

Circuit Court for Baltimore City
Case Nos. 119031002; 11912011

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1080

September Term, 2020

IRVIN LEWIS, JR.

v.

STATE OF MARYLAND

Fader, C.J.
Ripken,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 10, 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.

In 2019, Irvin Lewis, Jr., appellant, pleaded guilty to two counts of second-degree burglary in the Circuit Court for Baltimore City. The court sentenced him to concurrent terms of 10 years' imprisonment.

In October 2020 Mr. Lewis filed a “Motion For Compassionate Release/Request for Expedited Hearing Due to Pandemic,” wherein he requested the court to release him from custody pursuant to Chief Judge Barbera’s April 14, 2020 “Administrative Order Guiding the Response of the Trial Courts of Maryland to the COVID-19 Emergency as it Relates to Those Persons Who Are Incarcerated or Imprisoned” (the Administrative Order). In support of his motion, Mr. Lewis asserted that he had served 20 months of his sentence with no infractions, that the conditions of his confinement increased his risk of contracting COVID-19, and that, if he contracted COVID-19, he was at a higher risk of death because of his age and underlying medical conditions. The court denied the motion without a hearing. This appeal followed.

As an initial matter, although federal inmates may file a motion for “compassionate release” based on underlying health issues pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), no similar statute or rule exists in Maryland.¹ In arguing that he should have been released, Mr. Lewis relies entirely on the Administrative Order. However, none of the provisions in the Administrative Order create a new cause of action or right to release for inmates that did not already exist under Maryland law. Thus, the only available remedy for Mr. Lewis

¹ Although an inmate in Maryland can be granted medical parole or geriatric parole under certain conditions, such requests must be made to the Parole Board not to the circuit court.

to seek his release from the court would have been a motion for modification of sentence.² However, even assuming that Mr. Lewis was eligible to file a motion for modification of sentence despite his sentence having been imposed pursuant to a plea agreement, the denial of such a motion is not appealable. *See Carter v. State*, 193 Md. App. 193, 207 (2010). Consequently, the appeal must be dismissed.

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANT.**

² Mr. Lewis asserts that the court should have held a hearing on his motion. However, no hearing is required on a motion for modification of sentence. *See Brown v. State*, 470 Md. 503, 543 n.44 (2020).