

Circuit Court for Montgomery County  
Case No: C-15-CR-23-000830

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2037

September Term, 2024

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RAYGAN MARTINEZ CLARITA

v.

STATE OF MARYLAND

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Arthur,  
Kehoe, S.,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Arthur, J.

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Filed: December 9, 2025

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On December 19, 2023, appellant Raygan Martinez Clarita pleaded guilty to two counts of conspiracy in the Circuit Court for Montgomery County. The court sentenced Clarita to two, consecutive 15-year sentences of incarceration, suspended all but five years on each of the two sentences, and imposed a five-year term of supervised probation upon Clarita’s release.

Representing himself, Clarita filed a motion to correct an illegal sentence, arguing that his two convictions for conspiracy violated the rule against double jeopardy because they arose from a single unlawful agreement. The circuit court denied the motion, stating that his sentences were not illegal because the two counts of conspiracy pertained to two different victims. Clarita appealed.

For the reasons explained in this opinion, we shall remand the case to the circuit court without affirming, reversing, or modifying the judgment.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The State charged Clarita with two counts of first-degree assault and two counts of conspiracy to commit first-degree assault. The charges arose from a knife attack on two victims on February 26, 2023. The application for a statement of charges asserts that Clarita drove the assailants to the place where the attack occurred.

On December 13, 2023, the parties submitted a joint “plea memorandum” to the circuit court. The memorandum stated that Clarita agreed to tender a guilty plea to the two conspiracy charges. The memorandum also stated that the sentencing guidelines prescribed a sentencing range from four to 18 years because the case involved “two

victims.” The State agreed to request no more than 11 years of executed time. Both sides were “free to allocute as to the amount of suspended time[.]”

The circuit court accepted Clarita’s guilty plea to the two conspiracy counts. On February 14, 2024, the court imposed separate sentences for each of those two counts. The State entered the remaining counts nolle prosequi. We have no transcript of either the plea hearing or the sentencing hearing.<sup>1</sup>

On October 30, 2024, Clarita, representing himself, filed a motion to correct an illegal sentence. He argued that his two conspiracy convictions violated the prohibition against double jeopardy because the convictions arose from a single criminal agreement.

On November 27, 2024, the circuit court denied Clarita’s motion on the ground that “the two counts of conspiracy to commit assault in the first degree pertain to two different victims.” “[T]herefore[.]” the court concluded, “the sentence is not illegal.”

This appeal followed.

### **QUESTIONS PRESENTED**

In his *pro se* brief, Clarita presents three questions, which we quote:

1. Did Appellant’s two convictions for a single-common law conspiracy to commit first-degree assault violate the Double Jeopardy Clause?
2. Did the Trial Court properly deny Appellant’s Motion to Correct Illegal Sentence because there was [sic]two victims involved in a single-common law conspiracy?

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<sup>1</sup> Citing Rule 8-602(b)(4), the State observes that the absence of transcripts is a basis for dismissing an appeal. The State, however, expressly states that it “does not request dismissal here based on the lack of transcripts.” Even if the State had requested dismissal, we would not exercise our discretion to dismiss the appeal in the circumstances of this case.

3. Did the Trial Court lawfully impose two 5 year consecutive sentences for Appellant to serve?

For the reasons stated in this opinion, we shall remand this case without affirming, reversing, or modifying the judgment. Md. Rule 8-604(d). On remand, the circuit court shall determine whether the two conspiracy convictions arise from a single agreement. If both of the conspiracy convictions arise from a single agreement, the court shall vacate one of the two sentences and convictions. And if the court vacates one of the two sentences and convictions, it shall decide whether and how to resentence Clarita on the remaining conviction.

### **DISCUSSION**

Maryland Rule 4-345(a) provides that a court may “correct an illegal sentence at any time.” A sentence is illegal when “there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which it was imposed[.]” *Chaney v. State*, 397 Md. 460, 466 (2007). This Court conducts a de novo review of a circuit court’s ruling on a motion to correct an illegal sentence. *Bratt v. State*, 468 Md. 481, 493-94 (2020).

Clarita argues that he participated in one conspiracy to commit first-degree assault and that his convictions for two counts of conspiracy for the assault of two different victims violated the Double Jeopardy Clause of the United States Constitution. He asserts that we must vacate one of his 15-year sentences for conspiracy and the underlying conspiracy conviction.

