

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1019

September Term, 2015

COREY MARK GREEN

v.

STATE OF MARYLAND

Wright,
Graeff,
Eyler, James, R.
(Retired, Specially Assigned),

JJ.

Opinion by Eyler, James R. J.

Filed: March 15, 2016

*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.

On February 24, 1997, Corey Mark Green, appellant, pled guilty in the Circuit Court for Anne Arundel County to one count of first-degree murder and one count of use of a handgun in the commission of a felony or crime of violence. The court sentenced appellant to a term of life imprisonment for first-degree murder and a term of 15 years' imprisonment for use of a handgun in the commission of a felony or crime of violence, to be served consecutively to the life sentence.

On February 9, 2015, appellant filed a motion to correct an illegal sentence, which the circuit court denied. In this appeal, appellant claims that the circuit court erred in denying his motion to correct an illegal sentence, and presents the following questions for our review, which we rephrase:¹

¹Appellant phrased the questions as:

1. Was the trial court's denial of the appellant's motion to correct an illegal sentence erroneous when the failure of appellant's sentencing court to properly credit his pre-trial time against his life sentence and to diminish that life sentence thereby violates appellant's statutory right under Art. 27 § 638C(a) and (d) [Now C.P. 6-218(b)(1); (e)(1)(2)] as well as his rights under the 5th and 14th amendments to due process and equal protection.
2. Was the trial court's denial of the appellant's motion to correct an illegal sentence legally correct when the sentencing court started appellant's sentence on August 3, 1996 (which does not diminish his life sentence) instead of following the procedure of Art. 27 § 638C(a) which states "Any person who is convicted and sentenced shall receive credit against the terms

(continued...)

1. Did the sentencing court impose an illegal sentence by failing to credit appellant for time served prior to the imposition of his life sentence?
2. Did the sentencing court impose an illegal sentence by starting appellant's life sentence on August 3, 1996, rather than credit him for time served?
3. Did the sentencing court impose an illegal sentence by failing to state on the record the amount of time to be credited appellant and the facts upon which the credit would be based?

Finding no error by the sentencing court, we affirm the judgment of the circuit court.

BACKGROUND

On August 3, 1996, appellant was taken into custody and eventually arrested and charged with several crimes, including first-degree murder and use of a handgun in the commission of a crime of violence. Appellant remained in custody until, on February 24, 1997, he pled guilty to the above-named charges. Following a hearing, the sentencing court sentenced appellant as follows:

¹(...continued)

of a definite or **life sentence**...for all time spent in the custody of any state...and the term of a definite or **life sentence**...shall be diminished thereby.”

3. Was the trial court's denial of the appellant's motion to correct an illegal sentence legally correct when Art 27 § 638C(d) requires the sentencing court to inform the defendant and **shall** state on the record the amount of time that is to be credited and the facts upon which the provision for credit is base[d], which was never done.

[THE COURT]: On the murder in the first-degree, the first Count – **when did [Appellant] start serving?**

[THE STATE]: **August 3rd.**

[THE COURT]: **That is when he was taken into custody?**

(No audible response)

[THE COURT]: On the first Count, judgment and sentence of this Court that you, [Appellant], be committed to the custody of the Commissioner of Correction and be confined under his jurisdiction for the balance of your natural life. And **that sentence to begin as of August 3, 1996.**

On the second Count, it is the judgment and sentence of this Court that you, [Appellant], be committed to the custody of the Commissioner of Correction to be confined under his jurisdiction for a period of 15 years. That sentence to run consecutive to the sentence I have imposed on Count 1.

(Emphasis added)

STANDARD OF REVIEW

Because there are no factual disputes, we review the issue of Appellant’s sentencing as a matter of law. *Blickenstaff v. State*, 393 Md. 680, 683 (2006).

DISCUSSION

Appellant argues that the sentencing court erred by not complying with Section 638C of Article 27 of the Maryland Code, which requires, among other things, that a defendant be

credited for any time served in custody prior to a conviction.² Appellant further contends that the sentencing court erred in not making certain findings on the record, namely, the amount of time to be credited and the facts in support, which he also claims was a violation of Md. Code, Art. 27 § 638C. These errors, according to appellant, render his life sentence illegal. We disagree.

Appellant's claim that he was not given credit for time served is factually erroneous. Both the sentencing transcript and appellant's commitment order clearly state that appellant's sentence was to begin on August 3, 1996, which is the same date that appellant was first taken into custody on the above charges. In beginning the sentence on that date, the sentencing court credited appellant for time served. Moreover, in stating on the record that appellant's sentence was to begin on August 3, 1996 (rather than February 24, 1997), the sentencing court did indicate the amount of time appellant was to be credited. The sentencing court also established the factual basis on which this date was based when it confirmed, on the record, that August 3, 1996, was the date that appellant was first taken into custody.

Appellant does not dispute that he was taken into custody on August 3, 1996 and that his sentence began on that date. While it is unclear, appellant appears to argue that, because

²Md. Code Art. 27 § 638C was repealed by Acts 2001, c. 10, § 1, eff. Oct. 1, 2001. The text of the statute was transferred without any substantive changes and is currently codified as Md. Code, Criminal Procedure, § 6-218.

he was sentenced to life imprisonment, the life sentence should have been reduced by the number of days between incarceration and sentencing, *i.e.*, converted to something other than a life sentence. There is no legal support for that proposition.

Therefore, because the sentencing court did not err in its application of Md. Code Art. 27 § 638C, and because appellant does not allege any other error, we hold that the circuit court did not err in denying appellant's motion to correct an illegal sentence.

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