

Circuit Court for Baltimore City
Case No. 424100020

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2397

September Term, 2024

RANDY BANKS

v.

STATE OF MARYLAND

Friedman,
Kehoe, Stephen H.,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 14, 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.

Convicted by the Circuit Court for Baltimore City of illegal possession of a regulated firearm, wearing, carrying, and transporting a handgun loaded with ammunition, wearing, carrying, and transporting a handgun, and illegal possession of ammunition, Randy Banks, appellant, presents for our review a single issue: whether the court erred in failing to merge the conviction for wearing, carrying, and transporting a handgun into the conviction for wearing, carrying, and transporting a handgun loaded with ammunition. For the reasons that follow, we shall vacate the sentences for all of the convictions, and remand the case with instructions to merge the conviction of wearing, carrying, and transporting a handgun into the conviction of wearing, carrying, and transporting a handgun loaded with ammunition, and for resentencing.

At trial, the State called Baltimore City Police Officer Alhaji Fofana, who testified that at approximately 2:00 a.m. on March 19, 2024, he and an officer named Camaro “received a call from dispatch stating that there was [an] individual trying to break into a house” at 5245 Crowson Avenue. Arriving at the address, the officers encountered Mr. Banks. Officer Fofana “put [Mr. Banks’s] name and date of birth through dispatch, and it came out that he had a warrant.” The officers arrested Mr. Banks, searched him, and discovered a handgun loaded with “one round.”

At sentencing, the prosecutor stated that on two previous occasions, Mr. Banks “was convicted for wearing [and] carrying handguns.” The court subsequently sentenced Mr. Banks to a term of imprisonment of five years for the illegal possession of a regulated firearm. For wearing, carrying, and transporting a handgun loaded with ammunition, the court sentenced Mr. Banks to a concurrent term of imprisonment of one year. For wearing,

carrying, and transporting a handgun, the court sentenced Mr. Banks to a concurrent term of imprisonment of ten years. Finally, for the illegal possession of ammunition, the court sentenced Mr. Banks to a concurrent term of imprisonment of one year.

Mr. Banks contends that the court erred in failing to merge the conviction of wearing, carrying, and transporting a handgun into the conviction of wearing, carrying, and transporting a handgun loaded with ammunition. The State concurs, as do we. We have recognized that “where only one offense requires proof of an additional fact, so that all elements of one offense are present in the other, the offenses are deemed to be the same for double jeopardy purposes.” *Clark v. State*, 246 Md. App. 123, 132 (2020) (internal citation omitted). Here, only the offense of wearing, carrying, and transporting a handgun loaded with ammunition requires proof of an additional fact. All of the elements of wearing, carrying, and transporting a handgun are present in the other offense, and hence, they are deemed to be the same for double jeopardy purposes. Accordingly, we vacate the sentence for wearing, carrying, and transporting a handgun, and remand the case with instructions to merge that conviction into the conviction of wearing, carrying, and transporting a handgun loaded with ammunition.

The State requests that in addition to so remanding the case, we also vacate the sentences for the remaining offenses and remand for resentencing. We shall do so for two reasons. First, Md. Code (2002, 2021 Repl. Vol., 2023 Supp.), § 4-203(c)(4)(i) of the Criminal Law Article, states that when a defendant “has previously been convicted more than once under [that] section,” the defendant “is subject to imprisonment for not less than 3 years.” Hence, the sentence imposed by the court for wearing, carrying, and transporting

a handgun loaded with ammunition is illegal. Second, the Supreme Court of Maryland has recognized that “[t]he majority of our sister state appellate courts . . . view sentencing as a package,” *Twigg v. State*, 447 Md. 1, 28 (2016) (citation omitted), and “after an appellate court unwraps the package and removes one or more charges from its confines, the sentencing judge, herself, is in the best position to assess the effect of the withdrawal and to redefine the package’s size and shape[.]” *Id.* (internal citation, quotations, and brackets omitted). Accordingly, we vacate the sentences for the remaining offenses and remand the case for resentencing.

**SENTENCES VACATED. CASE
REMANDED TO THE CIRCUIT COURT
FOR BALTIMORE CITY FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION. COSTS TO BE PAID BY
MAYOR AND CITY COUNCIL OF
BALTIMORE.**