

Circuit Court for Baltimore County
Case No.: 03-K-90-006151

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2174

September Term, 2025

JOHN GEORGE DIETZ, III

v.

STATE OF MARYLAND

Zic,
Tang,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 8, 2026

*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.

Pursuant to an indictment filed in December 1990 in the Circuit Court for Baltimore County, John George Dietz, III was charged with two counts of murder, robbery with a dangerous and deadly weapon, and burglary. The victims were his parents. At his first trial (tried before a jury), after the State rested the court granted Dietz’s motion for judgment of acquittal on the robbery and burglary charges and denied his motion for judgment of acquittal on the murder charges. At the end of the defense’s case, the court again denied Dietz’s motion for judgment of acquittal on the murder counts. After the jury was unable to reach a verdict, the court declared a mistrial. Dietz was then retried on the murder counts in a bench trial, and the court found him guilty of two counts of first-degree murder. The court sentenced him to two consecutively run life sentences. This Court affirmed the judgments. *Dietz v. State*, No. 935, September Term, 1992 (filed unreported February 25, 1993).

In 2025, Dietz, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he asserted that his convictions were void and hence his sentences illegal because he was acquitted of the underlying felonies in the first trial. The circuit court denied relief. Dietz appeals, raising the same argument he raised below. We shall affirm the judgment.

Count 1 of the indictment, in relevant part, charged that Dietz “feloniously, willfully and of deliberately premeditated malice aforethought did kill and murder one John George Dietz, Jr.” Using the same words, Count 2 charged him with killing Lillian Ann Dietz. The language of the indictment followed the statutory formula for charging an individual

with murder. *See* Article 27 § 616 of the Maryland Code (1987 Repl. Vol.) (currently codified as Criminal Law § 2-208).¹

Dietz maintains, however, that the State “specifically” charged him with first-degree felony murder. In his view, “the fact that the indictment included the word ‘feloniously’ before the premediated malice language means that the State was pursuing – primarily a *felony murder theory of malice*.” We disagree. The language from the indictment, including the word “feloniously,” is the exact language in the statute—words that are sufficient to charge a defendant with all types of homicide offenses. *Dishman v. State*, 352 Md. 279, 303 (1998). Although “murder in the first degree may be proved in more than one way[,] [t]here is no requirement [] that a charging document must inform the accused of the specific theory on which the State will rely.” *Ross v. State*, 308 Md. 337, 344 (1987).

Dietz, however, claims that in a pretrial proceeding prior to the first trial, the prosecutor acknowledged that the State intended to proceed on a theory of premeditation or felony murder. Dietz claims that, when the court in the first trial granted his motion for judgment of acquittal on the robbery and burglary counts, it “was obligated to grant [his] motion for judgment of acquittal on the murder charges as well” because during that trial

¹ Article 27 § 616 read:

In any indictment for murder or manslaughter . . . it shall not be necessary to set forth the manner or means of death. It shall be sufficient to use a formula substantially to the following effect: “That A.B., on the . . . day of . . . nineteen hundred and . . . , at the county aforesaid, **feloniously (wilfully and of deliberately premediated malice aforethought)** did kill (and murder) C.D. against the peace, government, and dignity of the State.”

(Emphasis added.)

“the State had in fact limited itself primarily to the felony-murder doctrine[.]” Dietz does not support his contention, however, with the transcripts from the first trial, which do not appear in the record before us. (Nor did he raise that issue on direct appeal or in his subsequent petition for post-conviction relief.) The docket entries from the first trial, moreover, reflect that the court denied his motion for judgment of acquittal of the murder charges – first after the State’s case when it granted the motion for judgment of acquittal on the robbery and burglary counts and then again after the defense rested. Thus, based on the record before us we are not persuaded that the State’s case in the first trial was based on a theory of felony murder to the exclusion of other forms of murder, such as first-degree murder.

Finally, even if the second trial ran afoul of the Double Jeopardy Clause, Dietz waived the issue by failing to raise it at the time of the alleged violation. As this Court noted in *Rainey v. State*, 236 Md. App. 368, 382 (2018),

it is the defendant’s burden to raise a double jeopardy claim based on a successive prosecution at the time the violation occurs; if the defendant waives his double jeopardy right by failing to raise it then, the court not only has the power to convict, but the conviction will not be reversed even on direct appeal.

Accordingly, “[a] claim that a sentence is illegal because the underlying conviction violated double jeopardy protection is not cognizable under Rule 4-345(a).” *Id.*

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