

Circuit Court for Baltimore City
Case No. 19007217-20

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1629

September Term, 2017

PERCY PAIR

v.

STATE OF MARYLAND

Woodward, C.J.,
Friedman,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 3, 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.

Percy Pair, appellant, appeals the denial, by the Circuit Court for Baltimore City, of his motion to correct illegal sentence. For the reasons that follow, we affirm.

In 1991, Pair was convicted by a jury of the first-degree murder and armed robbery of Christian Robbins. Thereafter, Pair pleaded guilty to the murders of his father, Percy Pair, Sr., and Cheryl Connelly. Pair ultimately received three life sentences, with the two life sentences imposed for the murders of Connelly and his father ordered to run consecutively, but concurrently to the life sentence imposed for the murder of Robbins. This Court affirmed his convictions on direct appeal. *See Pair v. State*, No. 476, Sept. Term 1991 (Md. App. April 16, 1992).

In 2013, Pair filed a motion to correct illegal sentence, claiming that the life sentence imposed in connection with Robbins’s murder was illegal because the indictment in that case “failed to expressly charg[e] [him] with felony murder.”¹ That motion was denied without hearing. On appeal, Pair continues to press his claim that the indictment for murder was insufficient to charge him with felony murder and therefore, that his life sentence for felony murder is illegal.

Pursuant to an indictment filed on February 13, 1990, Pair was charged with three offenses, including one count of murder using the “short form” indictment, a “formula” first established by the legislature in 1906. *See Ross v. State*, 308 Md. 337, 342-343 (1987). Specifically, the charge read as follows:

The Grand Jurors of the State of Maryland, for the body of the City of

¹ The same day Pair also filed a separate motion to correct illegal sentence challenging the life sentences that were imposed for the murders of Connelly and his father. That motion was also denied and is the subject of a separate appeal before this Court.

Baltimore, on their oath do present that the aforesaid Defendant . . . on or about the date(s) of the offense set forth above, at the location set forth above, in the City of Baltimore, State of Maryland, feloniously, willfully and of deliberately premeditated malice aforethought did kill and murder one Christian V. Robbins contrary to the form of the Act of Assembly, in such case made and provided, and against the peace, government and dignity of the State (Art. 27, Section 407 & Common Law).

Several years before Pair was indicted, the Court of Appeals in *Ross, supra*, noted that “a charge of murder,” using the short-form indictment for murder, “may be made out by proof of premeditated murder or proof of felony murder[.]” 308 Md. at 347. The Court further stated that, although “murder in the first degree may be proved in more than one way[,] [t]here is no requirement . . . that a charging document must inform the accused of the specific theory on which the State will rely.” *Id.* at 344. Accordingly, the Court rejected Ross’s claim that the State’s use of the short form indictment for murder deprived him of his constitutional right of fair notice and due process when the State successfully tried him for felony murder. *Id.* at 347.

Here, Pair’s indictment conformed in every relevant way with the statutory short form specified in former Md. Code Ann., Art. 27 § 616 (1992 Repl. Vol). Thus, as *Ross* makes clear, there is no merit to Pair’s claim that he was wrongfully convicted of felony murder because he was not explicitly charged with that specific offense. Consequently, the circuit court did not err in denying Pair’s motion to correct illegal sentence.

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