

Circuit Court for Fredrick County
Case No.: 10-K-15-057240

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1717

September Term, 2023

COREY MALIK GRANT

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 2016, Corey Malik Grant, appellant, appeared with counsel in the Circuit Court for Frederick County and pleaded guilty to home invasion, first-degree assault, and conspiracy to commit first-degree burglary. The court sentenced him to a total term of 50 years' imprisonment, with all but 25 years suspended, to be followed by a three-year term of supervised probation. Seven years later, Mr. Grant, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he claimed that the court's pronouncement of sentence was ambiguous, thereby rendering it illegal. The court denied relief. Mr. Grant appeals that decision. For the reasons to be discussed, we shall affirm the judgment.

BACKGROUND

In 2015, Mr. Grant was charged with 17 offenses. Pursuant to a plea agreement with the State, he pleaded guilty to home invasion, first-degree assault, and conspiracy to commit first-degree burglary. In exchange for the plea, the State agreed to nol pross the remaining charges and recommend that the court impose a total term of 50 years' imprisonment, with all but 25 years suspended, to be followed by five years' supervised probation. Prior to accepting the plea, the court ensured that Mr. Grant understood that the State's recommendation was non-binding and that it was free to impose any legal sentence.

The proffer of facts in support of the plea reflected that, about 12:45AM on August 26, 2015, Mr. Grant and two companions entered the home of his estranged partner where she resided with four children (all of whom were then under 13 years of age). Mr. Grant, the father of the three youngest children, entered the premises despite a protective order prohibiting him from doing so. Upon confronting his estranged partner, he assaulted her

by cutting her with a box cutter on various parts of her body, placing a hot iron on her stomach, and using a cord to strangle her. Ultimately, Mr. Grant left, taking with him two cell phones belonging to the victim and one of her daughters. Fortunately, the victim survived.

At sentencing, the State kept its part of the plea bargain by urging the court to impose a total term of 50 years, suspending all but 25 years. The defense asked the court to impose a sentence no greater than 18 years, which was the top of the sentencing guidelines.

The court pronounced sentence as follows:

[For] Count 7, which is the first degree assault, and on that charge I am gonna impose the 25 years. That is, of course you get credit for time served and right now under the statute that is a crime of violence so technically that would, you would have to serve at least 50 percent of that sentence. On Count 1, the home invasion, I believe the maximum sentence on that is 25 years. I am gonna impose that 25 years consecutive or after your sentence on Count 7, but that is suspended in its entirety.

The court then imposed three years' probation upon release and discussed the conditions of that probation. The court continued:

I believe Count 4 is the conspiracy to commit the first degree burglary. For that case [sic] I'm gonna impose ten years concurrent with the seven years with Count - - excuse me, with Count 1, that's all suspended. So the total sentence is as recommended by the State.

The docket entry and the Commitment Record reflect the same: 25 years for Count 7; a consecutive 25 years for Count 1, all suspended; and 10 years suspended for Count 4, concurrent with Count 1. The total sentence imposed is 50 years imprisonment, all but 25 years suspended, followed by a three-year term of supervised probation.

In claiming, in his motion to correct, that the court’s pronouncement of sentence was ambiguous, Mr. Grant focused on two statements made by the court. Although he acknowledges that the court sentenced him to 25 years for Count 7, he claimed that court “retract[ed]” that when it next sentenced him on Count 1 to “25 years consecutive or after your sentence on Count 7, but that is suspended in its entirety.” He argued that the last phrase reflects that the court, in fact, fully suspended Count 7.

He also focused on the court’s sentencing on Count 4 when it imposed “ten years concurrent with *seven years* with Count – excuse me, with Count 1, that’s all suspended.” (Emphasis added.) He asserted that the court created ambiguity by stating that the sentence for Count 1 is seven years, which he acknowledged conflicted with its earlier pronouncement of 25 years for that offense. In his motion he asked: “The question now becomes does Count 4 have a 10-year or 7-year term? Or does Count 1 have a 25-year or 7-year term?” In his view, the court imposed a total term of 50 years, but “Count 7 is suspended in its entirety” which “leaves [him] with 25 years or a 7-year term; which is all suspended.” The court summarily denied Mr. Grant’s motion to correct an illegal sentence.

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)). In other words, “only claims sounding in substantive law, not procedural law, may be raised through a Rule 4-345(a) motion.” *Id.* at 728. 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. Grant repeats the assertions he made in the circuit court and insists that he has now served his sentence and should be released immediately. He also maintains that the sentencing court erred, and his “sentence did not commence” because the court “failed to order [him] to any jurisdiction to commence his sentence (the Department of Corrections OR Sheriff’s jurisdiction).” He further states that, “[b]ecause the transcript in this case is ‘vague as to the jurisdiction,’ the rule of lenity applies[,]” but he does not explain what he means by that.¹

The State contends that Mr. Grant’s sentence is not inherently illegal and, therefore, his claims are not properly before this Court. In the State’s view, “Grant is actually

¹ The Commitment Record indicates that Mr. Grant’s sentence is to be served in the Division of Correction. The sentencing court’s failure to announce that on the record does not render his sentence inherently illegal and Mr. Grant cites no authority to hold otherwise.

contending that the court’s announced sentence differed from the one written on the commitment order” and, therefore, the issue should have been raised in a motion to correct the commitment record, not in a Rule 4-345(a) motion to correct an illegal sentence. The State also maintains that “Grant waived his claim of error by failing to address his concern contemporaneously with his sentence.” Moreover, the State asserts that the court did not make a “mistake” when pronouncing its sentence on Count 4 when it referred to “seven years” instead of “count seven,” but if it did, it immediately corrected it. And the State maintains that the court imposed 25 years’ imprisonment for Count 7.

We agree with the State that Mr. Grant’s sentences are not inherently illegal, and any perceived ambiguity should have been raised on direct appeal or in a motion to correct the commitment record. But assuming the issues are properly before us, and to avoid further litigation, without hesitation we conclude that the sentencing court’s pronouncement of sentence was unambiguous. The court imposed a total term of 50 years’ imprisonment, with all but 25 years suspended: 25 years for Count 7 (first-degree assault); 25 years, all suspended, for Count 1 (home invasion), to run consecutive to Count 7; and 10 years, all suspended, for Count 4 (conspiracy to commit first-degree burglary), to run concurrent with Count 1. Upon release, Mr. Grant is subject to a three-year term of supervised probation.

When the court stated that, for Count 1, it was imposing “25 years consecutive or after your sentence on Count 7, but that is suspended in its entirety[,]” the court was not retracting or modifying its sentence for Count 7 but stating that the sentence it just imposed for Count 1 was fully suspended. Any other interpretation is unreasonable.

We also perceive no ambiguity in the court’s announcement of the sentence for Count 4. The court stated it was imposing “ten years concurrent with the seven years with Count - - excuse me, with Count 1, that’s all suspended.” The court misspoke when it said the sentence for Count 4 would run “concurrent with the seven years with Count” but immediately clarified its intention by stating that the ten-year sentence for Count 4 runs concurrent “with Count 1, that’s all suspended.” In other words, the court imposed 10 years for Count 4, to run concurrent with Count 1, and it fully suspended the sentence for Count 4. Mr. Grant’s contention that the court somehow changed its sentence for Count 1 (or Count 7) to seven years is meritless.

Finally, after announcing its sentence on all counts, the court summarized by saying that “the total sentence is as recommended by the State.” As noted, the State recommended a total term of 50 years’ imprisonment, with all but 25 years suspended, and that is the sentence the court in fact imposed.

**JUDGMENT OF THE CIRCUIT COURT
FOR FREDERICK COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**