Circuit Court for Baltimore County
Case No. 03-K-06-000785

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1148

September Term, 2025

GARY ALEXANDER WESLEY, SR.

v.

STATE OF MARYLAND

Nazarian,
Leahy,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 24, 2026

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Gary Alexander Wesley, Sr., appellant, appeals from the denial, by the Circuit Court for Baltimore County, of a motion to correct a commitment record. For the reasons that follow, we shall affirm the judgment of the circuit court.

We recount some of the pertinent facts from our most recent opinion in Mr. Wesley's case:

> Following trial . . . in 2007, a jury found [Mr.] Wesley . . . guilty of second-degree murder and second-degree assault.
>
> * * *
>
> On April 23, 2007, when imposing appellant's sentences, the circuit court said the following:
>
> > Mr. Wesley, please stand. The jury in this case has spoken and I am forbidden under the law to comment on that verdict. As such, the sentence of the Court is, in count one, second degree murder, thirty years in the [Division] of Correction dating from February the 2nd, 2006 and in count three, second degree assault, the sentence of the Court is ten years consecutive to count one, the thirty years that I imposed there.

Wesley v. State, No. 567, Sept. Term 2024 (filed May 1, 2025), slip op. at 1.

The court subsequently issued a commitment order in which it stated that the sentence for second degree assault "is [c]onsecutive to the . . . sentence imposed" for second degree murder. The court further stated that "[t]he total time to be served is 40 years . . . to run . . . concurrent with any other outstanding or unserved sentence and begin on 02/02/06." From there, as we recently explained, Mr. Wesley

> took a direct appeal to this Court, and we affirmed his convictions in an unreported opinion, *Wesley v. State*, No. 634, Sept. Term, 2007 (filed Aug. 14, 2009) (*Wesley I*). In that appeal, appellant raised no claim concerning the legality of his sentence.

In December 2013, appellant filed a motion to correct an illegal sentence, contending that his sentence was illegal because it was ambiguous. According to him, the sentence was ambiguous because, on the one hand, the court imposed his sentences consecutively, and on the other hand, the court ordered that both sentences start on the same date. As a result, he claimed that, under the rule of lenity, the court was required to construe his sentences as having been imposed concurrently instead of consecutively.

On June 6, 2014, the circuit court denied that motion. Thereafter, appellant took an appeal to this Court, and we affirmed the judgment of the circuit court in an unreported opinion, *Wesley v. State*, No. 814, Sept. Term, 2014 (filed May 1, 2015) (*Wesley II*). We found that, contrary to appellant's assertions, the sentences were not ordered to begin on the same date. We also found that there was nothing ambiguous about appellant's sentence because the circuit court "clearly and unambiguously" imposed his sentences consecutively. *Wesley II*, at 7.

Undeterred, in November 2021, appellant filed another motion to correct an illegal sentence wherein he, once again, claimed that his consecutive sentences should be interpreted as having been imposed concurrently. The circuit court denied the motion and we affirmed that judgment in an unreported *per curiam* opinion. *Wesley v. State*, No. 1719, Sept. Term, 2021 (filed June 1, 2022) (*Wesley III*). We determined that appellant's 2021 argument about the legality of his sentence was merely a re-packaging of his 2013 argument to the same effect. From that standpoint, relying on *Nichols v. State*, 461 Md. 572 (2018), we determined that, in light of *Wesley II*, the law of the case doctrine, which bars re-litigation of an issue that has been presented to, and rejected by, an appellate court, barred re-litigation of appellant's contention that his sentences should be interpreted as having been imposed concurrently. *Wesley III*, at 3.

On May 1, 2024, appellant filed a third motion to correct an illegal sentence, contending that his consecutive sentences should be interpreted as having been imposed concurrently. His argument is somewhat difficult to decipher, but it appears he asserted that his sentences should be viewed as concurrent because he was sentenced "to 30 years concurrent with any other outstanding or unserved sentenced [sic], for second degree murder[,]" and the "only other outstanding sentence [he] had left was the second degree assault which [he] received 10 years consecutive." From that standpoint, he claimed: "by the 30 years being concurrent with any other outstanding or unserved sentence, this ommitted [sic] error by the judge clearly gave me a 30 years [sic] sentence on the record." Appellant also asserted that the sentencing court erred by failing to follow Maryland Rule 4-351(a)(4)-(5),

> which requires the sentencing court to include certain information in the commitment record. Because of those errors, according to appellant, his consecutive sentences should be treated as concurrent sentences. . . . .
>
> On May 10, 2024, the circuit court denied appellant's motion to correct an illegal sentence on the basis that "[c]onsecutive sentences were imposed for offenses on two different victims."

Wesley v. State, No. 567, Sept. Term 2024, at 2-4 (footnotes omitted).

On appeal, Mr. Wesley contended that "(1) we should treat his ten-year consecutive sentence for second-degree assault as if it were imposed before the thirty-year sentence for second-degree murder, (2) the thirty-year sentence for second-degree murder was imposed concurrently to any outstanding sentence – including the ten-year sentence for second-degree assault, and (3) the resulting sentence is an aggregate of thirty years, *i.e.*, ten years' imprisonment for second-degree assault plus thirty concurrent years' imprisonment for second-degree murder." *Id.* at 5 (footnote omitted). Rejecting the contention, we stated:

> We find that appellant's contention that his sentences were imposed concurrently, or should be treated as though they were imposed concurrently, (1) is without merit given the clear and unambiguous order by the sentencing court, which we affirmed in *Wesley II*, that his sentences were imposed consecutively, and (2) is analytically indistinct from the arguments raised in *Wesley II* and *Wesley III*, and is, therefore, barred by the law of the case. To spell it out, hopefully for the last time, the sentencing court in this matter lawfully, clearly, and unambiguously, imposed appellant's sentences consecutively.

Id.

In June 2025, Mr. Wesley filed the motion to correct the commitment record, in which he again contended that "the two sentences have the same start date, and are both to be run concurrent with any other outstanding or unserved sentence." (Brackets omitted.) The court denied the motion.

Mr. Wesley contends that, for numerous reasons, the court erred in denying the motion. We disagree. As we have stated on three occasions, the sentencing court lawfully, clearly, and unambiguously ordered that the sentence for second degree assault run consecutively to the sentence for second degree murder. There is no error in the commitment record, and hence, the court did not err in denying the motion to correct the record.

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