

Circuit Court for Wicomico County  
Case No. C-22-CR-19-000565

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 555

September Term, 2020

---

DANIEL MAPES

v.

STATE OF MARYLAND

---

Fader, C.J.,  
Kehoe,  
Wright, Alexander, Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: January 5, 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.

Daniel Mapes, appellant, submitted an *Alford* plea in the Circuit Court for Wicomico County to second degree assault and pleaded guilty to interfering with a lawful arrest. At the hearing on the pleas, the State submitted the following statement of facts:

[O]n July 2nd of 2019, at approximately 2:30 in the afternoon officers were patrolling the area of Martin Street and Baker Street in Wicomico County, Maryland.

Officer Doyle observed Salisbury Housing Authority and the owner of 314 Martin Street, a Mr. Webster, conducting a welfare check at a residence. At that residence the officers knew that there was an individual Jordan Jobe who was residing there and he also had an active warrant through the Salisbury Police Department at that time. Officers also believed that there was controlled dangerous substances at that property.

The individual did ask the officers and invite them to help with the check of welfare. They observed a . . . male leaving the rear of the residence at a fast pace, who they later identified as Daniel Mapes, who would have been identified as the Defendant before Your Honor today.

As the officers were in the area attempting to do the check on welfare they were able to locate a Mr. Jobe, the individual who did have active warrants. As they were trying to place him in handcuffs, the individual that would have been identified as the Defendant, Mr. Mapes, was seen approaching the officers. He had been last seen by the officers across the street prior to the officers making contact with the Housing Authority.

The Defendant then began interfering with the officers attempting to place Mr. Jobe under arrest. He started to pull at their equipment then he did strike Pfc. Doyle in the face with an open hand as he was attending [sic] to allow Mr. Jobe to escape. He also began grabbing at Pfc. Doyle's throat and his vest area. He did also push Officer Tobias attempting to free Mr. Jobe as well.

When the officers then attempted to place him under arrest for his interfering and assault on the officers, he did fail to comply with the officers' command to place his hands behind his back and ultimately did have to be taken to the ground during the time of them attempting to place him under arrest as well.

After accepting the pleas, the court sentenced Mr. Mapes to a term of eight years' imprisonment, all but three years suspended, for the second degree assault, and a concurrent term of three years' imprisonment for the interfering with a lawful arrest.

Mr. Mapes now contends that “the assault should have been merged into the interference count,” because “the force used in [the second degree assault] was the same as the force used in the interference.” The State concurs, as do we. *See Nicolas v. State*, 426 Md. 385, 407-08 (2012) (“when the force used by a defendant to resist arrest is the same as the offensive physical contact with a law enforcement officer attempting to effectuate that arrest, the convictions merge under the required evidence test” (emphasis omitted)). With respect to a remedy, Mr. Mapes requests that we vacate the sentence for second degree assault. We instead conclude that the appropriate remedy is to vacate both sentences and remand for resentencing. Rule 8-604(d)(2) states that “[i]n a criminal case, if the appellate court reverses the judgment for error in the sentence or sentencing proceeding, the Court shall remand the case for resentencing.” Also, the Court of Appeals has recognized that “[t]he majority of our sister state appellate courts . . . view sentencing as a package,” *Twigg v. State*, 447 Md. 1, 28 (2016) (citation omitted), and “after an appellate court unwraps the package and removes one or more charges from its confines, the sentencing judge, herself, is in the best position to assess the effect of the withdrawal and to redefine the package’s size and shape[.]” *Id.* (internal citation, quotations, and brackets omitted). Accordingly, we remand the case to the circuit court to address the issue of merger and for resentencing as discussed in this opinion.

**SENTENCES VACATED. JUDGMENTS OF THE CIRCUIT COURT FOR WICOMICO COUNTY OTHERWISE AFFIRMED. CASE REMANDED TO THAT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY WICOMICO COUNTY.**