

Circuit Court for Baltimore City
Case No.: 18319540

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 718

September Term, 2017

WALI CLINTON, A/K/A WALI AQUIL

v.

STATE OF MARYLAND

Wright,
Reed,
Shaw Geter,

JJ.

Opinion by Shaw Geter, J.

Filed: May 14, 2018

*This is an unreported opinion, and 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 1-10

INTRODUCTION

In 1983, Wali Clinton,¹ appellant, was convicted of felony murder by a jury sitting in the Circuit Court for Baltimore City. At the same time, he was acquitted of the predicate felony charges, robbery and robbery with a dangerous weapon. The court sentenced appellant to incarceration for life. On direct appeal, he challenged the conviction, arguing it was inconsistent with the jury’s acquittal of him on the robbery charges. This Court disagreed and affirmed his conviction, reasoning that legally inconsistent verdicts in criminal cases were permissible under the common law.

More than 31 years later, appellant filed a Motion to Correct an Illegal Sentence,² under Maryland Rule 4-345(a), contending the inconsistent verdict rendered his sentence illegal. Following a hearing, the circuit court denied his request. Appellant now brings this timely appeal and presents us with the following question:

Did the court err in denying appellant’s Motion to Correct an Illegal Sentence?

For the following reasons, we shall answer this question in the negative and affirm the judgment of the circuit court.

ANALYSIS

Appellant argues “the court lacked the authority to impose the sentence” for his felony murder conviction, because the jury acquitted him of the underlying felonies of

¹ He is now known as Wali Aquil.

² The record shows appellant actually filed three separate, yet substantively identical, motions. The circuit court considered all three motions jointly and denied relief for all of them.

robbery with a deadly weapon and robbery, and to do so “would require the sentencing judge to make a factual finding that [appellant] robbed the victim.” He, further, contends that his “conduct, as shown by the evidence as found by the jury, does not fall within the definition of felony murder,” and, as such, “he has been convicted under an inapplicable statute and the resulting sentence is illegal.” In support of his claims, appellant points to the Court of Appeals’ decision in *Price v. State*. He maintains the circuit court erred in denying his Motion to Correct an Illegal Sentence.

Appellee, conversely, argues the 2008 *Price* decision prohibits legally inconsistent verdicts on a prospective basis only. They assert, because appellant was convicted and sentenced in 1983-1984, *Price* is not applicable. Moreover, “even if [appellant] could lay claim to his error in the legally inconsistent verdicts, it would not be cognizable under Maryland Rule 4-345(a).” An inconsistent verdict involves “the jury’s deliberation upon, and rendition of, the verdicts,” rather than the sentencing itself.

Maryland Rule 4-345(a) provides that a court “may correct an illegal sentence at any time.” A sentence is illegal if “the illegality ‘inheres in the sentence itself; *i.e.* there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which it was imposed and, for either reason, is intrinsically and substantively unlawful.” *Colvin v. State*, 450 Md. 718, 725 (2016) (*quoting Chaney v. State*, 397 Md. 460, 466 (2007)). We review questions of illegal sentences under a *de novo* standard. *State v. Crawley*, 455 Md. 52, 66 (2017).

In *Price*, the Court of Appeals considered the validity of legally inconsistent verdicts in criminal cases. 405 Md. 10, 12 (2008). There a defendant was charged with various drug offenses and three firearm offenses. *Id.* at 13. At the end of the trial, the judge instructed the jury that, “You may not consider the crime of possessing a firearm during and in relation to a drug trafficking crime unless you found the defendant guilty of [a drug trafficking crime].” *Id.* at 14–15. Despite the court’s instruction, the jury acquitted Price of all drug trafficking charges and convicted him of possession of a firearm during and in relation to a drug trafficking crime and simple possession of heroin, cocaine, and marijuana. *Id.* at 15.

The *Price* Court, while acknowledging the historic common law principle of “toleration of inconsistent verdicts,” held that legally inconsistent verdicts in criminal cases will no longer be tolerated in the state of Maryland, thus, abrogating the common law. *Id.* at 19. The Court articulated that “[i]f the traditional reasons for tolerating inconsistent jury verdicts are not sufficient in civil cases,” they cannot be sufficient for criminal cases, where “our system accords greater procedural protections for the defendant.” *Id.* at 26–27 (citing *Southern Management v. Taha*, 378 Md. 461 (2003)). It held that in “similarly situated cases on direct appeal where the issue was preserved, and verdicts in criminal jury trials [were] rendered *after the date of our opinion* in this case, inconsistent verdicts shall no longer be allowed.” *Id.* at 29 (emphasis added); see *Williams v. State*, 292 Md. 201, 217 (1981) (“[P]articularly in criminal cases, changes in the common law ordinarily should have only prospective effect when considerations of fairness are present.”) (citing *Lewis v. State*, 285 Md. 705, 713 (1979)); see also *Deems v. Western Md. Ry.*, 247 Md. 95, 113

(1967). Because appellant’s trial occurred prior to the *Price* case, its holding is inapplicable to the present case. Moreover, a motion to correct an illegal sentence under Rule 4-345(a) is not a proper means for disputing a legally inconsistent verdict, because an inconsistent verdict is rendered by the jury, not by the sentencing judge.

We further find no merit in appellant’s argument that the trial judge improperly acted as “fact-finder” in sentencing appellant. The record shows the court did not base its sentencing decision on any independent fact-finding, but rather on the jury’s guilty verdict on the felony murder charge. We disagree with appellant’s contention that “[o]nce the jury acquitted [appellant] of the only felonies underlying the felony murder charge, the court was deprived of its authority to sentence [him] for felony murder.” In support of his argument, appellant cites *Ridgeway v. State*, 369 Md. 165, 171 (2002), for the proposition that “[a] court cannot punish a defendant for a crime for which he or she has been acquitted.” In that case, the defendant was sentenced on three first-degree assault charges on which the jury had returned acquittals. Unlike *Ridgeway*, the jury in the case *sub judice* only acquitted appellant of the robbery charges. It is undisputed that the jury convicted appellant of the felony murder charge and further undisputed that the court based its sentencing on that guilty felony murder verdict. Further, even if there was a factual inconsistency, the Court of Appeals has made clear that “jury verdicts which are illogical or factually inconsistent are permitted in criminal trials.” *McNeal v. State*, 426 Md. 455, 459 (2012).

In light of Maryland’s longstanding principles regarding the effective date of changes to the common law and the *Price* Court’s clear mandate that their ruling shall be

prospective, as well as the limited parameters of Rule 4-345(a), the court did not err in denying appellant's Motion to Correct an Illegal Sentence.

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