

Circuit Court for Baltimore County
Case No. 03-K-93-004171

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2202

September Term, 2016

STEVEN BLAIR JACKSON

v.

STATE OF MARYLAND

Woodward, C.J.,
Eyler, Deborah S.,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 7, 2018

*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.

After the Circuit Court for Baltimore County denied his motion to correct an illegal sentence, Steven Blair Jackson noted this appeal. For the reasons to be discussed, we conclude that the motion was moot when filed, and consequently, it must be dismissed.

In 1994, Jackson entered an *Alford* plea to second-degree rape and was sentenced to a term of twenty years of incarceration, all but four years suspended, to be followed by a five-year term of supervised probation.¹ The “Order For Probation,” dated May 17, 1994, reflects that Jackson was to pay a “fine of \$5000,” but that the fine was “suspended.” The court subsequently twice modified Jackson’s sentence, reducing the amount of active time to be served. While on probation in 1999, Jackson was charged with and later convicted of two counts of second-degree rape in the Circuit Court for Anne Arundel County. Following a violation of probation hearing in this case, the court revoked his probation and ordered him to serve eighteen years of his previously suspended sentence. On July 13, 2007, the court issued an amended commitment record reflecting a sentence of sixteen years, to run “concurrent with any other outstanding or unserved sentence and begin on 01/10/99.” This amended commitment record reflects no suspended time and includes the notation “no probation.” It does not appear that Jackson’s sentence was thereafter modified. In fact, the docket entries reflect a sentence consistent with the July 13, 2007 amended commitment record.

¹ It appears that the plea and sentencing hearing, held on May 17, 1994, were not transcribed. *See Jackson v. State*, 448 Md. 387, 392 n. 5 (2016) (“Jackson and the State agree that an official transcript from the [plea] hearing does not exist and cannot be created.”).

In July 2016, Jackson filed a motion to correct an illegal sentence in which he asserted that his sentence was illegal because, when it was imposed in 1994, it included the \$5,000 fine – a penalty for second-degree rape that was not authorized by statute. Although the \$5,000 fine was fully suspended, Jackson nonetheless argued that the imposition of that fine rendered his sentence illegal, and thereby entitled him to withdraw his *Alford* plea. The State initially requested an extension of time in which to file a response to the motion, which the court granted, giving the State until October 25, 2016. When the State failed to file its response by that date, Jackson moved for a default judgment. The court denied the motion for a default judgment, and the State subsequently filed its opposition to Jackson’s request. The court then summarily denied Jackson’s motion to correct an illegal sentence.

Jackson makes several arguments on appeal. He first maintains that the circuit court erred in denying his motion for a default judgment.² He next asserts that the various modifications of his sentence did not include a modification of the \$5,000 fine, and thus, his sentence is illegal because the fine was not a permissible sanction for second-degree rape. Finally, he asserts that the “appropriate remedy” is to allow him to withdraw his plea.

We hold that Jackson’s motion to correct an illegal sentence should have been dismissed as moot. As noted, the amended commitment record issued on July 13, 2007, reflects a sentence of sixteen years, to run “concurrent with any other outstanding or unserved sentence and begin on 01/10/99,” with no suspended time and, consequently, no

² This contention has no merit. The Maryland Rules do not provide for a default judgment in the context of a motion to correct an illegal sentence.

term of probation. Based on our calculations, Jackson’s sentence expired on or about January 10, 2015, nineteen months *before* he filed his motion to correct an illegal sentence.³ As such, his motion was moot when filed because he had completed his sentence. *Barnes v. State*, 423 Md. 75, 88 (2011) (“As Rule 4-345(a) simply permits a court to revise an illegal sentence, rather than to modify or overturn the underlying conviction, it follows that a court can no longer provide relief under that rule once a defendant has completed his or her sentence.”)

Moreover, even if we assume that the \$5,000 fine was an impermissible sanction for second-degree rape, the fine was (1) fully suspended and (2) it was a condition of probation. Following the revocation of Jackson’s probation in 1999, the court ordered him to serve a flat sentence, without any suspended time or period of probation upon release. For these reasons, even if improperly imposed, the \$5,000 fine was meaningless, and it certainly would not warrant the relief Jackson is seeking.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY DENYING
MOTION TO CORRECT AN ILLEGAL
SENTENCE VACATED. CASE REMANDED
TO THAT COURT WITH INSTRUCTIONS
TO DISMISS THE MOTION AS MOOT.
COSTS TO BE PAID BY APPELLANT.**

³ It appears that Jackson is currently incarcerated, but that the sentence he is serving is for an unrelated conviction.