Circuit Court for Washington County
Case No: 21-K-03-33092

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 3105

September Term, 2018

DELANTE ANTWYNE ROPER

v.

STATE OF MARYLAND

Kehoe,
Gould,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 30, 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 2004, Delante Antwyne Roper, the appellant, pleaded guilty in the Circuit Court for Washington County to possession of a controlled dangerous substance (63 grams of crack cocaine) with intent to distribute and driving while under the influence. The court sentenced him to a total term of 12 years' imprisonment, suspending all but six and a half years, to be followed by a three-year period of unsupervised probation. He did not seek leave to appeal. In 2015, Mr. Roper filed a petition for writ of error coram nobis in which he challenged the validity of the guilty pleas on the grounds that (1) his trial counsel had provided ineffective assistance of counsel because he had not informed Mr. Roper of the nature and elements of the charged offenses and (2) the sentence imposed exceeded the sentencing terms of the plea agreement because he had understood that the maximum term, not the active term, he would receive was 10 years. The State moved to dismiss the petition because, among other things, Mr. Roper had failed to assert that he was suffering a significant collateral consequence as a result of the challenged conviction. The circuit court granted the motion and dismissed the petition. On appeal, this Court affirmed. *Roper v. State,* No. 2620, Sept. Term, 2016 (Md. App. February 8, 2018) ("*Roper I*").

Mr. Roper then filed a second petition for writ of error coram nobis in which he raised essentially the same claims that he raised in the first petition.[1] The State moved to dismiss the petition on the ground that the law of the case doctrine prohibited re-litigation

[1] In the second petition, Mr. Roper challenged the validity of the guilty plea centered on his allegations that the court erred in imposing a sentence greater than 10 years' imprisonment, that his trial counsel was ineffective for not objecting to the sentence imposed, and his plea was not knowingly and voluntarily entered because he was not advised by counsel, the State, or the court of the nature and elements of the offenses.

of the issues. The circuit court dismissed the petition, with prejudice. Mr. Roper appeals that decision. We shall affirm because we agree that the law of the case doctrine bars further litigation.

Under the law of the case doctrine, "once an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case." *Scott v. State*, 379 Md. 170, 183 (2004). In *Holloway v. State*, 232 Md. App. 272 (2017), we affirmed the circuit court's denial of the petitioner's second petition for coram nobis because the issue he raised in the second petition related to the validity of his guilty plea and could have been raised in the appeal from the denial of his first petition in which he also challenged the validity of the guilty plea. *Id.* at 284. We noted that, even if the argument made in the second appeal was distinct from the argument made in the first appeal, the law of the case doctrine "still applies" because "neither questions that were decided nor *questions that could have been raised* and decided on appeal can be relitigated." *Id.* (quotation omitted).

In *Roper I* we affirmed the circuit court's dismissal of Mr. Roper's coram nobis petition because, by failing to allege that he was suffering a significant collateral consequence, he had failed to state a cause of action upon which relief could be granted. *Slip op.* at 4. Nonetheless, we also noted that his claims were meritless. We pointed out that, not only are possession with intent to distribute and driving while under the influence self-explanatory offenses, at the plea proceeding Mr. Roper informed the court that he understood the charges against him. *Id.* at 4-5. As for the sentence imposed, we were not persuaded that the plea agreement had been breached, but in any event, we concluded that

"the alleged ambiguity in the sentencing terms of the plea bargain [a cap of 10 years *active* time versus a sentence of 10 years, including any suspended time] would not warrant the extraordinary remedy of vacating his 2004 guilty plea years after the sentence was completed." *Id.* at 5-6. Nothing in Mr. Roper's second petition or in his briefs filed in this appeal convinces us otherwise.

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