

Circuit Court for Baltimore City
Case No. 28613606

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1789

September Term, 2024

GLEN LEWIS

v.

STATE OF MARYLAND

Berger,
Tang,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 2, 2025

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

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

In 1986, appellant was convicted by a jury of first-degree rape, kidnapping, and unlawfully wearing or carrying a concealed deadly weapon. The court sentenced him to life imprisonment for the first-degree rape, thirty years' imprisonment for kidnapping, and three years' imprisonment for the deadly weapon conviction. Those sentences were ordered to run consecutively. In 2024, appellant filed a "Motion to Vacate and/or Correct an Illegal Sentence," claiming that his sentence was illegal because he was charged with and tried for both first and second-degree rape, which were the same charges for double jeopardy purposes. That motion was denied without a hearing. This appeal followed.

As he did in the circuit court, appellant claims that he was "charged with first and second degree rape, and convicted which was illegal" because "first and second degree rape must or should have" merged. To be sure, when a person is convicted of both first-degree rape and second-degree rape based on the same act or transaction, those convictions merge for sentencing purposes. *See Middleton v. State*, 318 Md. 749, 757 (1990). Appellant, however, was only convicted of, and sentenced for, first-degree rape. And the fact that appellant was also charged with the lesser-included offense of second-degree rape does not implicate the Double Jeopardy Clause of the Fifth Amendment. Consequently, the court did not err in denying appellant's motion to correct an illegal sentence.

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