Circuit Court for Baltimore County
Case No. 03-K-94-004474

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2434

September Term, 2024

CLARENCE CONYERS, JR.

v.

STATE OF MARYLAND

Friedman,
Zic,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: June 17, 2026

In 2003, a jury in the Circuit Court for Baltimore County found Clarence Conyers, Jr., appellant, guilty of two counts of murder in the first degree, one count of robbery with a dangerous weapon, and two counts of use of a handgun in the commission of a crime of violence. Ever since, there has been controversy over precisely what sentences the court imposed, resulting in a series of resentencings. This appeal, from the most recent resentencing, is the latest phase in that saga. He raises two questions for our review:

> I. In imposing two concurrent life sentences and a consecutive 20-year sentence, did the resentencing court impose a "more severe" sentence, in violation of [Maryland Code, Courts & Judicial Proceedings ("CJP") § 12-702(b) (1974, 2020 Repl. Vol.)]?
>
> II. Did the resentencing court err under [CJP] § 12-702(a) by not deducting from Mr. Conyers'[] new sentence the time he has served under the previous sentence?

For the following reasons, we shall reject Mr. Conyers' claims that the resentencing court violated CJP § 12-702 by imposing a greater sentence than had been imposed previously.

BACKGROUND

We forego a recitation of the underlying facts surrounding the crimes because they are not relevant to the issue raised in this appeal. *See Thomas v. State*, 454 Md. 495, 498-99 (2017) ("Because the issue dispositive of this appeal does not require a detailed recitation of the facts, we include only a brief summary of the underlying evidence that was established at trial."); *see also Hill v. State*, 418 Md. 62, 66-67 (2011); *Teixeira v. State*, 213 Md. App. 664, 666-67 (2013). In short, sufficient evidence establishes that, in

1994, Mr. Conyers murdered Wanda Johnson during an armed robbery, and just hours later, murdered his accomplice, Lawrence Bradshaw.[1] The case has a lengthy and complicated procedural history, much of which is relevant to this appeal.

The underlying crimes were committed in Baltimore County in October 1994. Because the State gave notice of its intent to seek the death penalty, Mr. Conyers exercised his constitutional right of removal,[2] and in 1996, a jury trial was held in the Circuit Court for Wicomico County. Mr. Conyers was found guilty of "premeditated murder, felony murder, first-degree burglary, robbery with a deadly weapon, attempted robbery with a deadly weapon, robbery, attempted robbery, and use of a handgun in the commission of a crime of violence with respect to Wanda Johnson." *Conyers v. State*, 345 Md. 525, 534 (1997) ("*Conyers I*"). "He was also convicted of premeditated murder and use of a handgun in the commission of a crime of violence with respect to Lawrence Bradshaw." *Id.* The court sentenced Mr. Conyers to death for the murder of Ms. Johnson, to life imprisonment without the possibility of parole for the murder of Mr. Bradshaw, and additional sentences for related offenses. *Id.* at 539. On automatic

[1] The Supreme Court of Maryland summarized the underlying facts in *Conyers v. State*, 345 Md. 525, 534-36 (1997). Mr. Conyers was ultimately awarded a new trial, and a second jury again found him guilty of the same offenses. *Conyers v. State*, No. 1254, Sept. Term 2003 (Md. App. Apr. 14, 2005). A copy of that opinion is not contained in the 45-volume appellate record in this case. We, therefore, refer the interested reader to the 1997 opinion (although, strictly speaking, it is not the case currently on appeal).

[2] Md. Const., Art. IV, § 8(b).

appeal,[3] the Supreme Court of Maryland reversed the conviction for burglary, vacated the death sentence, and remanded for a new sentencing hearing. *Conyers I*, 345 Md. at 576-77. On remand, he was once again sentenced to death. *Conyers v. State*, 354 Md. 132, 141 (1999) ("*Conyers II*"). The Supreme Court of Maryland affirmed. *Id.* at 200.