“A criminal conspiracy is ‘the combination of two or more persons, who by some concerted action seek to accomplish some unlawful purpose, or some lawful purpose by unlawful means.’” *Savage v. State*, 212 Md. App. 1, 12 (2013) (quoting *Mason v. State*, 302 Md. 434, 444 (1985)). The unit of prosecution for conspiracy is the agreement, rather than the unlawful objective or objectives. *Tracy v. State*, 319 Md. 452, 459 (1990). “‘A single agreement . . . constitutes one conspiracy,’ and ‘multiple agreements . . . constitute multiple conspiracies.’” *Savage v. State*, 212 Md. App. at 13 (quoting *United States v. Broce*, 488 U.S. 563, 570-71 (1989)).

“[O]nly one sentence can be imposed for a single common law conspiracy no matter how many criminal acts the conspirators have agreed to commit.” *Tracy v. State*, 319 Md. at 459. A conspiracy to harm more than one intended victim is only a single conspiracy. *See, e.g., Carroll v. State*, 202 Md. App. 487, 518-19 (2011) (holding that the convictions on “four conspiracy counts should have merged for sentencing purposes” into one conviction for one conspiracy to rob four victims), *aff’d*, 428 Md. 679 (2012).

The State has the “burden to prove the agreement or agreements underlying a conspiracy prosecution.” *Savage v. State*, 212 Md. App. at 14. If the State fails to present sufficient proof of a second conspiracy that is distinct and independent from a first conspiracy, it has proved, at most, only a single conspiratorial relationship that is evidenced by the multiple acts or agreements done in furtherance of it. *Id.* at 17.

Where “a defendant is convicted of and sentenced for multiple conspiracies when, in fact, only one conspiracy was proven, the Double Jeopardy Clause has been violated.” *Id.* at 26. In the case of such a violation, “one of [the] two conspiracy convictions must

be vacated[.]” *Id.*; *see also Molina v. State*, 244 Md. App. 67, 171 (2019) (vacating one of two conspiracy convictions where the evidence showed two criminal objectives, but only one agreement); *Bellard v. State*, 229 Md. App. 312, 340 (2016) (vacating two convictions for conspiracy to commit murder where “the allegations, evidence, and jury instructions support[ed] a conviction for one criminal agreement to murder three people, not three separate agreements to murder one person each”), *aff’d*, 452 Md. 647 (2017).

In this case, the State submits that because there is no transcript of the plea hearing, the record does not conclusively establish that Clarita’s conspiracy convictions are based on a single agreement. “[B]ased on the factual recitation in the application for statement of charges,” however, the State candidly admits that “it appears unlikely that more than one agreement was substantiated.” The State also admits that “the circuit court’s rationale for denying [Clarita’s] motion to correct an illegal sentence appears to be inadequate.” In addition, the State admits that it “appears likely” that one of the convictions “must be vacated.” We appreciate the State’s candor.

The State concedes that if Clarita’s “convictions are based on only a single agreement,” a “remand with instructions to vacate one of [the] two conspiracy convictions . . . would be warranted.” Nonetheless, the State argues that “a remand with instructions for further proceedings, rather than reversal, would be the appropriate resolution of this appeal.”

The State advances two bases for that conclusion. First, the State cites the absence of any transcripts and thus our inability to establish conclusively that the two conspiracy convictions are based on only a single agreement. Second, the State argues that if one of

the two convictions and sentences must be vacated, the circuit court should have the opportunity to decide the impact, if any, that that decision would have on the sentence for the remaining conviction. On the subject of sentencing, the State observes that the parties did not bind the court to impose any particular sentence, that the parties did not agree that the overall sentences should be allocated in any particular way as between the two counts, that the State agreed to recommend no more than 11 years of executed time, and that both parties were free to argue for suspended time.

We agree with the State that “the sentencing judge would be in the best position to assess whether one of [Clarita’s] convictions must be vacated (as appears likely) and, if so, whether and how to resentence him on the surviving conviction[.]” *See Twigg v. State*, 447 Md. 1, 28 (2016). Consequently, pursuant to Maryland Rule 8-604(d), we shall remand this case to the circuit court without affirming, reversing, or modifying the judgment. On remand, the circuit court shall (1) determine whether Clarita’s conspiracy convictions are based on only one agreement and, thus, whether one of the two convictions and sentences must be vacated; (2) vacate one of the two convictions and sentences for conspiracy if it determines that both convictions are based on only one agreement; and (3) determine whether and how to resentence Clarita if it vacates one of the two convictions and sentences for conspiracy.

**CASE REMANDED, WITHOUT  
AFFIRMANCE, REVERSAL, OR  
MODIFICATION, FOR FURTHER  
PROCEEDINGS CONSISTENT WITH THIS  
OPINION; COSTS TO BE PAID BY  
MONTGOMERY COUNTY.**