

Circuit Court for Howard County
Case No. 13-K-05-044741

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1487

September Term, 2020

CRAIG OKEIDO ANDERSON

v.

STATE OF MARYLAND

Reed,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 22, 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.

In 2005, Craig Okeido Anderson, appellant, pleaded guilty to second-degree assault in the Circuit Court for Howard County. The court imposed a four-year sentence, suspending three years, followed by five years of probation. Mr. Anderson ultimately violated his probation and in 2009 was ordered to serve the remainder of his sentence.

In June 2020, Mr. Anderson filed a motion to modify his sentence. In that motion, he asserted that his defense counsel had failed to advise him regarding the immigration consequences of his guilty plea. Nevertheless, he specifically indicated that he was not raising an ineffective assistance of counsel claim because it would be a “lengthy procedure” and “costly to both [him] and the court.” Rather, he requested the court to retroactively reduce his sentence to 179 days, “in hope that [he] could seek relief from [his] deportation consequences.” In support of the motion to modify sentence, Mr. Anderson claimed that he had been rehabilitated and noted that he had participated in the “Challenge Program” while he had been incarcerated. The court denied that motion without a hearing on August 17, 2020 on the grounds that it was untimely, and that Mr. Anderson had failed to include a certificate of service.

In October 2020, Mr. Anderson filed another motion, wherein he noted that his motion for modification of sentence had been denied and therefore, requested the court to “grant [him] a ‘*Padilla*’¹ hearing” based on his “lawyer’s incompetence and ineffectiveness” in failing to properly advise him about the immigration consequences of his guilty plea (the October motion). In the October motion, Mr. Anderson claimed that

¹ *Padilla v. Kentucky*, 559 U.S. 356 (2010).

he was subject to deportation because of the assault conviction and that, if his counsel had properly advised him about the immigration consequences of that conviction, he would not have pleaded guilty. The court denied the October motion on November 18, 2020. Mr. Anderson filed a notice of appeal on December 11, 2020.

On appeal, Mr. Anderson contends that the court erred in not holding a hearing to address his ineffective assistance of counsel claim. The State counters that no hearing was required because his motion was untimely. The State has also filed a motion to dismiss, asserting that Mr. Anderson is attempting to appeal from the denial of a motion for modification of sentence, which is generally a non-appealable order. *See Hoile v. State*, 404 Md. 591, 615 (2008) (“[T]he denial of a motion to modify a sentence, unless tainted by illegality, fraud, or duress, is not appealable.” (citations omitted)). For the reasons that follow, we shall deny the motion to dismiss and affirm the judgment of the circuit court.

In its motion to dismiss, the State appears to be under the impression that Mr. Anderson is attempting to appeal from the court’s August 17 order denying his motion for modification of sentence. This is somewhat understandable, as Mr. Anderson’s brief does not clearly indicate what order he is appealing. Rather, it states that he is appealing from a decision made “on or around July 28, 2020,” even though no order was entered by the court on that date. However, in his notice of appeal, Mr. Anderson specifically stated that he was appealing from the court’s order denying the October motion requesting a “*Padilla* hearing.” Moreover, in his reply brief, he reaffirms that he intended to appeal the order denying the October motion. In fact, that is the only order from which he could have timely appealed, as it is the only order entered within 30 days of his notice of appeal being filed.

Because we are persuaded that Mr. Anderson is not attempting to appeal from the order denying his motion for modification of sentence, but rather from the order denying the October motion we shall deny the motion to dismiss.

As to the merits, we note that there is no specific provision in the Maryland Code or the Maryland Rules which authorizes a person to request a “*Padilla* hearing.” And, in the October motion, Mr. Anderson did not identify what type of motion he intended to file. Nevertheless, because Mr. Anderson had already served his sentence, the only possible remedy to challenge his conviction based on a claim of ineffective assistance of counsel would have been a petition for writ of error coram nobis. *See State v. Smith*, 443 Md. 572, 623 (2015) (“Coram nobis is extraordinary relief designed to relieve a petitioner of substantial collateral consequences outside of a sentence of incarceration or probation where no other remedy exists.”).

However, to the extent Mr. Anderson intended to file a coram nobis petition, his motion failed to include the information required by Maryland Rule 15-1202(b), including a statement of all previous proceedings; a statement that the allegations of error had not been waived; and the unavailability of appeal, post-conviction relief, or other remedies to challenge his conviction. Moreover, the motion did not provide a transcript of his guilty plea, which would have reflected the trial court’s examination of him prior to its acceptance of the plea, and allowed the motions court to determine whether he had knowingly and voluntarily entered that plea. *See* Maryland Rule 15-1202(c) (“The petitioner shall attach to the petition all relevant portions of the transcript or explain why the petitioner is unable

to do so.”). Consequently, the court did not err in denying the October motion without a hearing.

**APPELLEE’S MOTION TO DISMISS
DENIED. JUDGMENT OF THE
CIRCUIT COURT FOR HOWARD
COUNTY AFFIRMED. COSTS TO BE
PAID BY APPELLANT.**