Mr. Conyers then sought postconviction relief. The Court ultimately vacated his convictions and ordered a new trial, holding that the State had committed a *Brady* violation. *Conyers v. State*, 367 Md. 571, 614-15 (2002) ("*Conyers III*"). On remand, a new trial was held in the Circuit Court for Baltimore County.[4] The jury found Mr. Conyers guilty of first-degree murder of Mr. Bradshaw and use of a handgun in the commission of a crime of violence; it further found Mr. Conyers guilty of first-degree murder of Ms. Johnson (both premeditated and felony), robbery with a dangerous weapon, and an additional count of use of a handgun in the commission of a crime of violence. The court sentenced Mr. Conyers as follows:

> In regard to the murder in the first degree of Wanda Johnson, the sentence of the [c]ourt is life imprisonment without the possibility of parole. In regard to use of a handgun in the commission of a crime of violence, the sentence of the [c]ourt is twenty years to the commissioner of correction consecutive to the sentence imposed in the murder charge. In regard to the robbery with a dangerous and deadly weapon, the sentence of the [c]ourt is twenty years to the commissioner of

[3] At that time, whenever a sentence of death was imposed, Maryland Code (1957, 1996 Repl. Vol.), Article 27, § 414, as supplemented by Maryland Rule 8-306, provided for automatic appellate review by the Supreme Court of Maryland.

[4] The Court in *Conyers III* remanded the case to the Circuit Court for Wicomico County. 367 Md. at 615. Following remand, Mr. Conyers filed (and the circuit court granted) an unopposed motion to withdraw his suggestion of removal. The retrial was, accordingly, held in the Circuit Court for Baltimore County.

> correction consecutive to the sentence imposed in the murder charge, concurrent to the sentence imposed in the handgun charge.
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> Regarding the murder of Lawrence Bradshaw, this truly was an execution. This was an execution by a man who thought about it, who considered it, and committed it.
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> The sentence of the [c]ourt in regard to the first-degree murder of Lawrence Bradshaw is life imprisonment without the possibility of parole. In regard to the handgun charge, the sentence of the [c]ourt is ten years' imprisonment consecutive to the sentence imposed in the murder charge.

We affirmed the judgments in an unreported opinion.[5] *Conyers v. State*, No. 1254, Sept. Term 2003 (Md. App. Apr. 14, 2005) ("*Conyers IV*"), *cert. denied*, 388 Md. 405 (2005).

In 2006, Mr. Conyers filed pro se in the Circuit Court for Baltimore County a postconviction petition, which he supplemented six times. In 2018, with the assistance of counsel, he filed an amended petition. Following a hearing, the circuit court, in 2019, granted the amended petition in part, ruling that the sentences of life without the possibility of parole were illegal,[6] and denied it otherwise. The court ordered "the sentence [] be vacated and the matter remanded for a new sentencing hearing."

[5] Although the court did not expressly so state, the sentences related to the crimes against Ms. Johnson were concurrent with the sentences related to the crimes against Mr. Bradshaw. *Conyers v. State*, No. 1781, Sept. Term 2022, 2024 WL 3688136 at *2, n.5 (Md. App. Aug. 7, 2024) ("*Conyers V*"). The resulting aggregate sentence was two concurrent sentences of life without the possibility of parole plus 20 years.

[6] Prior to Mr. Conyers' retrial, the State did not refile notices of its intent to seek a sentence of death and of life without the possibility of parole, relying instead on the notices it had filed prior to Mr. Conyers' original trial in Wicomico County. Applying *Gorge v. State*, 386 Md. 600, 614-15 (2005) (holding that a defendant may be sentenced to life without the possibility of parole only if the State files a timely written notice strictly complying with Maryland Code, Crim. Law ("CR") §§ 2-201 and 2-203 (2002), (continued)

Mr. Conyers filed two applications for leave to appeal from the postconviction court's ruling, but those applications were denied. In 2022, the circuit court sentenced Conyers to life imprisonment for each murder and structured the sentences as follows:

> The life sentences are consecutive to the robbery deadly weapon, handgun in commission. And the second life sentence, the count four, which I believe is count four, that life sentence is consecutive to count one, the first life sentence.

