

Circuit Court for Prince George's County
Case No. CT920951C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2638

September Term, 2018

WILLIAM MICHAEL PRUITT

v.

STATE OF MARYLAND

Arthur,
Gould,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 6, 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.

In 1992, a jury found William Michael Pruitt, appellant, guilty of first-degree murder, conspiracy to commit first-degree murder, and the use of a handgun during the commission of a crime of violence. The court imposed concurrent life sentences on the murder and conspiracy counts and a consecutive five-year sentence on the handgun count. We affirmed Mr. Pruitt’s convictions on direct appeal. *See Pruitt v. State*, No. 1861, Sept. Term 1992 (filed Nov. 5, 1993).

In 2018, Mr. Pruitt filed a motion to correct illegal sentence, claiming that: (1) there was insufficient evidence to sustain his convictions for first-degree murder and use of a firearm during the commission of a crime of violence, and (2) even if the evidence was sufficient, the court should have merged his sentences for those offenses with his sentence for conspiracy. The circuit court denied his motion without a hearing.

On appeal, Mr. Pruitt raises the same contentions that he raised in his motion to correct illegal sentence. However, his challenge to the sufficiency of the evidence is not cognizable in a motion to correct illegal sentence. *See Bryant v. State*, 436 Md. 653, 665-66 (2014) (holding that, where appellant’s “complaint relate[d] to the sufficiency of the evidence” to prove that he had been convicted of predicate crimes, his appellate challenge to enhanced sentence was not cognizable under Rule 4-345(a)); *see also State v. Wilkins*, 393 Md. 269, 273 (2006) (observing that “a motion to correct an illegal sentence is not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition or judgment and sentence in a criminal case”). Therefore, we only consider his claim that his convictions for first-degree murder and use of a handgun during a crime of

violence should have merged with his conviction for conspiracy to commit murder for sentencing purposes. Because merger was not required, we shall affirm.

This Court has held that convictions for a completed offense and a conspiracy to commit that offense do not merge under the required evidence, the rule of lenity, or the fundamental fairness test. *See Kelly v. State*, 195 Md. App. 403, 418-19 (2010). Thus, the sentencing court was not required to merge Mr. Pruitt’s convictions for first-degree murder and conspiracy to commit first-degree murder. Moreover, Mr. Pruitt’s conviction for use of a firearm during a crime of violence does not merge with either the conspiracy charge or the murder charge under the required evidence test because each offense contains an element that the other does not. And merger of those offenses is not required under the rule of lenity or principles of fundamental fairness as the legislature has specifically provided that any penalty imposed for the use of a handgun during a crime of violence is to be in addition to any penalties imposed under other applicable statutes. *See generally Whack v. State*, 288 Md. 137, 149 (1980). Consequently, the circuit court did not err in denying Mr. Pruitt’s motion to correct illegal sentence.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**