

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2025

September Term, 2014

QUINCY LENE WILLIAMS

v.

STATE OF MARYLAND

Woodward,
Friedman,
Thieme, Raymond G., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Thieme, J.

Filed: November 2, 2015

*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.

Quincy L. Williams, *pro se* appellant, appeals from the denial, by the Circuit Court for Worcester County, of his motion to correct an illegal sentence.¹ Finding no error on the part of the circuit court, we affirm that court’s order.

BACKGROUND

On November 18, 1992, appellant entered an *Alford* plea in the Circuit Court for Worcester County and was convicted of first-degree rape and burglary.² He was sentenced, on February 3, 1993, to “Life Imprisonment with credit for time served” on the rape charge and to a consecutive prison term of 20 years on the burglary charge.

¹Appellant, in his brief, frames the issue, as follows:

- I. Did the lower Court abuse its discretion, when after imposing sentence, it awarded Appellant credits for time served in Pre-Trial custody, then failed to apply the mandatory language of Article 27 §638C(a) by failing to diminish the credits from the imposed life sentence?
- II. Did Article 27 §638C(a) Create a Due Process Liberty interest for Appellant, that was violated by the Lower Court, by not diminishing Appellant’s sentence?
- III. Did the lower Court violate Appellant’s 14th Amendment rights to equal protection of the law?

All of appellant’s questions relate to the trial court’s denial of his motion to correct an illegal sentence.

² See *North Carolina v. Alford*, 400 U.S. 25 (1970). An *Alford* plea is a “specialized type of guilty plea where the defendant, although pleading guilty, continues to deny his or her guilt, but enters the plea to avoid the threat of greater punishment.” *Ward v. State*, 83 Md. App. 474, 478 (1990). In *Ward*, this Court held that an *Alford* plea is the functional equivalent of a guilty plea. *Id.* at 480.

In response to appellant’s post-trial application for review of the sentence, filed March 10, 1993, the circuit court ordered the sentence to remain unchanged. On June 14, 1993, the circuit court denied appellant’s motion for modification of sentence.

Appellant did not note a direct appeal, but on May 4, 2006, he filed, *pro se*, a petition for post-conviction relief asserting that: 1) his guilty plea had not been knowing and voluntary; 2) he had suffered from ineffective assistance of counsel at trial, and; 3) the trial court had failed to advise him of his right to appeal. Following a hearing at which he was represented by counsel, the circuit court granted appellant permission to file a belated application for leave to appeal but denied the remainder of the relief he requested.

Appellant timely filed an application for leave to appeal. This Court denied his application for leave to appeal by mandate issued November 1, 2007.

Appellant filed the motion to correct an illegal sentence that forms the basis of the instant appeal on October 1, 2014. Therein, he acknowledged that the circuit court had sentenced him to a prison term of life plus 20 years, to begin June 6, 1992, with 247 days’ credit to be awarded for his pre-trial custody.³ He nonetheless claimed that the court had “failed to diminish the awarded credits from the imposed life sentence in accordance with the mandate of Article 27, §638C(a).”⁴

³ The June 6, 1992 start date of the sentence is 247 days prior to February 8, 1993, the date appellant was sentenced.

⁴ Md. Code (1957, 1992 Repl. Vol.), Art. 27 § 638C(a), the precursor to §6-218(b)(2) and (3) of the Criminal Procedure Article, governed the award of credit against a sentence for time spent in custody at the time of appellant’s trial and provided, in pertinent part:

(continued...)

In response to appellant’s motion, the State requested that the court “correct the Commitment Order to reflect the Defendant’s credit for pre-trial time spent in custody in accordance with the terms set forth under Article 27 §638C.” By order dated October 15, 2014, the circuit court denied appellant’s motion on the ground that the docket entry of February 8, 1993 did, in fact, indicate that the sentencing court “sentenced the Defendant with credit for time served” and that the commitment record issued the same date awarded him 247 days’ credit for time served. Appellant filed a timely notice of appeal of the denial of his motion.