The hearing sheet clarified that the structure was as follows:

> Count one (first-degree murder of Lawrence Bradshaw): life imprisonment consecutive to counts three (use of a handgun in the commission of a crime of violence—murder of Mr. Bradshaw), five (robbery of Wanda Johnson with a dangerous weapon), and nine (use of a handgun in the commission of a crime of violence—murder of Ms. Johnson);
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> Count three: 20 years' imprisonment consecutive to count one;
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> Count four (first-degree murder of Wanda Johnson): life imprisonment consecutive to count one;
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> Count five: 20 years' imprisonment consecutive to count four and concurrent with count nine; and
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> Count nine: 20 years' imprisonment consecutive to count four.

The aggregate sentence was two consecutive life sentences plus 20 years.

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even if the defendant has actual notice of the State's intent to seek the enhanced sentence), and *Hammersla v. State*, 184 Md. App. 295, 313-14 (2009) (holding that on retrial following a reversal in a prior appeal, the State's failure to file a new notice of its intent to seek a sentence of life without the possibility of parole precluded the imposition of the enhanced sentence), the postconviction court determined that the 2003 sentences of life without the possibility of parole were illegal.

Mr. Conyers noted another appeal, and we held that the imposition of "consecutive life sentences with the possibility of parole" results in a sentence that is "more severe than the previously imposed concurrent life sentences corrected to be with the possibility of parole," in violation of CJP § 12-702, and we remanded for resentencing. *Conyers v. State*, No. 1781, Sept. Term 2022, 2024 WL 3688136 at *8 (Md. App. Aug. 7, 2024) ("*Conyers V*").

The February 3, 2025 Resentencing

On remand, the circuit court declared its intention to impose the same sentence that had been imposed in 2003, minus the illegality that we discerned in *Conyers V*. The court imposed the following sentences:

> Count four [first-degree murder of Wanda Johnson] will be life with the possibility of parole. Count nine [use of a handgun in the commission of a crime of violence] is twenty years to the Department of Corrections, consecutive to count four. Count five [robbery of Wanda Johnson with a dangerous weapon] is twenty years to the Department of Corrections, that is concurrent with count nine, will be concurrent with count nine, or is concurrent with count nine and consecutive to count four.
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> Count one [first-degree murder of Lawrence Bradshaw] will be life, that is concurrent with the other count of life, which is count four, with the possibility of parole. And count three [use of a handgun in the commission of a crime of violence] is consecutive to counts one and counts four as well, and concurrent with the other twenty-year sentences. . . . Ten years to the Department of Corrections, consecutive to counts one and four, and concurrent with the other twenty-year sentences. Which would be what appears to be the intent of [the sentencing judge in 2003], with the corrections as directed by the [a]ppellate [c]ourts.

The aggregate sentence is, thus, two concurrent life sentences plus 20 years. The court determined that the start date for Mr. Conyers' sentences was the date of his arrest, October 26, 1994. Mr. Conyers then noted this timely appeal.

DISCUSSION

I. THE 2025 SENTENCE IS NOT "MORE SEVERE" THAN THE 2003 SENTENCE.

Mr. Conyers, citing to *State v. Thomas*, 465 Md. 288 (2019), and *Nichols v. State*, 461 Md. 572 (2018), asserts that the 2025 sentence is "'more severe,' in terms of parole eligibility, than what a legal 2003 sentence would have been." (Quoting *Conyers V*, No. 1781, Sept. Term 2022, 2024 WL 3688136 at *8 (Md. App. Aug. 7, 2024).) According to Mr. Conyers, if the court, in 2003, had imposed two concurrent life sentences plus 20 years, as we held in *Conyers V* that it should have, then he already would be eligible for parole. Thus, he claims, we should vacate his 2025 sentence and "remand for a resentencing hearing at which the court must impose a sentence reflecting that Mr. Conyers would be eligible for release by now, either through parole eligibility or through the suspension of some part of his sentence in favor of probation."

