

Circuit Court for Baltimore County
Case No. 03-K-95-002363

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1482

September Term, 2022

WAYNE ANTHONY ROBERTSON

v.

STATE OF MARYLAND

Wells, C.J.,
Shaw,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 27, 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

*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.

Wayne Anthony Robertson, appellant, appeals from an order issued by the Circuit Court for Baltimore County denying his “Motion for Appropriate Relief to Correct Commitment Record and Request for a Hearing” (Motion to Correct Commitment Record).¹ He raises six issues on appeal, which reduce to one: whether the court erred in denying his motion to correct commitment record.² For the reasons that follow, we shall affirm.

Following a 1996 jury trial, appellant was convicted of attempted first-degree murder, robbery with a dangerous weapon, and use of a handgun in the commission of a crime of violence. Prior to sentencing, the State gave notice of its intent to seek an enhanced sentence by proceeding against appellant as a subsequent offender under former Article 27, § 643 of the Maryland Code. At sentencing, the court found that the “predicate convictions” for the enhanced sentence were proven and announced appellant’s sentence as follows:

It is the judgment and sentence of the Court on the attempted murder that [appellant] be remanded to the Division of Correction for the rest of his natural life. With regard to the count on dangerous and deadly weapon, it is the judgment of the Court that he serve twenty years, the maximum on that, consecutive to his life sentence. And with regard

¹ The same day that the court denied the motion to correct commitment record it issued a separate order denying a motion to correct illegal sentence that had been filed by appellant. Appellant does not raise any issues with respect to the denial of his motion to correct illegal sentence on appeal.

² Several of the issues raised by appellant appear to address the legislature’s intent and the constitutionality of the statute under which he was sentenced. Because appellant did not raise these issues in the circuit court, and his brief does not contain any argument in support of these claims, we do not address them on appeal. *See Klauenberg v. State*, 355 Md. 528, 552 (1999) (noting that “arguments not presented in a brief or not presented with particularity will not be considered on appeal”).

to the use of the handgun, only because he was not the one that used it, it is the judgment of the Court that he be sentenced to the Division of Correction for a period of twenty years to run concurrent to the consecutive sentence imposed with regard to dangerous and deadly weapon.

That judgment is to be entered on the on the Court record and it is to be followed by not less than twenty-five years of which are to be mandatory without parole under the applicable statute.

Following sentencing, the Clerk prepared a commitment order which reflected that appellant’s sentence for attempted first-degree murder was to be “natural life.” As to that count, the clerk also indicated on the form that there were “parole eligibility restrictions.” In the block entitled “Additional Sentencing Information/Provide Parole Eligibility Restrictions or Parole Recommendations,” the Clerk then noted:

As to Count One (1) Defendant to be imprisoned for not less than twenty-five (25) years none of which may be suspended and from which the defendant may be paroled only in accordance with [Article] 31B, [Section] 11 and [Article] 27, [Section] 643B (f) and (g).

The Chairman of the Maryland Parole Commission subsequently sent a letter to the court seeking guidance in interpreting the commitment order in appellant’s case, specifically with respect to the no parole enhancement. The sentencing judge sent a response explaining its sentence; however, the commitment order was not changed as a result of this correspondence.

In 2013, appellant filed a motion to correct illegal sentence, claiming that: (1) the correspondence between the court and the Parole Commissioner regarding his sentence amounted to an informal and illegal correction of the same; (2) the effect of the 25 year no parole enhancement repealed by implication the common law sentence of life for attempted

murder; and (3) under the rule of lenity, his sentence should be 25 years without the possibility of parole for the attempted murder conviction. The circuit court denied the motion.

Appellant appealed and this Court affirmed. *Robertson v. State*, No. 1507, Sept. Term 2013 (filed July 9, 2015). Relevant to this appeal, we specifically rejected appellant’s claim that the court’s statement at sentencing regarding the sentencing enhancement “had the effect of adding twenty-five years to [appellant’s] sentence.” *Id.* at 6. Instead, we held that:

“[The] commitment record in this case makes clear that the sentence imposed did not feature any such addition. [Appellant’s] commitment record shows, unambiguously, that he was sentenced to life imprisonment, without possibility of parole for twenty-five years, for this first-degree attempted murder conviction.”

Id.

We further held that the sentence reflected in the commitment record was legal and had not been modified or corrected as a result by the correspondence between the sentencing court and the Parole Commission.

In 2022, appellant filed the motion to correct the commitment record, wherein he again asserted that the sentencing court had “added an additional 25-year minimum sentence without parole” to his sentence. He further claimed that the circuit court’s correspondence regarding “what [it] intended for the sentence to be” did not “reflect[] the pronouncement at the sentencing hearing[,]” resulting in an “ambiguous” sentence. As relief, appellant requested that the commitment record be corrected to reflect “what the sentence should be[.]” The circuit court denied the motion without a hearing.

As he did in the circuit court, appellant asserts that he received two sentences for his attempted murder conviction because the sentencing court “added an additional (25) years minimum sentence without parole.” He further asserts his sentence was “ambiguous” because the court’s response to the Parole Commissioner “was not the same as what [it] said on record at the sentencing hearing pronouncement.” However, in his appeal from the denial of his motion to correct illegal sentence, we squarely rejected both of these contentions, holding that appellant’s “commitment record shows, unambiguously, that he was sentenced to life imprisonment, without possibility of parole for twenty-five years, for his first-degree attempted murder conviction.” These claims are thus barred by the law of the case doctrine. *Holloway v. State*, 232 Md. App. 272, 282 (2017) (noting that the law of the case doctrine bars re-litigation of claims that were either decided or “could have been raised and decided” in prior appeals). Consequently, the circuit court did not err in denying appellant’s motion to correct commitment record.

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