

Circuit Court for Baltimore City
Case Nos.: 113081006-08

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1037

September Term, 2020

MONTE DELANO CARTER

v.

STATE OF MARYLAND

Shaw Geter,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: August 2, 2021

*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.

On March 29, 2016, Monte Delano Carter, appellant, pleaded guilty in the Circuit Court for Baltimore City to first-degree felony murder and first-degree arson pursuant to a binding guilty plea agreement.¹ In accordance with that agreement, the court sentenced him to life imprisonment with all but 32 years suspended for first degree murder in favor of five years’ probation. The court merged the arson count for sentencing.

Because the facts of the underlying offense are immaterial to the resolution of appellant’s contentions we need not, and do not, recite them here.²

In January of 2020, appellant filed a paper titled “Motion to Correct Illegal Sentence(s)” contending that his sentences are illegal because the trial court inserted itself into appellant’s guilty plea negotiations. Apparently, appellant had rejected the State’s initial guilty plea offer that would have resulted in a sentence of life imprisonment with all but 40 years suspended. On the first day of trial, appellant made it known that he would accept a guilty plea agreement that would result in a sentence of life imprisonment with all but 30 years suspended. During guilty plea negotiations that took place at the bench, the trial court made it known that it would agree to a sentence of life with all but 32 years suspended.

In his motion to correct an illegal sentence, appellant claimed that the trial court was not permitted to enter into the plea negotiations, and as a result, his guilty plea was

¹ Appellant entered his guilty plea pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).

² Notwithstanding that it is evident from his briefs before this Court that appellant has a copy of the transcript of his guilty plea proceeding, he did not produce any of it for this appeal. We could dismiss his appeal for that reason alone. Md. Rule 8-602(a)

involuntary, and the resulting sentences are therefore illegal. On October 1, 2020, the circuit court summarily denied appellant’s motion, and appellant noted an appeal.

Maryland Rule 4-345(a) permits the court to “correct an illegal sentence at any time.” A sentence that is illegal is one that is not permitted by law. *See Greco v. State*, 427 Md. 477, 508 (2012). Whether such an illegality exists is a question of law reviewed *de novo*. *Carlini v. State*, 215 Md. App. 415, 443 (2013).

Appellant’s attempt to disguise his argument to fit within the framework of Maryland Rule 4-345 does not change the fact that, at bottom, his argument deals with the validity of his guilty plea, and therefore, it is not the proper subject of a motion to correct an illegal sentence.³

A Maryland Rule 4-345 motion to correct an illegal sentence may not be used to challenge the validity of a guilty plea and, therefore, whether the court injected itself too far into appellant’s guilty plea negotiations is not properly before us. *Colvin v. State*, 450 Md. 718, 725 (2016) (“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.” (quotation omitted)).

In any event, appellant’s situation is a far cry from what occurred in *Barnes v. State*, 70 Md. App. 694 (1987) upon which he places much reliance. After *Barnes* pleaded guilty, he filed an application for leave to appeal, which we granted. We reversed *Barnes*’

³ It does not appear that appellant sought leave from this Court to appeal from his guilty plea.

convictions based on the following statements of the court coercing Barnes to accept the guilty plea agreement:

Listen to me. You tell me the man is incompetent for what he did for you. You are facing two life terms plus 50 years. He got me to offer you not over 30 years and you are telling me that this man is incompetent? Is that what you are telling me? *Listen to me because I want an answer right now. I am not fooling around now.* I swear to God that is true. You can ask anyone down here. I have never presided over a jury trial. *I have never had a jury come back not guilty.* If this jury comes back guilty, depending on what the pre-sentence report is, I could give you a total of two life sentences plus 50 years. I want you to know that. I am going to give you two minutes to talk to Mr. Friedman. ... *[I]n two minutes that 30 year offer I am going to withdraw forever.*

Id. at 708 (emphasis in *Barnes*). What the court said in appellant’s case does not come close to what the court said in *Barnes*. Hence, even if appellant had raised his claim in the proper procedural vehicle, *i.e.* an appeal from his guilty plea, we still would have rejected it.

Consequently, we shall affirm the judgment of the circuit court.

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