

Circuit Court for Baltimore City
Case No. 319108006

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 577

September Term, 2021

IN RE: Z.D.

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

JJ.

Opinion by Fader, C.J.

Filed: April 1, 2022

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

The Circuit Court for Baltimore City, sitting as a juvenile court, found Z.D., the appellant, delinquent and placed him on probation for a term of one year, beginning September 13, 2019.

On August 3, 2020, following a review hearing, the juvenile court entered an order in which, among other things, the court directed “that the order issued on September 13, 2019 placing the respondent under an Order of Probation is hereby continued” (the “August 3 Order”). The court set another review hearing for October 5, 2020.

During the October 5 review hearing, Z.D. took the position that his term of probation had expired on September 13, 2020. The juvenile court disagreed, asserted that the August 3 Order had extended the term of probation, and set another review hearing for October 28, 2020. On October 28, 2020, the juvenile court issued an order that extended Z.D.’s probation for another six months (the “October 28 Order”).

On April 21, 2021, the juvenile court issued an order extending Z.D.’s probation indefinitely (the “April 21 Order”). After the juvenile court denied Z.D.’s motion to vacate or modify that order, Z.D. filed this appeal, in which he argues that: (1) the August 3 Order did not extend his term of probation; (2) his probation therefore expired by its terms on September 13, 2020; and (3) the court lacked authority to extend the term of probation after it had expired. The State contends that the August 3 Order did extend Z.D.’s term of probation, which the State argues was proper because the term of probation had not yet expired. The State also contends that Z.D. failed to preserve his appellate argument when he did not timely appeal from the October 28 Order.

We hold that the August 3 Order did not extend Z.D.’s term of probation, that the court’s revisory power ended when the term of probation expired, and, consequently, that the court was without authority to modify or extend the already terminated probation thereafter. The court therefore erred when it denied Z.D.’s motion to vacate or modify the April 21 Order.

BACKGROUND

The Adjudication and Disposition Hearings

Z.D. was charged in a juvenile petition with 11 delinquent acts after a homeowner observed him and three other boys trying to break into her rowhouse in South Baltimore in April 2019. In August 2019, a magistrate recommended sustaining a charge of fourth-degree burglary, which was based on facts admitted by Z.D. The juvenile court adopted that recommendation and the State dismissed the remaining ten counts.

On September 13, 2019, Z.D. appeared for disposition. The magistrate recommended a finding that Z.D. was delinquent and that he be placed on probation for one year, with conditions. The proposed disposition order, which was adopted by the juvenile court, included the following:

Whereas, the Court found facts sustained on a delinquency petition at an Adjudicatory hearing duly held on the 1st day of August, 2019, the Court has determined that the best interests of both the respondent and the public would be served by finding the respondent is a delinquent child and therefore placing the respondent under an order of probation to the Maryland Department of Juvenile Services for a period lasting until September 13, 2020, all subject to the further order of this Court, and the following conditions

In addition to standard conditions of probation, the juvenile court imposed special conditions, including that Z.D. “attend school every day, every class, on time with good behavior,” be referred to the Juvenile Court Early Intervention Program, and participate in counseling and other programming.

The Initial Review Hearings

Z.D. appeared for review hearings before a juvenile court magistrate on December 5, 2019 and January 16, 2020. After both hearings, the magistrate recommended continuing Z.D.’s probation and the juvenile court adopted the recommendations. The juvenile court’s order after the January hearing stated “that the order issued on September 13, 2019 placing the respondent under an Order of Probation *is hereby continued.*” (Emphasis added).

A review hearing set for March 12, 2020 was cancelled due to COVID-19 emergency measures. In late June 2020, Z.D.’s case manager with the Department of Juvenile Services (the “Department”) requested a review hearing to address his “poor” “adjustment to supervision” since the last review hearing. The case manager reported that Z.D. had missed eight phone contacts in May and June; was “reportedly . . . not attending [virtual] school”; and had been discharged twice from the Institute for Family Centered Services for failure to schedule counseling sessions. In mid-July 2020, the juvenile court attempted to hold a telephonic review hearing but reset the hearing at defense counsel’s request because Z.D. and his mother had not received notice.