DISCUSSION

Appellant makes no claim of substantive illegality in his sentence. He avers only that the circuit court failed to provide a diminution in his sentence by way of credit for the time he was incarcerated prior to trial.

Maryland Rule 4-345(a) permits some illegal sentences to be challenged at any time, notwithstanding the fact that the defendant failed to object to the sentence at the trial level or failed to challenge the sentence by way of direct appeal.⁵ An illegal sentence, as

Any person who is convicted and sentenced shall receive credit against the term of a definite or life sentence or credit against the minimum and maximum terms of an indeterminate sentence for all time spent in the custody of any state, county or city jail, correctional institution, hospital, mental hospital or other agency as a result of the charge for which sentence is imposed or as a result of the conduct on which the charge is based, and the term of a definite or life sentence or the minimum and maximum terms of an indeterminate sentence shall be diminished thereby.

⁵ Md. Rule 4-345(a) provides: “The court may correct an illegal sentence at any time.”

contemplated by a motion to correct an illegal sentence, has been defined consistently by Maryland courts “as limited to those situations in which the illegality inheres in the sentence itself; *i.e.*, there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which it was imposed and, for either reason, is intrinsically and substantively unlawful.” *Chaney v. State*, 397 Md. 460, 466 (2007).

Despite some form of error or alleged injustice, neither a procedural illegality nor a trial error committed during the sentencing proceeding is an illegality that inheres in the sentence itself, and any such errors must be raised during a timely filed direct appeal. *Carlini v. State*, 215 Md. App. 415, 426 (2013) (quoting *Johnson v. State*, 427 Md. 356, 367 (2012)). *See also Tshiwala v. State*, 424 Md. 612, 619 (2012)(a sentence does not become an “illegal sentence” because of “some arguable procedural flaw in the sentencing procedure”).

Appellant does not contend, nor could he, that he was sentenced for an offense of which he was not convicted, nor that the sentence imposed was not permitted for the crimes of which he was convicted.⁶ Instead, he claims that the circuit court failed to give him proper credit against his sentence for his pre-trial incarceration. Such a procedural error does not inhere in the sentence itself so as to trigger the application of Rule 4-345. *See Haskins v. State*, 171 Md. App. 182, 189 (2006)(a contention that a defendant should have

⁶ Indeed, appellant entered an *Alford* plea and was convicted of first-degree rape and burglary. At the time appellant was sentenced, Md. Code, Article 27, §462, permitted a sentence up to life in prison for first-degree rape, and §29 permitted a sentence up to 20 years in prison for burglary.

received credit against his sentence for time served is not the proper basis of a motion to correct an illegal sentence).

Even were appellant’s motion to correct an illegal sentence a proper recourse, our review of the record refutes appellant’s sole claim, that he did not receive credit against his sentence for time served prior to trial. The court’s docket entry of February 8, 1993, the date of appellant’s sentencing, shows a sentence of “Life Imprisonment with credit for time served” on the rape charge and a consecutive prison term of 20 years on the burglary charge. In addition, appellant’s commitment record indicates a sentence imposition date of February 8, 1993 and details that the “total time to be served is LIFE PLUS TWENTY YEARS (20)” and that “[t]he defendant has been awarded 247 days credit for time served prior to and not including date of sentence (Art. 27, §638C).” The award of 247 days’ credit was accomplished by setting the start date of his sentence as June 6, 1992.⁷

We therefore find no procedural error in appellant’s sentencing proceeding, much less any illegality inherent in his sentence. The circuit court properly denied appellant’s motion to correct an illegal sentence.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT.

⁷We also point out that pursuant to Md. Rule 4-351(b), an “omission or error in the commitment record or other failure to comply with this Rule does not invalidate imprisonment after conviction.” Even had the circuit court erred in completing the commitment record, appellant’s remedy would have been a correction to the commitment record.