

Circuit Court for St. Mary's County
Case No. 18-K-03-000560

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1498

September Term, 2020

WILLIAM D. SCRIBER

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: November 30, 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 2004, William D. Scriber, appellant, was convicted of first-degree rape, second-degree rape, second-degree sexual offense, and false imprisonment following a bench trial in the Circuit Court for St. Mary’s County. The court sentenced him to life imprisonment for first-degree rape, a consecutive term of 20 years’ imprisonment for second-degree sexual offense, and a consecutive term of 10 years’ imprisonment for false imprisonment.¹

In 2020, Mr. Scriber filed the motion for modification of sentence, wherein he requested that the court modify his sentence and release him from custody because he claimed that (1) he was at a higher risk of serious complications if he contracted COVID-19 due to his age and underlying medical conditions; (2) he had “never been cited for any infractions or violations during his incarceration”; and (3) he had a stable home and work plan in place if he were to be released. The court denied the motion to modify sentence, and his request to reconsider the denial of that motion, without a hearing.

On appeal, Mr. Scriber contends that the court erred in denying the motion on the merits and in not holding a hearing. However, the denial of a motion for modification of sentence pursuant to Maryland Rule 4-345 is not an appealable order unless the court concludes that it lacks jurisdiction to consider the motion, which it did not in this case. *See Hoile v. State*, 404 Md. 591, 615 (2008) (“[T]he denial of a motion to modify a sentence,

¹ The court merged his conviction for second-degree rape into his conviction for first-degree rape.

unless tainted by illegality, fraud, or duress, is not appealable.” (citations omitted)).

Consequently, we shall dismiss the appeal.²

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANT.**

² Even if the appeal was not subject to dismissal, we note that Mr. Scriber’s claim that the court erred in not holding a hearing lacks merit. Maryland Rule 4-345 does not require a hearing in open court unless the court intends to modify, reduce, correct, or vacate the sentence. *See Scott v. State*, 379 Md. 170, 190 (2004). Mr. Scriber’s reliance on Maryland Rule 2-311(f) is misplaced as that Rule only applies to civil matters and certain juvenile cases. *See* Maryland Rule 1-101(b).