The August 3, 2020 Review Hearing

The review hearing went forward by telephone on August 3, 2020. The Department submitted a report in advance of the hearing identifying deficiencies in Z.D.’s compliance with the terms of his probation and again rating his adjustment to supervision as “poor.” At the hearing, the Department’s representative reported that Z.D. had a job and was attempting to maintain contact twice weekly despite not having a phone, but that he had not completed a victim awareness class, individual and family counseling, and a drug assessment. The Department therefore recommended that Z.D.’s probation “continue.” The State submitted on the Department’s recommendation. Defense counsel concurred with the Department’s recommendation, noting that Z.D. was “doing fairly decently” and that he “still ha[d] some time to get things done.”

The juvenile court was “not pleased with the [Department] report[.]” It directed the Department to provide biweekly progress reports and to file a violation of probation petition if Z.D. did not “turn things around” within 30 days. The court stated that it would “set [the case] in for a review in 60 days or close to it[.]” adding that if Z.D. violated his probation, he would receive a violation of probation hearing date as well. The parties agreed that the next review hearing would be held telephonically on October 5, 2020.

The juvenile court issued the August 3 Order following the hearing. In that order, the court directed “that the order issued on September 13, 2019 placing the respondent under an Order of Probation is hereby continued.” The court also ordered the Department to submit biweekly progress reports and, if Z.D. was not fully compliant within 30 days, to

file a violation of probation petition on “the 31st day,” which would be September 3, 2020, ten days before the end of the term of probation established in the disposition order. The order stated that “the next court action” would be the October 5, 2020 review hearing.

As instructed, the Department filed progress reports on August 17 and 31, 2020. In both, the Department reported that Z.D.’s compliance had improved. The Department did not file a violation of probation petition on September 3, 2020 or at any other time. On September 3, 2020, the juvenile court signed an order acknowledging receipt of the Department’s progress report and stating, “Whereas the Court conducted a hearing and determined that the existing Orders were sufficient, the Court ordered that no changes be made for this case.”

On September 14, 2020, the Department filed a progress report detailing Z.D.’s continued improvements. At the conclusion of the report, the Department noted that Z.D.’s “order of Probation . . . expired by operation of law on 9/13/2020” but requested that “the order be continued, pending the scheduled Review on 10/5/2020.” On September 15, the court signed an order identical to its September 3 order, acknowledging receipt of the Department’s progress report and ordering “no changes.”

The October 5, 2020 Hearing

At the October 5, 2020 hearing, the Department’s representative reported that Z.D.’s compliance was improving and recommended closing Z.D.’s case, noting that the case had “expired on September the 13th.” When the juvenile court asked the representative to clarify why he believed probation had expired, the representative read from the disposition

order, which specified that probation would expire on September 13, 2020. Defense counsel shared the position that Z.D.’s probation “ha[d] expired” on September 13, 2020. Counsel observed that Z.D. was “doing well,” had participated in programs, had “finished victim awareness,” was enrolled in school, and was working at a car wash. Counsel was joined by Z.D.’s mother in asking the court to close the case.

The juvenile court expressed disagreement that Z.D.’s probation had terminated. The court stated that the setting of the October 5, 2020 review hearing “should have been a clear indication that this case was not closed. It was continued.” The court added:

So let me make it abundantly clear. This Court did not close the case. That may have been [the Department’s] recommendation, but this Court did not close the case when the Court heard it on August 3rd, 2020 and set a date for October the 5th, 2020, to review the case with instructions and expectations that certain things would happen. This case is not closed.

The State took the position that probation should be continued because Z.D. had just begun to “engage in [the] services” that were ordered as conditions to his probation.

Defense counsel maintained that Z.D. had complied with the terms of his probation, which ended on September 13, 2020. She acknowledged that the review hearing “brought it up to [October 5, 2020],” but argued that absent a violation of probation, “just as in the adult system, [] when a probation expires, then that’s the end of it[.]”

The juvenile court set the case in for another review hearing in “30 days,” adding that if defense counsel was “insisting that the violation of probation be filed, that can be filed, that can be done.” When defense counsel responded that the Department had not taken the position that Z.D. had violated his probation, the juvenile court replied: “I have

not closed this case, and in the best interest of this Respondent, I'm not closing the case today.” The juvenile court subsequently issued a written order providing, in relevant part, that the “order issued on September 13, 2019 placing the respondent under an Order of Probation is hereby continued” and setting a review hearing for October 28, 2020.

