

Circuit Court for Baltimore County  
Case No: 03-K-07-002390

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2764

September Term, 2018

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NATHANIEL GREEN

v.

STATE OF MARYLAND

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

JJ.

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PER CURIAM

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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 2007, Nathaniel Green pleaded guilty to two counts of robbery with a dangerous and deadly weapon and was sentenced by the Circuit Court for Baltimore County to a total term of 40 years’ imprisonment – 20 years for each count, to run consecutively. In 2017, Mr. Green filed a motion to correct an illegal sentence in which he asserted that his sentence violated the terms of his plea agreement because he was sentenced beyond the sentencing guidelines which recommended five to 10 years’ active imprisonment. The circuit court denied the motion and Mr. Green appeals that ruling. We affirm because the trial court did not bind itself to any particular sentence and, therefore, the sentence is legal.

At the August 30, 2007 plea hearing, the State informed the court that Mr. Green would plead guilty to two counts of robbery with a dangerous and deadly weapon, the sentencing guidelines were five to 10 years, the State would recommend a sentence of 30 years’ imprisonment, and the defense was “free to argue” for whatever sentence it deemed appropriate.

In the examination of Mr. Green before the plea was accepted, he was advised that each count carried a maximum penalty of 20 years’ imprisonment and that “the Judge is not bound by what [the prosecutor] requests or what [defense counsel] request[s].” The plea colloquy also included the following exchange:

THE COURT: [Defense counsel], did you advise him of the maximum potential penalties?

[DEFENSE COUNSEL]: Each count is 20 years, yes.

THE COURT: The maximum penalty is 40 years. Do you understand that?

MR. GREEN: Yes.

THE COURT: Okay. Under those circumstances, Mr. Green, you wish to tender a plea of guilty to counts one and five?

MR. GREEN: Yes.

In short, Mr. Green’s sentence to 40 years’ imprisonment did not breach the terms of the plea agreement and, therefore, the court properly denied his motion to correct an illegal sentence.

And finally, to the extent that Mr. Green also contends that the sentencing court erred in imposing a sentence beyond the guidelines and/or relied on misinformation when departing from the guidelines, that is not an issue cognizable in a Rule 4-345(a) motion to correct an illegal sentence. *See Abdul-Maleek v. State*, 426 Md. 59, 69 (2012) (reiterating that “allegations of impermissible considerations at sentencing are not ‘illegal sentences’ subject to collateral or belated review[.]”); Criminal Procedure, § 6-211(b) of the Maryland Code (the sentencing guidelines “are voluntary sentencing guidelines that a court need not follow”); Maryland State Commission on Criminal Sentencing Policy, *Maryland Sentencing Guidelines Manual*, Chapter 1 “Scope” (2019) (“the sentencing guidelines are voluntary and may not be construed to require a court to sentence a defendant as prescribed.”).

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