The State counters that "Mr. Conyers'[] current sentence is now exactly what a legal 2003 sentence would have been (two concurrent parole-eligible life sentence plus 20 years' consecutive), and it has the exact same parole eligibility as it would have had if it had been imposed in 2003." As the State explains in its brief:

> Mr. Conyers'[] claim seems to be that that date [15 years minus diminution credits plus 10 years, pursuant to § 7-301(c), (d), of the Correctional Services Article of the Maryland Code] is in the past, so he should already have been

> eligible for parole. That appears to be true, but if he is already eligible to be considered for parole, imposing a shorter sentence cannot result in his becoming eligible for parole any earlier—a sentencing court cannot travel back in time.

(Footnote omitted.)

A. Analysis

In *North Carolina v. Pearce*, 395 U.S. 711 (1969), the Supreme Court of the United States held that where a defendant successfully appeals and is awarded a new trial, and he thereafter is found guilty again of the same offenses, a trial court presumptively violates due process if it imposes a greater sentence than that originally imposed.[7] The General Assembly codified that holding in CJP § 12-702. *See*, *e.g.*, *Twigg v. State*, 447 Md. 1, 23 (2016).

Section 12-702 is not an absolute bar to imposing a greater sentence on remand, but it severely restricts a sentencing judge's discretion in doing so. The statute provides in relevant part:

> (b) If an appellate court remands a criminal case to a lower court in order that the lower court may pronounce the proper judgment or sentence, or conduct a new trial, and if there is a conviction following this new trial, the lower court may impose any sentence authorized by law to be imposed as

[7] Since then, the "Supreme Court has retreated from its analysis in *Pearce*[,]" and "vindictiveness is not to be presumed from the imposition of a more severe sentence on remand following the defendant's successful appeal." *Twigg v. State*, 447 Md. 1, 22-23 (2016). *See also Thomas*, 465 Md. at 305-06. Thus, "a more severe sentence will not offend due process unless one of two situations occurs: either the record of the new sentencing hearing demonstrates a reasonable likelihood that an increased sentence was the product of actual vindictiveness on the part of the sentencing authority, or the defendant 'prove[s] actual vindictiveness.'" *Twigg*, 447 Md. at 23 (quoting *Alabama v. Smith*, 490 U.S. 794, 799-800 (1989)).

> punishment for the offense. However, it may not impose a sentence more severe than the sentence previously imposed for the offense unless:
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> (1) The reasons for the increased sentence affirmatively appear;
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> (2) The reasons are based upon additional objective information concerning identifiable conduct on the part of the defendant; and
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> (3) The factual data upon which the increased sentence is based appears as part of the record.

It is undisputed that none of the conditions that could justify the imposition of a more severe sentence after remand are satisfied in this case. Rather, the dispute centers on whether the most recent sentence, imposed in 2025, is more severe than the previous sentence(s).

Contrary to what Mr. Conyers maintains, the 2025 sentence is not more severe "than what a legal 2003 sentence would have been." It is, as the court expressly declared, "the same sentence that [was] . . . imposed in 2003, with the correction . . . as indicated by the Appellate Court" in *Conyers V*. As the State explains, the 2025 sentence "has the exact same parole eligibility as it would have had if it had been imposed in 2003." There is nothing more that the 2025 resentencing court was required to do, and it certainly was not obligated to fashion a lesser sentence by suspending "some part of [it] in favor of probation," as Mr. Conyers claims.[8] As the State aptly stated in its brief, "imposing a

[8] Mr. Conyers's reliance on *Thomas* and *Nichols* is misplaced. In *Thomas*, the defendant had been convicted of "several crimes," including kidnapping and assault in the second degree and "received an aggregate sentence of 18 years in prison—15 years for kidnapping, and three years consecutive for second-degree assault." *Thomas*, 465 (continued)

shorter sentence cannot result in [Mr. Conyers] becoming eligible for parole any earlier—a sentencing court cannot travel back in time."