The October 28, 2020 Hearing

The parties appeared in person before the juvenile court on October 28, 2020. The State asked the juvenile court to continue probation because Z.D.’s compliance with the terms of probation had been “spotty at best.” It maintained that the rehabilitative goal had not yet been met.

The representative from the Department reported that Z.D. had remained compliant with his probation except that he had missed 52 class periods during virtual schooling in October 2020. The Department recommended closing Z.D.’s case but made clear that Z.D. would continue to receive services.

When defense counsel questioned the Department representative about whether the school attendance issues occurred after Z.D.’s probation had expired on September 13, 2020, the juvenile court interjected that defense counsel should not “waste time” with that line of questioning because Z.D.’s probation “didn’t expire” and the court had “not close[d] his probation.” The Department representative confirmed that no violation of probation petitions had been filed against Z.D. Defense counsel argued that Z.D.’s case should be closed both because he was compliant and because it was “finished” as of September 13,

2020. Counsel added that Z.D. “was told this ends September the 13th, and it doesn’t? I mean, I don’t know what to make of that.”

The juvenile court stated that it had “grave concerns yet high hopes for” Z.D. The court reasoned that the progress reports reflected that Z.D.’s adjustment to probation was “poor” until September 2020 and had since improved, but that did not “mean he’s ready to go out and try the world by himself.” The juvenile court ruled that it was in Z.D.’s best interest to continue his probation. It set a review hearing in six months, explaining that if Z.D. “improved substantially and consistently,” the court would consider closing the case. The hearing was set for April 28, 2021. The juvenile court followed the hearing with the October 28 Order, which stated that Z.D.’s probation was “continued and extended until 4/28/2021.”

Z.D.’s Arrest for Home Invasion and the April 21, 2021 Hearing

On April 4, 2021, Z.D., then 18 years old, was arrested and charged as an adult with home invasion and related charges. The Department recommended that a detainer be issued for Z.D. and that he be brought before the juvenile court upon resolution of his adult matter. The juvenile court issued a detainer and reset the review hearing for April 21. A report from the Department filed in advance of the hearing stated that Z.D.’s compliance had been “marginal” since the last review hearing.

At the April 21 hearing, which Z.D. did not attend due to his detention, defense counsel argued that Z.D.’s probation should be permitted to expire on April 28. The juvenile court found that that would not be in Z.D.’s best interest and declined to do so.

Instead, the juvenile court extended Z.D.’s probation “indefinitely pending a resolution of the [adult criminal] case and the court’s assessment as to what if any services he needs whether he is convicted in an adult court or not.” Defense counsel objected to the court taking any action to extend Z.D.’s probation without him being present and argued that because his probation was set to expire on April 28, the court needed Z.D.’s consent to extend it. The court directed defense counsel to file a written motion. In the April 21 Order, the juvenile court modified Z.D.’s probation to “an indefinite order of probation” and scheduled a review hearing for May 28.

On May 27, Z.D. filed a motion to modify, vacate, or rescind the April 21 Order. He argued that his probation had expired on September 13, 2020 and that he was denied due process of law when the juvenile court extended his probation beyond that date without first finding a violation of probation, without his consent, and without him being present at the April 21 hearing. On May 28, the juvenile court heard argument from defense counsel and continued the hearing until June 11 to hear the State’s response. On that date, the court denied the motion. This timely appeal followed.

DISCUSSION

“In a juvenile delinquency matter, an appellate court will ‘review the case on both the law and the evidence.’” *In re Elrich S.*, 416 Md. 15, 30 (2010) (quoting Md. Rule 8-131(c)). The juvenile court’s judgment “will not be set aside on the evidence unless clearly erroneous and due regard will be given to the opportunity of the [juvenile] court to judge the credibility of the witnesses.” *In re S.K.*, 466 Md. 31, 41 (2019) (quoting *Dixon*

v. State, 302 Md. 447, 450 (1985)) (alteration in *In re S.K.*). “We review any conclusions of law *de novo*, but apply the clearly erroneous standard to findings of fact.” *In re Elrich S.*, 416 Md. at 30; *see also In re S.K.*, 466 Md. at 42 (stating that the juvenile court’s “interpretation of a statute is a question of law that we review without deference”).

