

Circuit Court for Anne Arundel County
Case No.: 02-K-13-000356

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2296

September Term, 2022

CARROLL LEON JOHNSON

v.

STATE OF MARYLAND

Reed,
Zic,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: September 17, 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 its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

After a jury trial in October of 2015, Appellant, Carroll Leon Johnson (“Johnson”), was convicted of first degree murder, use of a firearm in the commission of a crime of violence, possession of a regulated firearm after being convicted of a disqualifying crime, and wearing, carrying or transporting a handgun. Johnson was sentenced on April 18, 2016, to life imprisonment for first degree murder, a concurrent twenty years, with all but five years suspended, for use of a firearm in the commission of a crime of violence, and a concurrent fifteen years, with all but five years suspended, for possession of a regulated firearm, credit for time served, and to be followed by five years supervised probation. Johnson’s convictions were later affirmed by this Court on direct appeal in an unreported opinion, *Carroll Johnson v. State of Maryland*, No. 282, Sept. Term 2016, 2018 WL 2331863 (filed May 23, 2018), *cert. denied*, 460 Md. 505 (2018).

Following his sentencing, Johnson filed a timely Motion for Modification of Sentence on June 22, 2016, asking that the motion be held sub curia and scheduled for a hearing upon his request. The circuit court eventually denied Johnson’s motion for modification on February 8, 2023, and he timely noted this appeal on February 27, 2023. Johnson presents one question for our review:

Did the circuit court err in denying Johnson’s Motion for Modification of Sentence on the grounds that it was time-barred?

For the following reasons, we shall affirm the judgment of the circuit court.

BACKGROUND

The facts underlying Johnson’s convictions are set forth in this Court’s unreported opinion on direct appeal in *Carroll Johnson v. State of Maryland*, No. 282, Sept. Term

2016, 2018 WL 2331863 (filed May 23, 2018), *cert. denied*, 460 Md. 505 (2018). In short, Johnson was arrested on February 12, 2013, and charged with first degree murder, use of a firearm in the commission of a felony, use of a firearm in the commission of a crime of violence, possession of a regulated firearm after having been convicted of a disqualifying crime, and wearing, carrying or transporting a handgun. Following a jury trial, he was convicted of first-degree murder, using a firearm in commission of a crime of violence, possessing a firearm after conviction of a disqualifying crime, and wearing, carrying, or transporting a handgun. On April 18, 2016, Johnson was sentenced to life imprisonment with the possibility of parole for the first-degree murder conviction, plus concurrent sentences for the related firearms offenses.

Johnson filed a timely Motion for Modification of Sentence on June 22, 2016,¹ asking that the motion be held sub curia and set in for a hearing upon his request.² On July 14, 2016, the circuit court ordered that the motion for modification be “held sub curia until such time as the Defendant requests a hearing.” After this, there was no further action on Johnson’s motion for modification until Sunday, April 18, 2021, exactly five years after he was sentenced.³ On that day, Johnson filed a request for a hearing on his motion for

¹ Under Maryland Rule 4-345(e)(1), a motion for modification must be filed within ninety days after imposition of a sentence.

² Johnson asked the circuit court to hold his motion sub curia so that he could “build a record of acceptance of responsibility, and demonstrate his ability to conform his behavior to the rules and regulations of the Division of Correction.”

³ The five-year mark is significant because under Maryland Rule 4-345(e), a trial court “may not revise [a] sentence after the expiration of five years from the date the sentence originally was imposed[.]” Md. Rule 4-345(e)(1). Since the five-year anniversary of Johnson’s sentencing fell on a Sunday, the deadline to revise his

(continued)

modification. In his request, Johnson made no mention of the looming five-year deadline, nor did he in any other way indicate to the court that his request was urgent. The State did not file a response to Johnson’s request until October 18, 2022. In its response, the State argued that the circuit court no longer had jurisdiction to modify Johnson’s sentence because the five-year deadline had passed.