II. THE CIRCUIT COURT DID NOT VIOLATE CJP § 12-702(a).

Mr. Conyers next contends that the resentencing court violated CJP § 12-702(a) by failing to credit him for time served under his previous sentence. As he states in his brief:

> It is Mr. Conyers'[] contention that the plain language of subsection (a) required the resentencing court to "deduct from the term of the new sentence" the time he has served under his previous sentence from the date of his conviction, in addition to awarding credit for time served. Mr. Conyers requests that this Court order a deduction from his sentence of the time he has served or order that the circuit court modify his sentence by making this deduction.

The State, citing to *Johnson v. State*, 213 Md. App. 582, 588-89 (2013), counters that the deduction Mr. Conyers was owed was "accomplished by the awarding of credit

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Md. at 291-92. On appeal, the Court held that the assault should have merged into the kidnapping for sentencing purposes. *Id.* at 292. Following remand, the trial court sentenced the defendant to 18 years "for the kidnapping offense alone." *Id.* The Supreme Court of Maryland noted that "[a]lthough the new sentence was identical to the original sentence in terms of the maximum duration of confinement, the parole eligibility date under the new sentence was different." *Id.* "Under his original sentence, Mr. Thomas would have been eligible for parole after seven and one-half years; under the new sentence, he would not become eligible for parole until he had served nine years in prison." *Id.* The Court ultimately held that the new sentence violated CJP § 12-702(b). *Thomas*, 465 Md. at 292, 309-10.

Mr. Conyers' case is distinguishable. The 2025 sentence provides the same parole eligibility as a legal 2003 sentence would have. Thus, *Thomas* does not require a different result here.

Nor does *Nichols* apply. In *Nichols*, the Court held that "under [CJP] § 12-702(b), an aggregate sentence of a certain number of years of imprisonment is more severe than a sentence of life imprisonment, with all but a lower number of years suspended." 461 Md. at 607. Nothing of the sort occurred in this case, and the comparison of *Nichols* to the present case fails.

for time served." Thus, according to the State, "[b]ecause Mr. Conyers [] received credit for time served back to October 26, 1994," the resentencing "'automatically account[ed] for any time served prior to his resentencing[.]'" (Quoting *Johnson*, 213 Md. App. at 589.)

A. Analysis

Section 12-702(a) provides:

> (a) If an appellate court remands a criminal case to a lower court in order that the lower court may pronounce the proper judgment or sentence, the lower court shall deduct from the term of the new sentence the time served by the defendant under the previous sentence from the date of his conviction. If the previous sentence was a statutory maximum sentence, the lower court also shall give credit for any period of incarceration prior to the previous sentence, if the incarceration was related to the offense for which the sentence was imposed.

This subsection was interpreted in *Johnson* as providing that when a resentencing occurs, and the start date of the sentence is the same as the prior, superseded sentence, then the credit due under CJP § 12-702(a) "is already incorporated into [the] present, modified sentence." *Johnson*, 213 Md. App. at 589. That is precisely what occurred in this case,[9] and we conclude that the resentencing court properly accounted for the credit to which

[9] The resentencing court was careful in setting the start date for Mr. Conyers' new sentences. Indeed, the commitment record issued following the 2003 retrial and sentencing set a start date of December 8, 1994, but defense counsel persuaded the court to set an earlier start date, declaring, "I don't have any reason to doubt Mr. Conyers' credibility that he was arrested on October 26th[,]" given the evidence, furnished by the State, that an arrest warrant was issued October 25, 1994, and an application for statement of charges was filed November 1, 1994.

Mr. Conyers was entitled. Indeed, that is the only sensible interpretation of subsection (a), and we reject the interpretation suggested by Mr. Conyers, which would double-count decades of his sentences and cannot possibly be what the Legislature intended.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS ASSESSED TO APPELLANT.