

Circuit Court for Prince George's County
Case No.: CT970817X

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1674

September Term, 2023

JOSEPH THOMAS PATRICK

v.

STATE OF MARYLAND

Nazarian,
Reed,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 2, 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.

In 1998, a jury sitting in the Circuit Court for Prince George’s County found Joseph Thomas Patrick, appellant, guilty of armed carjacking, kidnapping, robbery with a dangerous or deadly weapon, robbery, and use of a handgun in the commission of a crime of violence. The convictions were based on evidence that Mr. Patrick and an accomplice, both armed, approached a delivery man and informed him of their intent to rob him. The delivery man gave the assailants the keys to his truck, telling them it was unlocked. They then took the delivery man to the truck, handcuffed him, and drove away with the victim in the vehicle. Shortly thereafter, the assailants stopped the truck and fled therefrom after observing a police cruiser following them with lights and sirens on.

The court sentenced Mr. Patrick to a total term of 80 years’ imprisonment: 30 years for armed carjacking, a consecutive 30 years for kidnapping, and a consecutive 20 years for the handgun offense. The court merged the remaining convictions for sentencing purposes. On direct appeal, Mr. Patrick challenged the denial of his motions to suppress. This Court affirmed the judgments. *Patrick v. State*, No. 606, Sept. Term, 1998 (filed March 10, 1999).¹

In 2023, Mr. Patrick—representing himself—filed a Rule 4-345(a) motion to correct an illegal sentence in which he asserted that his conviction for kidnapping was illegal because it “was incidental to completion of the robbery.” He maintained, therefore, that his kidnapping sentence should be vacated. The circuit court denied relief. Mr. Patrick appeals that ruling. We shall affirm the judgment.

¹ Over the years, Mr. Patrick has filed various motions or petitions challenging his convictions or sentences, all of which have been unsuccessful.

DISCUSSION

Rule 4-345(a) provides that a court “may correct an illegal sentence at any time[.]” but the Rule is very narrow in scope and is “limited to those situations in which the illegality inheres in the sentence itself[.]” *Chaney v. State*, 397 Md. 460, 466 (2007). An inherently illegal sentence is one in which there “has been no conviction warranting any sentence for the particular offense[.]” *id.*; where “the sentence is not a permitted one for the conviction upon which it was imposed[.]” *id.*; where the sentence exceeded the sentencing terms of a binding plea agreement, *Matthews v. State*, 424 Md. 503, 519 (2012); or where the court “lacked the power or authority” to impose the sentence. *Johnson v. State*, 427 Md. 356, 370 (2012). Notably, however, a “motion to correct an illegal sentence is not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case.” *Colvin v. State*, 450 Md. 718, 725 (2016) (quoting *State v. Wilkins*, 393 Md. 269, 273 (2006)). Appellate court review of the circuit court’s ruling on a motion to correct an illegal sentence is *de novo*. *Bratt v. State*, 468 Md. 481, 494 (2020).

On appeal, Mr. Patrick reiterates the argument he made in the circuit court. In essence, he argues that the evidence was insufficient to convict him of kidnapping because, in his view, the “kidnapping was incidental to the completion of the robbery and not intentional.” Maintaining that the evidence “presented ‘no’ independent purpose to kidnap (transport/conceal) [the victim] independent of the robbery,” he urges this Court to vacate the “kidnapping conviction” and remand “for sentencing without the kidnapping conviction.”

The State responds that Mr. Patrick fails to allege any inherent illegality in the sentence itself and, therefore, has failed to state a cause of action under Md. Rule 4-345(a). We agree with the State.

Mr. Patrick is attacking his sentence for kidnapping by claiming that the evidence was insufficient to support the conviction for that offense. The time to raise a challenge to the sufficiency of the evidence, however, was upon direct appeal—not 25 years later in a motion to correct the sentence. *See Colvin, supra*, 450 Md. at 725. Accordingly, because there is no inherent illegality in Mr. Patrick’s kidnapping sentence, we hold that the circuit court did not err in denying his request to vacate it.

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