

Circuit Court for Prince George's County
Case No: CT-17-1655X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2445

September Term, 2018

MICHAEL ALLEN

v.

STATE OF MARYLAND

Wright,
Kehoe,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 27, 2019

*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.

Following a jury trial in the Circuit Court for Prince George’s County, Michael William Allen, appellant, was convicted of two counts of attempting to elude a uniformed police officer (1) by failing to stop his vehicle (count 6) and (2) by exiting his vehicle and then fleeing on foot (count 5) – violations of § 21-904(b)&(c) of the Transportation Article. The court sentenced Mr. Allen to one-year imprisonment for each count, to run concurrently, with all but 11 days suspended, to be followed by a five-year term of supervised probation. In this appeal, Mr. Allen asserts that, because the offenses arose from the same incident without any break in time, he should have been convicted and sentenced for a single offense and, therefore, maintains that “one of his sentences for fleeing or eluding police must be vacated.” The State agrees that one of the sentences must be vacated.

As the parties note, we addressed this very issue in *Washington v. State*, 200 Md. App. 641 (2011) where the defendant, like Mr. Allen, failed to stop his vehicle upon a police command, but then stopped the vehicle and ran on foot from the police. There we said:

[S]ubsections (b) and (c) [of Trans. § 21-904] cover the same conduct of a driver/defendant, differing only in the source of the signal the driver/defendant is failing to obey. They carry the same penalty, and advance a single policy goal – deterring attempts by drivers to flee or elude the police when signaled to stop.

Nothing in the language of [Trans. § 21-904] subsections (b) and (c) or in the history of the changes to [that statute] suggests that the General Assembly intended that offenders be punished separately for, in one incident of fleeing or eluding the police, attempting to do so in two different ways, for example, as here, by car immediately followed by on foot. We conclude, therefore, that fleeing or eluding a police officer is one offense that carries one penalty, even though the offense

may be carried out in more than one way in a single transaction. Here, the appellant committed one crime of fleeing or eluding the police. The fact that he committed that crime first by driving and not stopping and then by running and not stopping does not mean that he committed two crimes. For the single crime he committed, he only could be punished once. Accordingly, one of his sentences for fleeing or eluding police must be vacated.

200 Md. App. at 664.

Based on *Washington*, we hold that Mr. Allen was subject to a single sentence for fleeing and eluding a police officer and that one of his two sentences must be vacated.

**SENTENCE ON COUNT 6 VACATED.
JUDGMENTS OTHERWISE AFFIRMED.
COSTS TO BE PAID BY PRINCE
GEORGE’S COUNTY.**