On November 9, 2022, the circuit court set a thirty-minute hearing for February 8, 2023. The hearing was held on February 8, 2023, and concluded with the court denying Johnson’s motion for modification.⁴ Johnson timely noted this appeal on February 27, 2023. On October 13, 2023, the State moved to stay the appeal pending the Supreme Court of Maryland’s decision in *State v. Thomas*, 488 Md. 456 (2024). This Court granted a stay on October 19, 2023. Following the Supreme Court of Maryland’s decision in *Thomas* on August 29, 2024, the stay was lifted.

sentence would have extended to the next day, Monday, April 19, 2021. *See* Md. Rule 1-203(a)(1).

⁴ Johnson claims that the circuit court denied the motion “based upon the premise that the [c]ourt did not have jurisdiction pursuant to Maryland Rule 4-345[.]” However, Johnson’s failure to procure a transcript of the February 8, 2023 hearing prevents us from being certain that the court denied his motion on that basis. Additionally, as the State points out, his failure to procure the transcript could in and of itself be grounds to dismiss this appeal. *See* Md. Rule 8-602(b)(4) (appeal may be dismissed if “the contents of the record do not comply with Rule 8-413”); Md. Rule 8-413(a)(2) (providing that the “record on appeal shall include . . . the transcript required by Rule 8-411”); Md. Rule 8-411(a) (requiring appellant to order transcript of any “portion of any proceeding relevant to the appeal” containing the court’s rulings or other matters “reasonably necessary for the determination of the questions presented by the appeal”). However, as the State does not move to dismiss, we will assume for the sake of argument that the circuit court did deny his motion for modification due to lack of jurisdiction under Rule 4-345.

STANDARD OF REVIEW

Under Maryland Rule 4-345(e)(1), “the court is prohibited from revising a sentence more than five years after its imposition.” *Thomas*, 488 Md. at 466. In other words, trial courts have no discretion to revise a sentence after the five-year period has elapsed. Accordingly, we review without deference the trial court’s determination that it lacked jurisdiction to consider the motion on the merits.

DISCUSSION

I. The Circuit Court Lacked Jurisdiction to Modify Johnson’s Sentence

As the State notes in its brief, the Supreme Court of Maryland’s decision in *Thomas*, 488 Md. 456, is dispositive of this appeal.

A. Under *State v. Thomas*, Sentencing Courts Lack Fundamental Jurisdiction to Decide a Timely-Filed Rule 4-345(e) Motion After the Five-Year Period Provided Under the Rule Expires

In *State v. Thomas*, the respondent Thomas was sentenced to an aggregate term of forty years’ incarceration for two counts of armed robbery and one count of second-degree burglary. *Thomas*, 488 Md. at 461. Following a resentencing, Thomas timely moved to modify his sentence under Rule 4-345(e). *Id.* at 462. The circuit court responded by holding the motion in abeyance. *Id.* Then, about two years later, Thomas filed a request for a hearing on the motion. *Id.* The circuit court noted Thomas’s request, but took no action. *Id.* Then, one year later, Thomas filed another request for a hearing. *Id.* This time, Thomas alerted the court to the “5 year time limit for which the court has jurisdiction to take action,” which was then just over one year away. *Id.* Again, however, the circuit court noted Thomas’s request and took no action. *Id.* at 462-63. Finally, another year later, Thomas

again requested a hearing, and again alerted the court to the approaching deadline of “December [3], 2019,” when the court would lose jurisdiction under Rule 4-345(e). *Id.* at 463. Despite this, the circuit court again noted the request and took no action. *Id.*

By the time Thomas filed his next request for a hearing, the five-year deadline had passed. *Id.* The State opposed the motion, arguing that the court no longer had authority to rule on the motion under Rule 4-345(e), as the five-year deadline had passed. *Id.* When a hearing was eventually held on Thomas’s motion, the court concluded that it had no authority to reduce his sentence after the expiration of the five-year period, and therefore denied the motion. *Id.*

Relying on *Schlick v. State* (*Schlick I*), 238 Md. App. 681 (2018), this Court reversed, holding that the circuit court retained fundamental jurisdiction over a timely-filed Rule 4-345(e) motion after the expiration of the five-year period. *Thomas*, 488 Md. at 463-64. However, the Supreme Court of Maryland reversed and upheld the denial of Thomas’s motion for modification.⁵ *Id.* at 461. A five-member majority of the Court agreed that “Rule 4-345(e)—including its five-year limitation—is inherently jurisdictional and does not belong in the claim-processing category.”⁶ *Id.* at 483. Therefore, the Court held, “a

⁵ In doing so, the Court also overruled *Schlick I*. *Thomas*, 488 Md. at 461.