I. THE AUGUST 3 ORDER DID NOT EXTEND Z.D.’S PROBATION.

As a threshold matter, the parties disagree about whether the August 3 Order, which “continued” the September 13, 2019 disposition order placing Z.D. under an order of probation until September 13, 2020, extended Z.D.’s probation past that date. Z.D. contends that the disposition order did not extend his probation for “two principal reasons”: (1) the court did not order an extension of probation at the August 3, 2020 hearing; and (2) the August 3 Order did not define the terms of any extension of Z.D.’s probation. The State counters that by “continuing” Z.D.’s probation and setting a review hearing beyond the expiration date under the disposition order, the juvenile court implicitly extended probation through October 5, 2020. Alternatively, the State maintains that Z.D. waived any argument to the contrary when he assented to setting the October 5, 2020 review hearing. We agree with Z.D.

“In making a disposition [in a delinquency case, the juvenile court] may . . . [p]lace the child on probation . . . upon terms the court deems appropriate[.]” Md. Code Ann., Cts. & Jud. Proc. § 3-8A-19(d)(1) (2020 Repl.; 2021 Supp.). Under former Rule 11-116, which

was in effect when the juvenile court issued the orders before us on appeal,¹ a juvenile court had broad revisory power over its orders, permitting it to modify or vacate an order if it “f[ound] that action to be in the best interest of the child or the public,” with exceptions not applicable here. Md. Rule 11-116(a) (2017). Moreover, the court could do so on its own motion or on motion of any party or other interested persons or agencies. Md. Rule 11-116(b). If on its own motion, however, the rule required that the order “set forth the grounds on which it is based.” *Id.*

The United States Supreme Court has held that the constitutional guarantee of due process applies to juvenile proceedings. *In re Gault*, 387 U.S. 1, 13 (1967), *overruled on other grounds by Allen v. Illinois*, 478 U.S. 364, 372-73 (1986). Recently, in *In re S.F.*, the Court of Appeals emphasized that the same principles of due process applicable in the adult criminal system require that a condition of probation imposed by a juvenile court must be sufficiently definite to provide a juvenile with reasonable guidance as to what is expected of him or her. ___ Md. ___, 2022 WL 324890, at *12 & n.17 (Feb. 3, 2022). Likewise, when a juvenile court modifies the terms of a juvenile’s probation, due process requires that it must do so in a way that puts the juvenile on notice of the changed terms.

¹ Effective January 1, 2022, the Court of Appeals rescinded and replaced Title 11 (Juvenile Causes) of the Maryland Rules. *Court of Appeals Standing Committee on Rules of Practice and Procedure*, Rules Order, 208th Report, at 2 (2021). As part of that change, former Rule 11-116 was recodified, with changes, as Rule 11-423. Unless specified, all references to Title 11 in this opinion are to the prior iteration of those Rules, which govern this appeal.

We hold that the August 3 Order did not modify and extend Z.D.’s term of probation beyond September 13, 2020, for several reasons. First, the September 13, 2019 disposition order established a one-year term of probation by specifying that the term would end on September 13, 2020. Although the disposition order provided that it was subject to modification by a future court order, its plain language established that the term of probation would end on September 13, 2020 unless extended by a new order.

Second, the court did not state during the August 3 hearing or in the August 3 Order that it intended to extend Z.D.’s term of probation. To the contrary, the August 3 Order used the same language that had appeared in prior orders, stating that the September 13, 2019 disposition order was “continued.” Like those earlier orders, the August 3 Order “continued” in force the September 13, 2019 disposition order, which, in turn, set September 13, 2020 as the end date for Z.D.’s term of probation. And, notably, in contrast with the October 28 Order and the April 21 Order, the August 3 Order neither established a new expiration date for Z.D.’s probation nor purported to extend it indefinitely.

Third, the juvenile court did not make the required findings to support the exercise of its revisory power during the August 3 hearing or in the August 3 Order. Under former Rule 11-116, a juvenile court was permitted to modify or vacate an order if it “f[ound] that action to be in the best interest of the child or the public.” Md. Rule 11-116(a). Additionally, the Rule required that if the juvenile court revised an order on its own motion, it set forth the grounds for the revision. *Id.* Here, no party moved for an extension of Z.D.’s term of probation, so any extension could only have been on the court’s own motion.

However, although the court expressed concern about the incomplete conditions of Z.D.’s probation, it did not set forth any grounds for modifying the September 13, 2019 disposition order to extend the term of Z.D.’s probation. To the contrary, the court advised Z.D. that he still had 30 days—a timeframe that was within the remaining term of probation—to “turn things around.”

