see* footnote 2.)

Not content, Mr. Turner-Bey later filed another motion to correct an illegal sentence in which he challenged the legality of his sentence on the ground that “he was never brought back into court for resentencing” and, therefore, his right “to be present at every stage of the trial” was violated. The circuit court denied the motion and on appeal this Court affirmed. *Turner v. State*, No. 1144, Sept. Term, 2016 (filed August 1, 2017).

Still dissatisfied, Mr. Turner-Bey filed a “motion for appropriate relief” in which he claimed that his “right to due process was violated when the circuit court failed to vacate the results of the re-sentencing hearing that was held on December 20, 2007.” The circuit court denied relief. On appeal, Mr. Turner-Bey continues to assert that the sentences were not run properly after the first-degree assault sentence was vacated, claiming that the sentence for conspiracy to commit robbery should have run concurrently with the sentence for armed robbery and not consecutive thereto, and that he was entitled to a new sentencing hearing. We shall affirm the judgment because the issues were addressed and decided in our previous opinions, which are the law of the case. *Scott v. State*, 379 Md. 170, 183

(2004) (“[O]nce an appellate court rules upon a question on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case.”).

**JUDGMENT OF THE CIRCUIT COURT FOR
MONTGOMERY COUNTY AFFIRMED.
COSTS TO BE PAID BY APPEALLNT.**