

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1221

September Term, 2016

STATE OF MARYLAND

v.

TYRONE HOLLOWAY

Krauser, C.J.,
Woodward,
Thieme, Raymond G., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 16, 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.

In 2005, Tyrone Holloway was convicted by a jury, in the Circuit Court for Baltimore City, of armed robbery, attempted armed robbery, and other related offenses but, acquitted, among other things, of first degree assault and second degree assault. In 2015, Holloway filed a petition for post-conviction relief, in which he requested a new trial. After that petition was granted, the State filed an application for leave to appeal, claiming that the court erred in so ruling. For the reasons that follow, we grant that application and vacate the judgment of the circuit court.

Following trial, Holloway, through counsel, filed a petition for post-conviction relief. That petition included the contention that the verdicts as to armed robbery, attempted armed robbery, first degree assault, and second degree assault are legally inconsistent, and that defense counsel, in failing to object to those verdicts, provided ineffective assistance of counsel. Citing *Price v. State*, 405 Md. 10 (2008), in which the Court of Appeals held that inconsistent verdicts in criminal jury trials “shall no longer be allowed,” *id.* at 29, the post-conviction court agreed. It, therefore, awarded Holloway a new trial.

The State contends that that ruling was in error. We agree. Holloway was convicted more than three years before *Price* was decided. At that time, “inconsistent jury verdicts [were] normally permissible in criminal jury trials.” *Id.* at 12. Moreover, the *Price* Court declared that its holding applied only “with regard to [Price’s] case, similarly situated cases on direct appeal where the issue was preserved, and verdicts in criminal jury trials rendered *after* the date of” the *Price* decision. *Id.* at 29 (emphasis added). Thus, the post-conviction court erred in relying upon *Price* and awarding Holloway a new trial. Accordingly, we

grant the application for leave to appeal, vacate the judgment of the post-conviction court, and remand for further proceedings consistent with this opinion.

APPLICATION FOR LEAVE TO APPEAL GRANTED. JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY VACATED. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY RESPONDENT.