Fourth, the court’s comments from the bench and the requirements of the August 3 Order were consistent with an understanding that the term of probation would be expiring imminently, including: (1) directing the Department to file progress reports every two weeks; and (2) ordering the Department to file a violation of probation petition if Z.D. did not “turn things around” by September 3, 2020. Both of those requirements suggested an understanding that the term of probation was coming to an end unless some other action—such as seeking a violation of probation— was taken in short order. It is also apparent from the record that both the Department and Z.D. understood that the court had not extended the term of probation on August 3.

The State asserts that the court clearly, although implicitly, extended the term of probation by setting a review hearing for a date after September 13, 2020. Even if we were to accept the proposition that a term of probation may be extended implicitly, in light of the factors already discussed, we disagree with the State that the court’s actions on August 3 did so. For largely the same reasons, we conclude that interpreting the August 3 Order to have extended the term of Z.D.’s probation by implication would raise due process concerns, in light of the absence of reasonable notice of the purported extension or of the

terms on which the order was purportedly extended. Because we base our decision on a straightforward interpretation of the plain language of the order and the surrounding context, however, we need not reach those due process considerations.

In sum, we conclude that the August 3 Order did not extend the term of Z.D.’s probation.

II. Z.D. PRESERVED HIS CHALLENGE TO THE EXTENSION OF PROBATION AFTER ITS EXPIRATION.

As another threshold issue, the State asks this Court to dismiss this appeal as untimely because Z.D. did not note his appeal until June 2021, ten months after the August 3 Order and seven months after the October 28 Order.² *See* Md. Rule 8-602(b) (“The Court shall dismiss an appeal if . . . the notice of appeal was not filed with the lower court within the time prescribed by Rule 8-202”); Md. Rule 8-202(a) (ordinarily, a notice of appeal must be filed “within 30 days after the entry of order from which the appeal is taken”). The State’s argument is premised on the following logic: (1) Z.D. could have appealed from those prior orders; (2) his failure to do so precludes him from challenging them now; (3) the only order as to which Z.D.’s notice of appeal was timely is the May 27, 2021 order denying his motion to vacate or modify the April 21 Order; and (4) the April 21 Order was entered during the period of probation established in the October 28 Order, and so does not present

² The State concedes in its brief that its motion to dismiss was not timely under Rule 8-603(a)(1), which requires a motion to dismiss based on an untimely filing of a notice of appeal to be filed within ten days after the record on appeal was or should have been filed. Because the State’s motion was made in its appellate brief, however, it is timely under Rule 8-603(c).

the issue Z.D. raises on appeal. Z.D. replies that because the earlier orders were interlocutory, he may challenge them within this appeal from the final order denying his motion to vacate. *See* Md. Rule 8-131(d).

As an initial matter, Z.D.’s appeal from the May 27, 2021 order is timely, and the State does not assert otherwise. It is also undisputed that the denial of a Rule 11-116 motion to vacate probation is a final, appealable order. *In re Elrich S.*, 416 Md. 15 at 31-32 . The only question is whether Z.D. waived or failed to preserve his challenge to the juvenile court’s extension of his term of probation beyond September 13, 2020 by failing to note an appeal from the first order that did so, the October 28 Order. We conclude that he did not. Z.D.’s appeal challenges his current term of probation, which the juvenile court’s April 21 Order made indefinite. Although the grounds for that challenge—the juvenile court’s lack of authority to extend the term of probation at all following its expiration on September 13, 2020—would have applied equally to the October 28 Order, that does not render his current appeal untimely. If, after September 13, 2020, the juvenile court lacked the authority to extend Z.D.’s term of probation, the fact that it did once without an appeal being filed does not somehow insulate a subsequent extension from appellate review.

Nor do we find merit in the suggestion that Z.D. failed to preserve his claim by failing to object to the juvenile court setting a review hearing on October 5, 2020 or by recognizing that setting the hearing for that date had “sort of kept [the case] open.” On the record before us, Z.D. never explicitly or implicitly agreed to extend his term of probation or agreed that it had been extended. To the contrary, he argued at the hearings on October

5 and 28, 2020, and subsequently, that his probation had ended on September 13, 2020. Z.D.’s position that his probation could not thereafter be extended or modified was raised and decided by the juvenile court on multiple occasions, including when the court denied the motion to vacate or modify the April 21 Order and, consequently, is before this Court for review. *See* Md. Rule 8-131(a). We will therefore deny the State’s motion to dismiss and proceed to consider the merits of Z.D.’s claim.

