

Circuit Court for Baltimore County
Case No. 03-K-05-002493

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 606

September Term, 2021

JEFFREY RICARDO JONES, JR.

v.

STATE OF MARYLAND

Nazarian,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 6, 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.

In 2006, Jeffrey Ricardo Jones, Jr., appellant, entered an *Alford* plea to attempted first-degree murder in the Circuit Court for Baltimore County. The court subsequently sentenced him to life imprisonment, suspending all but 25 years, to be followed by a five-year term of supervised probation. Mr. Jones then filed an application for review of sentence pursuant to Maryland Rule 4-344(a). Following a hearing, the three-judge panel increased his sentence to life imprisonment, suspending all but 50 years.

In 2019, Mr. Jones filed a motion to correct illegal sentence claiming that the three-judge review panel had illegally increased his sentence because it had breached the terms of his “binding” plea agreement. The circuit court denied his motion without a hearing and Mr. Jones appealed to this Court. We affirmed, holding that, based on the record before us, we were “not persuaded that the sentencing court [had] bound itself to impose any particular sentence” and therefore, that “the three-judge panel did not render Mr. Jones’s sentence illegal when it increased the sentence to life imprisonment, all but 50 years suspended.” *Jones v. State*, No. 1578, Sept. Term 2019 (filed Sept. 2, 2020).¹

In 2021, Mr. Jones filed a second motion to correct illegal sentence, again claiming that the three-judge panel had illegally increased his sentence in violation of a binding plea agreement. The circuit court denied that motion without a hearing. On appeal, Mr. Jones contends that the court erred in denying his second motion to correct illegal sentence. However, we have already considered and rejected Mr. Jones’s contention that the three-

¹ In so holding, we noted that although Mr. Jones had attached excerpts from the plea and sentencing hearings to his reply brief, he had not ensured that the full transcripts of those proceedings were in the record. Notably, they were also not made a part of the record in the instant case.

judge panel illegally increased his sentence. And Mr. Jones has not identified any material change in the facts or controlling case law that would alter that holding. Consequently, his claim is barred by the law of the case doctrine and we will not consider it again in this appeal. *See Baltimore County v. Baltimore County Fraternal Order of Police, Lodge No. 4*, 220 Md. App. 596, 659 (2014) (noting that “neither the questions decided [by the appellate courts] nor the ones that could have been raised and decided are available to be raised in a subsequent appeal” (quotation marks and citation omitted)).

Mr. Jones also contends that because the State did not file a timely response to his motion, the “arguments and factual positions raised” therein should have been “deemed admitted pursuant to the Maryland Rules[.]” However, unlike the failure to file an answer in a civil action, the failure of the State to file a response to a motion to correct illegal sentence does not result in a procedural default. Rather, as the moving party, Mr. Jones at all times had the burden of proving that his sentence was illegal. For the reasons already set forth, he has not done so. Consequently, the court did not err in denying his motion to correct illegal sentence.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**