

Circuit Court for Queen Anne's County
Case No. 17-K-97-004789

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1528

September Term, 2023

JODY LEE MILES

v.

STATE OF MARYLAND

Zic,
Tang,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 29, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Jody Lee Miles, appellant, appeals from the denial, by the Circuit Court for Queen Anne’s County, of a motion for modification of sentence. For the reasons that follow, we shall affirm the judgment of the circuit court.

On April 2, 1997, [Mr.] Miles shot and killed Edward Atkinson during a robbery. [Mr. Miles] was tried by a jury in the Circuit Court for Queen Anne’s County from March 9 through March 12, 1998, after the case was removed from the Circuit Court for Wicomico County, and convicted of felony homicide, robbery with a deadly weapon, robbery[,] and use of a handgun in the commission of a crime of violence. A sentencing hearing was conducted on March 17-18, 1998. [Mr. Miles] was sentenced to death on March 19, 1998.

Miles v. State, 365 Md. 488, 499 (2001). “On January 20, 2015, the Governor formally commuted [Mr.] Miles’s sentence to a sentence of life without parole[.]” *Miles v. Hogan*, No. 2167, Sept. Term 2016 (filed February 12, 2018), slip op. at 3 (footnote omitted).

On August 25, 2023, Mr. Miles filed a motion for modification of sentence, in which he sought “modification of his . . . sentence of life imprisonment without the possibility of parole” on numerous grounds, and requested a hearing on the motion. On September 11, 2023, the court issued an order in which it denied the motion.

Mr. Miles contends that the court abused its discretion in denying the motion because, for numerous reasons, a “new sentencing hearing is necessary in the interest of justice.” Mr. Miles further contends that his sentence is illegal, because “the date of the implementation of the change of sentence by the circuit court . . . is unknown,” and hence, he “currently serves two sentences for the same offense.” The State moves to dismiss the appeal “as not allowed by law.” Alternatively, the State contends that the court did not abuse its discretion in denying the motion.

We disagree with the State as to whether the appeal must be dismissed. The Supreme Court of Maryland has stated that the denial of a motion to modify a sentence is not appealable “unless tainted by illegality, fraud, or duress[.]” *Hoile v. State*, 404 Md. 591, 615 (2008) (citations omitted). Here, Mr. Miles alleges illegality in the court’s failure to hold a hearing on the motion and in the sentence itself. Hence, we deny the State’s motion to dismiss.

Nevertheless, we agree with the State as to whether the court abused its discretion in denying the motion without a hearing. Mr. Miles does not cite any authority that required the court to hold a hearing on the motion “in the interest of justice.” Mr. Miles also does not cite any authority that required the circuit court to somehow “implement” the Governor’s commutation of the sentence of death in order for the resulting sentence of life imprisonment without the possibility of parole to be legal. Hence, the court did not abuse its discretion in denying the motion for modification.

**JUDGMENT OF THE CIRCUIT COURT
FOR QUEEN ANNE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**