III. THE JUVENILE COURT LACKED AUTHORITY TO MODIFY Z.D.’S PROBATION AFTER ITS EXPIRATION.

Z.D. contends that the juvenile court did not have the power, absent a pending violation of probation petition, to modify his term of probation after it had expired. The State, relying on its contention that the juvenile court did not do that—based on its position that the juvenile court extended the term of Z.D.’s probation on August 3, before it expired—makes no argument to the contrary.

The Juvenile Causes Act, Md. Code Ann., Cts. & Jud. Proc. §§ 3-8A-01 – 35, establishes “a separate system for juvenile offenders, civil in nature.” *In re Victor B.*, 336 Md. 85, 91 (1994). The Act is to be “liberally construed to effectuate [its remedial] purposes.” Cts. & Jud. Proc. § 3-8A-02(b). Nonetheless, the Act “should not be construed so broadly as to create the possibility of ‘results that are unreasonable, illogical, or inconsistent with common sense.’” *In re Roger S.*, 338 Md. 385, 393 (1995) (quoting *Motor Vehicle Admin. v. Gaddy*, 335 Md. 342, 347 (1994)).

The juvenile court’s discretion to impose conditions of probation³ is “broad but it is not boundless.” *In re S.F.*, 2022 WL 324890, at *5 (quoting *Cooley v. State*, 385 Md. 165, 175 (2005)). The court is empowered to “[p]lace [a] child on probation . . . upon terms the court deems appropriate.” Cts. & Jud. Proc. § 3-8A-19(d)(1). “Unlike adult probation, juvenile probation is not considered a punishment for a crime, nor does juvenile probation follow a conviction.” *In re S.F.*, 2022 WL 324890, at *11 n.16 ; *see also* Cts. & Jud. Proc. § 3-8A-23(a)(1) (“An adjudication of a child pursuant to this subtitle is not a criminal conviction for any purpose and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.”). But, as in the adult criminal system, “probation for juveniles represents a bargain.” *In re S.F.*, 2022 WL 324890, at *11. In other words, a juvenile who complies with the conditions of probation may “retain his or her freedom[.]” *Id.* (quoting *Scott v. State*, 238 Md. 265, 275 (1965)).

With these principles in mind, we look to this Court’s decision in *Carter v. State*, 193 Md. App. 193 (2010), for guidance. *See In re S.F.*, 2022 WL 324890, at *12-14 (discussing criminal cases addressing vagueness of conditions of probation to resolve the same issue in a juvenile delinquency case). In *Carter*, the circuit court found the defendant guilty of second-degree assault and placed him on probation before judgment for two years, subject to certain conditions. *Carter*, 193 Md. App. at 196-97. One condition was that he

³ Juvenile probation is defined as “a status created by a court order under which a child adjudicated to be delinquent . . . is to remain subject to supervision of the Court under conditions the Court, or the agency designated by it deems proper, but is not removed from his home.” Md. Rule 11-101(b)(5) (2020).

pay restitution to the victim, his wife, for the costs of her mental health counseling and physical therapy. *Id.* at 197-98. Shortly before the end of the two-year probationary period, the State requested that the court extend the term of the defendant’s probation because his wife was still incurring therapy costs. *Id.* at 200-01. The court reserved ruling on that request to permit defense counsel to file an opposition in writing. *Id.* at 201. Defense counsel did so on the day probation was set to expire, and the State filed a response a few weeks later. *Id.* at 202. Nearly a month after the defendant’s probation had expired, the circuit court ordered that it be extended for an additional three years. *Id.* The defendant moved to revise the order, arguing that the extension constituted an illegal increase in sentence under Rule 4-345(e). *Id.* at 202-03. Following the denial of his motion, he appealed to this Court. *Id.* at 203.

