

Circuit Court for Prince George's County
Case No. CT13-0485X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 570

September Term, 2022

TAIRON DINGLE

v.

STATE OF MARYLAND

Wells, C.J.,
Tang,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 2, 2022

*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.

Following a 2014 guilty plea in the Circuit Court for Prince George’s County, Tairon Dingle, appellant, was convicted of second-degree murder, use of a handgun in the commission of a felony or crime of violence, and robbery with a dangerous weapon. The court imposed a sentence of 30 years’ imprisonment, with all but 20 years suspended, on the murder count; a consecutive sentence of 20 years’ imprisonment on the handgun count; and a consecutive sentence of 20 years’ imprisonment, with all but 5 years suspended, on the robbery count.

In 2021, appellant, representing himself, filed a motion to correct illegal sentence, which he subsequently supplemented, claiming that: (1) he had been wrongfully convicted of second-degree felony murder because robbery with a dangerous weapon could only support a conviction for first-degree felony murder; (2) the court had erred in convicting him of use of a handgun in the commission of a crime of violence because the State had dismissed the charge of possession of a handgun, resulting in a legally inconsistent verdict; (3) his sentence for second-degree murder and use of a handgun in the commission of a crime of violence should have merged under the required evidence test and the rule of lenity; and (4) the court erred by sentencing him “excessively” outside of the sentencing guidelines range. That motion was denied without hearing. This appeal followed. On appeal, Mr. Dingle raises the same claims as he did in his motion for illegal sentence. For the reasons that follow, we shall affirm the judgment of the circuit court.

The Court of Appeals has explained that there is no relief, pursuant to Maryland Rule 4-345(a), where “the sentences imposed were not inherently illegal, despite some form of error or alleged injustice.” *Matthews v. State*, 424 Md. 503, 513 (2012). A sentence

is “inherently illegal” for purposes of Rule 4–345(a) where there was no conviction warranting any sentence, *Chaney v. State*, 397 Md. 460, 466 (2007); where the sentence imposed was not a permitted one, *id.*; or where the sentence imposed exceeded the sentence agreed upon as part of a binding plea agreement. *Matthews*, 424 Md. at 514. A sentence may also be “inherently illegal” where the underlying conviction should have merged with the conviction for another offense for sentencing purposes, where merger was required. *Pair v. State*, 202 Md. App. 617, 624 (2011). Notably, however, a “motion to correct an illegal sentence is not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case.” *Colvin v. State*, 450 Md. 718, 725 (2016) (quotation marks and citation omitted).

With those principles in mind, we first conclude that appellant’s claims that he was wrongfully convicted of second-degree murder and that his conviction for use of a handgun in the commission of a felony or crime of violence resulted in an inconsistent verdict, even if true, would not render his sentence inherently illegal.¹ Appellant’s remaining contentions, while cognizable in a motion to correct illegal sentence, lack merit. Appellant’s assertion that his second-degree murder conviction should merge into his conviction for use of a handgun in the commission of a felony or crime of violence is

¹ In any event, we note that these contentions lack merit. As to his first claim, appellant was convicted of second-degree murder, not felony murder. Thus, the State was not required to prove the existence of a predicate felony to sustain appellant’s conviction. As to his second claim, because appellant pleaded guilty, the fact that the State dismissed his charge for possession of a handgun as part of that plea agreement did not render his conviction for use of a handgun in the commission of a felony or crime of violence legally inconsistent.

foreclosed by the non-merger provision found in section 4-204(c)(1)(i) of the Criminal Law Article, which was approved by the Court of Appeals in *Whack v. State*, 288 Md. 137 (1980). Finally, the fact that appellant’s sentence, which was imposed pursuant to a plea agreement, might have exceeded the sentencing guidelines, does not render his sentence inherently illegal as the sentences imposed were within statutory limits and did not otherwise violate the terms of appellant’s plea agreement. *See Teasley v. State*, 298 Md. 364, 371 (1984) (noting that sentencing guidelines are recommendations which may be exceeded).²

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**

² To the extent appellant is claiming that the sentencing judge’s decision to exceed the sentencing guidelines might have been motivated by impermissible considerations, that would not render his sentence illegal with the meaning of Rule 4-345. *Randall Book Corp. v. State*, 316 Md. 315, 322-23 (1989).