

Circuit Court for Prince George's County
Case No. CT971747X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1336

September Term, 2020

ERIC THORNTON

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.

Eric Thornton, appellant, contends that the Circuit Court for Prince George's County erred in resolving his motion to correct illegal sentence. For the reasons that follow, we shall affirm the judgment of the circuit court.

In February 1998, Mr. Thornton was convicted by a jury in the circuit court of first degree murder and use of a handgun in the commission of a crime of violence. The court subsequently sentenced Mr. Thornton to a term of life imprisonment for the first degree murder. For the use of a handgun in the commission of a crime of violence, the court sentenced Mr. Thornton to a consecutive term of ten years' imprisonment, and stated: "That's a mandatory sentence."

In December 2018, Mr. Thornton filed the motion to correct illegal sentence, in which he contended that the sentence for use of a handgun in the commission of a crime of violence was illegal because "a 10 years mandatory sentence is only allowed when the prosecution has filed a notice of enhanced punishment," and a "review of the court file shows no such request." Mr. Thornton requested that the sentence for the offense be reduced to "10 years, suspend all but 5 years, those 5 will be mandatory." Following a hearing, the court granted the motion, but modified the sentence for the offense to "10 years consecutive," with the "[f]irst 5 years mandatory."

Mr. Thornton now contends that the court "abused [its] discretion" in so resolving the motion, because the "Rule of Lenity" required the court to "consolidat[e] his two sentences," "reduc[e] the life portion to a determinate number according to his life expectancy," and "run the 10 years concurrent with the determinate number." Mr. Thornton does not cite any authority that supports his contention. On the contrary, the

sentencing court clearly intended for the sentence for use of a handgun in the commission of a crime of violence to run consecutive to the sentence for first degree murder, and a sentence for first degree murder may not be less than “imprisonment for life.” Md. Code (2002, 2021 Repl. Vol.), § 2-201(b)(ii) of the Criminal Law Article. Hence, the court did not err in resolving the motion to correct illegal sentence.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**