As a threshold matter, we denied the State’s motion to dismiss the appeal as untimely, reasoning that the substance of the defendant’s motion to revise was a motion to correct an illegal sentence and that his appeal of the denial of that motion was timely. *Id.* at 206-08. On the merits, we held that: (1) an extension of a probationary term was a sentence even in the context of probation before judgment, and (2) the extension of probation after the expiration of the initial probation term was an illegal sentence. *Id.* at 209, 214-15. With respect to the second part of our holding, we reasoned that a sentence is illegal if it is “beyond the statutorily granted power of the judge to impose[.]” *Id.* at 209-10 (quoting *Hoile v. State*, 404 Md. 591, 622 (2008)). We observed that the statute governing “the mechanism by which a term of probation [before judgment] expires”

specifies that, upon a defendant’s “fulfillment of the conditions of probation, the court shall discharge the defendant from probation.” *Carter*, 193 Md. App. at 210 (quoting Md. Code Ann., Crim. Proc. § 6-220(g)(1)). Relying upon out-of-state authority, we reasoned that discharge was mandatory at the end of a probationer’s term, “even in the absence of an order issued by the court.” 193 Md. App. at 211. We therefore held that “in the absence of a probation violation, a court does not have jurisdiction to extend the term of probation after the original term of probation has expired.” *Id.* at 214. Because the circuit court had extended the defendant’s probation beyond the date on which it expired, we vacated the order of probation. *Id.* at 215.

Returning to the appeal before us, we observe that the Juvenile Causes Act does not specify how a disposition order that imposes a term of probation terminates. The Act provides that a juvenile court obtains jurisdiction over a juvenile upon the filing of a delinquency petition, Cts. & Jud. Proc. § 3-8A-03(a), and, upon a delinquency finding, retains jurisdiction “until that person reaches 21 years of age *unless terminated sooner*,” *id.* § 3-8A-07(a) (emphasis added). As discussed above, a juvenile court is empowered to vacate or modify a disposition order imposing probation upon a finding that that action was in the best interest of the juvenile or the public, or to revoke probation after a hearing. Md. Rule 11-116. We must determine whether, in the absence of an order terminating jurisdiction (or vacating a disposition of probation), a juvenile court retains the power to resurrect and extend a set term of probation after it has expired.

Other states that have considered this issue have concluded that a juvenile court’s statutory authority or jurisdiction terminates at the end of a set term of probation unless it has been modified or revoked. *See, e.g., In re Welfare of H.A.D.*, 764 N.W.2d 64, 66-67 (Minn. 2009) (holding that a juvenile court lacked statutory authority to order a juvenile to pay restitution and to extend the juvenile’s probation after the one-year term had expired); *Andrew G. v. Peasley-Fimbres*, 165 P.3d 182, 184 (Ariz. Ct. App. 2007) (holding that a juvenile court’s jurisdiction to enforce an order of probation ended upon the expiration of the six-month term because the court had not invoked its authority to modify or revoke it before its expiration); *In re Cross*, 774 N.E.2d 258, 259 (Ohio 2002) (holding that a juvenile court did not have “jurisdiction to reimpose a suspended commitment . . . after a juvenile has been released from probation”); *State v. May*, 911 P.2d 399, 402 (Wash. Ct. App. 1996) (holding that the juvenile court lacked jurisdiction to impose a period of detention because the juvenile’s one-year term of community supervision expired before the prosecutor filed a show cause petition); *In Interest of D.P.*, 519 N.E.2d 32, 33-34 (Ill. App. Ct. 1988) (reversing an order revoking a juvenile’s probation after it had expired because the “period of probation expire[d] at the end of its specific term,” leaving “nothing . . . to revoke”).

We are persuaded for the same reasons enunciated in *Carter* and the out-of-state cases that, absent an order extending probation before it is terminated or a pending petition for violation, a disposition order that imposes a set term of probation may not be resurrected and extended after it has expired. *See Cross*, 774 N.E.2d at 263 (stating that a juvenile

court’s “ability to impose probation in a very broad and creative way” does not alter the fact that the “threat of actual incarceration” must end when probation expires). This tethers the juvenile court’s broad discretion over the length and conditions of probation to the court’s authority to act in a juvenile’s case.

Accordingly, we will reverse the order denying Z.D.’s motion to vacate and remand with instructions that the juvenile court vacate its April 21, 2021 order and enter an order terminating jurisdiction.

ORDER OF THE CIRCUIT COURT FOR BALTIMORE CITY, SITTING AS A JUVENILE COURT, ENTERED ON JUNE 11, 2021 REVERSED. CASE REMANDED FOR ENTRY OF AN ORDER VACATING THE APRIL 21, 2021 ORDER AND TERMINATING THE JUVENILE COURT’S JURISDICTION. COSTS TO BE PAID BY THE MAYOR & CITY COUNCIL OF BALTIMORE.