⁶ The lead opinion in *Thomas* was authored by Justice Gould, with Chief Justice Fader and Justices Hotten, Booth, and Eaves joining as to the jurisdictional analysis. In a concurring opinion, Justice Biran wrote that he would have treated the five-year limit as a “mandatory claim-processing rule” that “must be given mandatory effect when timely invoked by the State.” *Thomas*, 488 Md. at 509 (Biran, J., concurring). In a dissenting opinion, Justice Watts wrote that the five-year limit was more like a “time-related directive,” subject to certain “limited equitable exceptions” on a case-by-case basis. *Id.* at 526 (Watts, J., dissenting).

sentencing court does not . . . have fundamental jurisdiction over a timely-filed Rule 4-345(e) motion beyond the five-year period provided under the rule.” *Id.* at 481.

The Court was even further divided over the question of whether a sentencing court abuses its discretion if it lets the five-year period expire without ever formally denying the motion. Writing for a four-member majority, Justice Gould explained that “[w]hen a timely Rule 4-345(e) motion is filed, the court has three choices: grant it, deny it, or defer it ‘for up to five years after the imposition of the original sentence.’”⁷ *Id.* at 484 (quoting *Brown v. State*, 470 Md. 503, 515 (2020)). Since the rule “does not require the court to convert a deferral into a formal denial at any point along the five-year timeline,” the majority held that the sentencing court did not abuse its discretion by “deferring Mr. Thomas’s motion for the entire five-year period.” *Id.* at 486-87.

In an opinion concurring with the judgment but dissenting as to this issue, Justice Eaves, joined by Justice Hotten, wrote:

[T]he Majority is reluctant to require sentencing judges to “convert a deferral into a formal denial at any point along the five-year timeline,” instead believing that sentencing judges should be permitted to defer indefinitely until the five-year clock runs out. This rationale defies logic. Of course the Rule imposes no explicit requirement on a sentencing judge to convert a deferral into a denial. But practically speaking, the court must make that conversion because a court has only two options (assuming there are no jurisdictional defects): grant the request for a hearing or deny the motion. That the Rule requires a ruling by a time certain does not implicitly create a third course of action for courts to take: denial via indefinite deferral.

Id. at 515 (Eaves, J., concurring in part and dissenting in part) (internal citation omitted).

⁷ This section of Justice Gould’s lead opinion was joined by Chief Justice Fader and Justices Booth and Biran.

Even though Justice Eaves would have held that the circuit court “abused its discretion by not issuing a timely, definitive ruling on [Thomas’s] motion for modification[,]” she recognized that the “unique nature of the circuit court’s authority in this area leaves that abuse of discretion without recourse.” *Id.* at 518 (Eaves, J., concurring in part and dissenting in part). Thus, Justice Eaves acknowledged, Thomas was without a remedy to correct the circuit court’s abuse of discretion.

B. Even After Factoring in the Time During Which Johnson’s Motion was Tolloed During the COVID-19 Pandemic, the Five-Year Period had Long Since Expired by the Time a Hearing was Held on the Motion

Johnson makes no mention of *Thomas* in his amended brief.⁸ Instead, he argues that the circuit court retained jurisdiction to modify his sentence because the five-year deadline to do so was tolled during the COVID-19 pandemic. In its reply, the State agrees that the five-year period in which a sentencing court retains jurisdiction to modify a sentence was tolled during the pandemic. However, even after factoring in the time during which the deadline was tolled, the State argues that the deadline had still passed by the time the circuit court held a hearing on Johnson’s motion. Therefore, the State contends that the circuit court lacked jurisdiction to modify Johnson’s sentence. We agree.

