

Circuit Court for Washington County
Case No. 21-C-16-058804

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1437

September Term, 2017

TY'REE CRAWFORD

v.

RICHARD DOVEY, WARDEN

Reed,
Fader,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Fader, J.

Filed: September 14, 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 December 2016, appellant Ty’ree Crawford filed a pro se habeas corpus petition challenging the validity of the sentence he is currently serving. The Circuit Court for Washington County denied his petition and he appealed. Because no appeal lies from the denial of a habeas corpus petition challenging the validity of a sentence, we grant the State’s motion to dismiss.

Between 1974 and 1979, Mr. Crawford received the following sentences:

Sentencing Date	Count	Length
Dec. 6, 1974	Armed Robbery	6 years
July 6, 1976	Armed Robbery	18 years
Oct. 11, 1976	Escape	1 year
June 20, 1979	First-Degree Murder	Life

In 2015, this Court vacated Mr. Crawford’s first-degree murder conviction and remanded for a new trial, pursuant to *Unger v. State*, 427 Md. 383 (2012). *Crawford v. State*, No. 1260, Sept. Term, 2013 (No. 18, 2015). On remand, Mr. Crawford entered a plea agreement pursuant to which the circuit court resentenced him to life suspend all but 40 years, with five years of supervised probation, consecutive to the 18-year sentence for armed robbery (which, by then, had long since expired). Given the number of diminution of confinement credits Mr. Crawford had at the time of the State’s response to his petition, he was expected to be released from prison sometime in 2020.

Mr. Crawford’s various contentions in his habeas petition essentially boiled down to a claim that his new sentence could not lawfully be made consecutive to the then-expired 18-year sentence because (1) he was no longer serving that sentence at the time of his

resentencing and (2) pursuant to *Robinson v. Lee*, 317 Md. 371 (1989),¹ his original life sentence should have been construed as running concurrent with the 18-year sentence and, therefore, the new sentence also should have run concurrent with that sentence.

Mr. Crawford’s appeal is not properly before this Court. The law does not permit an appeal from the denial of a habeas corpus petition when the claimant “challenges the validity of confinement under a sentence of imprisonment” if she or he is challenging “the legality of a . . . sentence of imprisonment for the conviction . . .” Md. Code Ann., Crim. Proc. § 7-107(b); *see also Gluckstern v. Sutton*, 319 Md. 634, 658 (1990) (stating that the Uniform Postconviction Procedure Act supplanted the right to appeal in habeas corpus cases challenging the validity of sentences); *Simms v. Shearin*, 221 Md. App. 460, 473 (2015) (“Maryland appellate courts have entertained appeals from rulings on habeas corpus petitions only when the petitioner challenged the legality of confinement based on collateral post-trial influences and not the legality of the underlying conviction or

¹ In *Lee*, the Court of Appeals held that a sentence imposed “consecutive to any sentences now being served” was properly interpreted as being consecutive only to any sentences that were actually being served at the moment the new sentence was pronounced, and not to any sentences that had been imposed but that had not yet commenced. 317 Md. at 373, 377-78. Here, Mr. Crawford’s original life sentence for first-degree murder was imposed “to run consecutive to any sentence or sentences you are now serving.” At that time (June 20, 1979), the only sentence Mr. Crawford was serving was his initial six-year sentence; he had not yet begun to serve his 18-year sentence, which had been imposed to run consecutive to the six-year sentence.

sentence.”). Here, Mr. Crawford’s claim challenges the validity of his sentence as imposed by the resentencing court. Accordingly, his appeal must be dismissed.²

**MOTION TO DISMISS APPEAL
GRANTED. COSTS TO BE PAID BY
APPELLANT.**

² That is not to say that Mr. Crawford is without any mechanism to challenge the legality of his sentence. Rule 4-345(a) provides that “[t]he court may correct an illegal sentence at any time.” Mr. Crawford separately filed a challenge to the legality of his sentence under that Rule. The Circuit Court for Anne Arundel County denied the motion. Mr. Crawford’s appeal from that decision is now pending with this Court.