

Circuit Court for Anne Arundel County
Case No. 02-K-93-002204

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1288

September Term, 2015

LARNELL HENDRICK

v.

STATE OF MARYLAND

Friedman,
Beachley,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: October 24, 2018

*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.

Larnell Hendrick, appeals from an order of the Circuit Court for Anne Arundel County denying, without a hearing, his motion to correct illegal sentence. He presents essentially two challenges to the ruling of the circuit court: that the motions court was required to hold a hearing on his motion and that the original trial court erred in its instructions to the jury.

Hendrick was convicted of first-degree murder in the Circuit Court for Anne Arundel County in 1994 and was sentenced to life in prison, to run consecutively to a sentence then being served. His conviction was affirmed by this Court on direct appeal. *See Hendrick v. State*, No. 941, Sept. Term, 1995 (filed March 28, 1996) (per curiam). Because the factual predicate of the original trial is not implicated in this appeal, we need not provide details of the crimes charged. *See Washington v. State*, 190 Md. App. 168, 171 (2010).

Hearing

Hendrick asserts that the motions court “was required to hold a hearing before rendering a decision disposing of a claim or a defense.” He relies on Maryland Rule 2-311(f) which, as a rule of civil procedure, is not applicable to his claim for review under Rule 4-345(a).

Rule 4-345 provides that a hearing is required if the court modifies, reduces, corrects, or vacates a sentence. *See* Rule 4-345(f) (providing that “[t]he court may modify, reduce, correct, or vacate a sentence only on the record in open court, after hearing from the defendant, the State, and from each victim or victim’s representative who requests an

opportunity to be heard”). The Rule requires no such hearing if the court denies a motion to correct illegal sentence. *See Scott v. State*, 379 Md. 170, 190 (2004) (recognizing this Court’s opinion “correctly pointed out, the open hearing requirement found in Rule 4-345 ordinarily applies only when the court intends to modify, reduce, correct, or vacate a sentence.” (internal quotation and citation omitted)). Hendrick’s claim of error is without merit.

Instructions

Hendrick next asserts that the trial court erred in not advising jurors that they could return a verdict of “not guilty” which, in his view, misled the jury into believing they could not find him not guilty, and thereby rendered the sentence imposed illegal. Again, his claim is without merit.

The State responds, first, that the question has not been preserved. We agree. Assuming, *arguendo*, preservation, we find no error as to the merits of his claim. The court advised the jury that it could answer “no” to the verdict sheet that asked whether he was guilty beyond a reasonable doubt. The jury considered the evidence and answered “yes.” *See Thomas v. State*, 183 Md. App. 152, 171 (2008) (noting that ““when objection is raised to a court’s instruction, attention should not be focused on a particular portion lifted out of context, but rather its adequacy is determined by viewing it as a whole”” (quoting *Smith v. State*, 403 Md. 659, 666 (2008)), *aff’d*, 413 Md. 247 (2010)).

The motions court did not err in denying Hendrick’s motion to correct illegal sentence.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. COSTS ASSESSED TO
APPELLANT.**