

Circuit Court for Baltimore City
Case No.: 19007219-20

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1378

September Term, 2017

PERCY PAIR

v.

STATE OF MARYLAND

Woodward, C.J.,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 15, 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.

In January 1991, a jury in the Circuit Court for Baltimore City convicted appellant, Percy Pair, of first-degree murder, use of a handgun in the commission of a crime of violence, and related offenses in conjunction with the death of Christian Robbins. Following that trial, Pair pleaded guilty to two counts of first-degree murder and two counts of use of a handgun in the commission of a crime of violence for the murders of Percy Pair, Sr. (his father) and Cheryl Conley. On February 19, 1991, the day the pleas were entered, the court sentenced Pair to life imprisonment for the Robbins murder and to two concurrent terms of life imprisonment for the Pair, Sr. and Conley murders, to run consecutive to the life sentence for the Robbins murder. The court also sentenced Pair for the three handgun convictions, imposing a term of 15 years imprisonment for each, to run consecutively to each other, but concurrently with the life sentences.

More than twenty years later, Pair filed a motion to correct an illegal sentence in the Pair, Sr. and Conley cases in which he alleged that the handgun sentences were illegal because, at the time the pleas were entered, he “was under the impression that he would not be sentenced for both handgun violations.” He asserted that “a reasonable lay person” in his “position would not [have] under[stood] that the court could impose the sentence it did.” Thus, he requested that he be allowed to withdraw the 1991 guilty pleas.

After reviewing the plea hearing transcript, the circuit court concluded that the trial court had sentenced Pair “within the bounds of the plea agreement” and that he had “received the benefit of his bargain.” Accordingly, the court found that the handgun sentences were legal and denied the motion.

Pair appeals and maintains that the plea agreement “excluded the penalties for the handgun violations” and that the sentencing court “unilaterally” “modified” the terms of the agreement “when it imposed the two fifteen-year terms” of imprisonment. He insists that the handgun sentences “were not in accordance with what the court bound itself to, which was a total term not exceeding two life sentences, to run concurrent.” We disagree and affirm.

At the plea hearing, the State informed the court that, in exchange for the guilty pleas in the Pair, Sr. and Conley cases, the State would recommend three life sentences, one for each of the murders, with two of the life sentences to run consecutively, and the other concurrently. As for the “handgun sentences” in the Pair and Conley cases, the prosecutor informed the court that “the State would recommend that you run [them] concurrently to the life sentences . . . while the State recommends consecutive sentences for the gun and robbery” in the Robbins case.¹

When examining Pair before accepting the pleas, the court confirmed that Pair understood that he was pleading guilty to two counts of first-degree murder in the Pair, Sr. and Conley cases, “as well as using handguns in the commission of those crimes.” The court also ensured that Pair understood that he would be sentenced to three life sentences for the Robbins, Pair, Sr., and Conley murders, two to run consecutively to each other, and one to run concurrently. The court also noted that it would impose “some concurrent time

¹ It appears that, in the Robbins case, Pair was also convicted of armed robbery. At sentencing, the court did not impose a sentence for that conviction, noting that “it probably merged.”

for using a handgun.” Pair indicated he understood. To be clear, the court did inform Pair that “the bottom line is that you are expecting to get two consecutive life sentences.” In other words, the court ensured that Pair understood that the total term of incarceration would not exceed two consecutively run life sentences.

In short, although the court seemed to bind itself to imposing two consecutively run life sentences, and a third life sentence run concurrently therewith, for the three murders, the court did not bind itself to any particular sentence for the handgun offenses. But any notion that the court had agreed to forgo imposing any penalty for the handgun convictions is not supported by the record. And notably, neither Pair nor his counsel objected to the handgun sentences when imposed.

Because the handgun sentences that were imposed did not violate the sentencing terms of the plea agreement, the sentences are legal and, hence, the circuit court did not err in denying Pair’s motion to correct an illegal sentence.

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