

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 792

September Term, 2020

STEVEN THEOPHILUS HOLLIS, III

v.

STATE OF MARYLAND

Friedman,
Beachley,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned)
JJ.

Opinion by Friedman, J.

Filed: July 12, 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 this appeal, we are asked to determine whether the Circuit Court for Baltimore County erred in denying Appellant Steven Hollis’s motion to correct an illegal sentence. Because Hollis’s allegation is not the type that is cognizable in a motion to correct an illegal sentence, we affirm the ruling of the circuit court.

BACKGROUND

In 2008, Hollis was charged in an eight-count indictment with the crimes of first-degree murder, conspiracy to commit first-degree murder, armed robbery, hate crimes, and participation in a criminal gang. Prior to trial, Hollis entered into a plea agreement with the State by which he pleaded guilty to one count of first-degree murder in exchange for the State withdrawing its notice of intent to seek a penalty of life without the possibility of parole.¹ The circuit court accepted Hollis’s plea and sentenced him to life imprisonment.

In July 2020, Hollis filed a motion in the circuit court under Maryland Rule 4-345(a) to correct an illegal sentence, arguing that the State improperly changed the charges against him during the plea hearing. During the recitation of the facts in support of the plea, the State described that Juan Flythe, a co-defendant who had already entered a guilty plea, would have testified at trial that on the day of the murder he and Hollis armed themselves with knives taken from the victim’s house and brought the victim to a wooded area. Flythe unsuccessfully attempted to cut the victim’s throat, but the victim broke free and attempted to flee. The victim was caught by Hollis and Flythe, and Flythe then witnessed Hollis stab the victim in the chest and stomp on his face and neck. The State also noted that the medical

¹ Absent such notice, the State is not permitted to seek, and the court is not permitted to impose, that punishment. MD. CODE, CRIMINAL LAW § 2-203.

examiner would testify that a stab wound had penetrated the victim’s heart. Following the State’s recitation of the facts, the following exchange occurred:

[Defense]: I would make a motion without argument. The Defense would accept those facts. With the exception of whether or not Mr. Hollis stabbed the victim in the chest, I don’t believe it was established who may or may not have actually done the stabbing.

[State]: That’s going to be part of the statement of facts. He participated in the attack. As to what stab wound they will talk about, I will leave this open.

[Defense]: There were 26.

The Court: Well ... the Defendant accepts that, that he either participated in the attack of the victim or he didn’t.

[Defense]: That is correct. The definition of whether or not the “fatal wound” was delivered by Mr. Hollis.

The Court: Well, his participation in it is sufficient as far as the Court is concerned. The Court is satisfied that based on those facts that the Defendant is guilty of [first-degree murder].

In his motion to correct an illegal sentence, Hollis argued that during this exchange the State in effect added a charge of “aided and abetted” to the existing charge of first-degree murder and improperly combined those two different offenses under the one charge of first-degree murder. In the alternative, Hollis argued that the same exchange would support a finding that the State had made an unauthorized amendment to the indictment to add the charge of “aided and abetted” and that the amendment constituted an unfair surprise. Hollis argued that under either theory, his conviction was illegal and, thus, that his sentence was also illegal. The circuit court denied Hollis’s motion.

Relying on the same exchange during the plea hearing, Hollis now argues on appeal that his guilty plea was unknowing and involuntary because the circuit court did not comply with the requirements of Rule 4-242 when it accepted his guilty plea.² Hollis alleges that by acquiescing to the defense’s exception about whether Hollis delivered the fatal stab wound, the State, in effect, changed its theory of the case and cast doubt upon Hollis’s role in the murder. As a result, there was not a sufficient factual basis to support his plea and the court should not have accepted it. *See* MD. RULE 4-242(c) (“The court may not accept a plea of guilty...until after an examination of the defendant on the record in open court...[and] the court determines and announces on the record that (1) the defendant is pleading voluntarily, with understanding of the nature of the charge and the consequences of the plea; and (2) there is a factual basis for the plea.”).

For the purposes of Rule 4-345(a), an illegal sentence is “one in which the illegality ‘inheres in the sentence itself.’” *Colvin v. State*, 450 Md. 718, 725 (2016) (quoting *Chaney v. State*, 397 Md. 460, 466 (2007)). A motion to correct an illegal sentence is a “limited exception to the general rule of finality,” and is intended to address scenarios where “there

² We note, as did the State, that Hollis presents a different argument on appeal than he relied upon in his motion in the circuit court. Although an appellate court typically will not address an issue unless it has first been raised in or decided by the trial court, Rule 4-345(a) instructs that a motion to correct an illegal sentence can be brought at any time. Indeed, the Court of Appeals has consistently held that such a motion is not subject to preservation requirements. *See, e.g., Chaney v. State*, 397 Md. 460, 466 (2007) (“The [illegal] sentence may be attacked on direct appeal, but it also may be challenged collaterally and belatedly, and, if the trial court denies relief in response to such a challenge, the defendant may appeal from that denial and obtain relief in an appellate court.”); *Mateen v. Saar*, 376 Md 385, 397 (2003) (“An illegal sentence ... may be corrected by a court at any time, even on its own initiative.”). We will, therefore, address Hollis’s argument.

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.” *Rainey v. State*, 236 Md. App. 368, 374 (2018) (cleaned up). The Court of Appeals has repeatedly “stressed that 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.” *Id.* at 374-75 (quoting *Colvin*, 450 Md. at 725). A ruling on a motion to correct an illegal sentence is a question of law that we review without deference. *Id.* at 374.

Here, Hollis pleaded guilty to the crime of first-degree murder and was sentenced to life imprisonment. He makes no contention that the sentence exceeds either the statutory maximum for the offense of first-degree murder or that it exceeds the terms of the plea agreement. Indeed, there is nothing intrinsically or substantively illegal in Hollis’s sentence. Rather, Hollis is disputing the acceptance of his guilty plea, not the sentence imposed as a result of it. This type of challenge to the proceedings prior to the imposition of his sentence is not cognizable on a motion to correct an illegal sentence.

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