Johnson was sentenced on April 18, 2016. Since the five-year anniversary of his sentencing fell on a Sunday, the deadline to modify his sentence under Rule 4-345(e) would have expired on Monday, April 19, 2021. However, beginning on March 12, 2020, then-Chief Judge Mary Ellen Barbera and, later, then-Chief Judge Joseph M. Getty, issued a

⁸ Johnson filed an amended brief on December 30, 2024, about four months after *Thomas* was decided.

series of administrative orders tolling or suspending various statutory and rules-based deadlines while the courts were closed to the public. Then-Chief Judge Getty issued the “Final Administrative Order on the Emergency Tolling or Suspension of Statutes of Limitations and Statutory and Rules Deadlines Related to the Initiation of Matters and Certain Statutory and Rules Deadlines in Pending Matters During the COVID-19 Emergency” (“Final Administrative Order”) on March 28, 2022. Pertinent to the five-year period under Rule 4-345(e) are the following provisions:

Deadlines to Conduct Pending Judicial Proceedings

- (g) By previous Orders and this Order, pursuant to Maryland Rule 16-1003(a)(7), all statutes and rules deadlines to conduct pending judicial proceedings shall be tolled or suspended, as applicable, effective March 16, 2020, by the number of days that the courts were closed to the public due to the COVID-19 emergency by order of the Chief Judge of the Court of Appeals; and
- (h) For the purposes of tolling of all statutes and rules deadlines to conduct pending judicial proceedings, in this Order, “tolled or suspended by the number of days that the courts were closed” means that the days that the offices of the clerks of court were closed to the public (from March 16, 2020 through July 20, 2020) do not count against the time remaining to conduct judicial proceedings; and
- (i) With the offices of the clerks of courts having reopened to the public on July 20, 2020, the deadlines to conduct proceedings pending on March 16, 2020, having been extended, by previous Order, by an additional 60 days in order for the courts to reschedule and hold the same[.]

The State does not contest Johnson’s assertion that the Final Administrative Order applies to the five-year period under Rule 4-345(e). Additionally, while it did not decide the issue, the Supreme Court of Maryland remarked in dicta, in response to criticism from Justice Biran, that

We don’t see why [holding the five-year period to be jurisdictional would cast doubt on the validity of sentence modifications granted within the extended period under the COVID-19 administrative orders]. The administrative orders to which Justice Biran refers were issued pursuant to Maryland Rule 16-1003(a)(7), which expressly delegates to the Chief Justice the authority to “suspend, toll, extend, or otherwise grant relief from time deadlines, requirements, or expirations otherwise imposed by applicable statutes [or], Rules[.]”

Thomas, 488 Md. at 470-71 n.2.

Assuming that the Final Administrative Order does toll the five-year period under Rule 4-345(e), the deadline to modify Johnson’s sentence would have been extended by the number of days that the clerks of court were closed to the public, from March 16 to July 20, 2020—a total of 126 days—plus an additional 60 days, for a total of 186 days of tolling. Adding this time to the original deadline of Monday, April 19, 2021, leads us to the conclusion that the five-year period to modify Johnson’s sentence expired on Friday, October 22, 2021. The State did not respond to Johnson’s request for a hearing until October 18, 2022, almost a full year after the five-year period expired. Thus, by February 8, 2023, when the hearing was finally held, the five-year period had long since expired.

Under *Thomas*, we cannot find that the circuit court abused its discretion simply by deferring consideration of Johnson’s motion for modification up to the five-year deadline. *See Thomas*, 488 Md. at 486-87 (“[A] judge who wishes to hold open the possibility of modifying the sentence up to the very end of the five-year period is permitted to do so by rule.”). And, even if it was an abuse of discretion, “the unique nature of the circuit court’s authority in this area leaves that abuse of discretion without recourse.” *Id.* at 518 (Eaves,

J., concurring in part and dissenting in part). Thus, the circuit court correctly denied Johnson’s motion for lack of jurisdiction.

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