

Circuit Court for Charles County  
Case No. 08-K-07-000085

UNREPORTED  
IN THE APPELLATE COURT OF  
OF MARYLAND\*

No. 420

September Term, 2022

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JOSEPH WENDELL EDWARDS, JR.

v.

STATE OF MARYLAND

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Kehoe,  
Beachley,  
Tang,  
JJ.

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Opinion by Kehoe, J.

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Filed: April 7, 2023

\* At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

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, Joseph Wendell Edwards, Jr., was tried in the Circuit Court of Charles County on charges of first-degree felony murder, first-degree premeditated murder, robbery with a dangerous weapon, conspiracy to commit first-degree murder, conspiracy to commit first-degree assault, first-degree assault, and the use of a handgun in commission of a crime of violence. Mr. Edwards was convicted of first-degree felony murder, first-degree assault, and illegal use of a handgun, and first-degree assault, and use of a handgun in a crime of violence. Mr. Edwards was found not guilty to all remaining counts. Mr. Edwards was sentenced to life in prison. His convictions were affirmed on direct appeal.

This appeal arises out of a Motion to Reopen Post-Conviction Proceedings and a Motion to Correct Illegal Sentence filed by Appellant in which he asserted that his murder conviction was illegal because he was convicted for felony murder, but acquitted of the underlying felony, robbery with a dangerous weapon. The circuit court, the Honorable H. James West presiding, denied both motions. This appeal followed. There is one question before this court:

Did the Circuit Court err in denying Appellant's Motion to Correct Illegal Sentence, when the jury found the Appellant guilty of felony murder, but not guilty of the underlying felony?

For the reasons explained below, we affirm the judgment of the circuit court.

### **Procedural History**

The events giving rise to Mr. Edwards' convictions are set out in detail in an unreported opinion from this Court titled *Edwards v. State*, No. 1942 (Sept. Term 2007). It is unnecessary to restate them, instead we will focus on the procedural history that led to this appeal.

On February 2, 2007, Mr. Edwards was charged in the Circuit Court of Charles County with first-degree felony murder, first-degree premeditated murder, robbery with a dangerous weapon, conspiracy to commit first-degree murder, conspiracy to commit first-degree assault, conspiracy to commit robbery with a dangerous weapon, first-degree assault, and use of a handgun in the commission of a crime of violence in connection with the death of Steven McGregor. Mr. Edwards was also charged with attempted first-degree premeditated murder, attempted second-degree murder, robbery with a dangerous weapon, conspiracy to commit first-degree assault, first-degree assault, and use of a handgun in commission of a crime of violence in connection with the shooting of Steven Windley, as well as robbery with a dangerous weapon as to Robert Barbour, Marco Coates, and Timothy Grimes. Following a five-day jury trial, Mr. Edwards was convicted of first-degree felony murder, first-degree assault, and illegal use of a handgun with respect to Steven McGregor, and first-degree assault and use of a handgun in a crime of violence with respect to Steven Windley. Mr. Edwards was acquitted of all remaining counts, including first-degree premeditated murder, and all counts of robbery with a dangerous weapon.

Prior to sentencing, Mr. Edwards filed a “motion to set aside the verdict,” which was denied by the trial court. On September 21, 2007, Mr. Edwards was sentenced to life in prison for the first-degree felony murder, with a 20-year consecutive sentence for the first-degree assault, plus two 20-year sentences for the use of a handgun in the commission of a crime of violence, one of which was to run concurrent to the life sentence, and the other to run concurrent to the first-degree assault sentence. As we have mentioned, Mr. Edwards appealed these convictions and one of the issues before this court was whether “the jury’s verdict of guilty of felony murder inconsistent with its verdict of not guilty of robbery with a dangerous weapon, and must [appellant’s] felony murder conviction be reversed?” *Edwards v. State*, No. 1942 (Sept. Term 2007). This Court affirmed the convictions. Mr. Edwards filed a petition for writ of certiorari, which was denied by the Supreme Court in Maryland.<sup>1</sup> We gather from the record that Mr. Edwards filed a Petition for Post-Conviction Relief on July 5, 2011, which was denied on July 3, 2014.

On May 1, 2020, Mr. Edwards, acting pro se, filed a Motion to Correct Illegal Sentence. On February 11, 2021, acting through counsel, Mr. Edwards filed a Motion to Reopen Post-Conviction Proceedings. A hearing was held for the Motion to Correct

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<sup>1</sup> At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

Illegal Sentence and the Motion to Reopen Post-Conviction Proceedings at the same time. On April 14, 2022, the trial court denied both motions. Mr. Edwards timely appealed the court’s judgment denying his Motion to Correct Illegal Sentence.

### **Standard Of Review**

This Court reviews denials of motions to correct an illegal sentence *de novo*. *Blickenstaff v. State*, 393 Md. 680, 683 (2006). In doing so, we “defer to the trial court’s findings of fact, and will not disturb those findings unless they are clearly erroneous.” *Kunda v. Morse*, 229 Md. App. 295, 303 (2016); *see also* Rule 8-131(c) (“When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.”).

### **Analysis**

Mr. Edwards’ argument is straightforward: he was charged with first-degree felony murder, first-degree premeditated murder, and robbery with a dangerous weapon. He was convicted of first-degree felony murder but acquitted of first-degree premeditated murder and robbery with a dangerous weapon. He asserts that the felony murder conviction was inconsistent with the acquittal of the robbery charges. Based on this premise, Mr. Edwards asserts that his sentence for murder was illegal and asks us to exercise our authority under Maryland Rule 4-435(a) to correct this by vacating this sentence.

### **Inconsistent Verdicts**

There are two types of inconsistent verdicts recognized by Maryland courts: factually inconsistent verdicts and legally inconsistent verdicts. “Verdicts are factually inconsistent where proof of the charged offenses involves establishing the same facts and the offenses have different legal elements, and a trier of fact acquits the defendant of one offense but convicts of the other.” *Williams v. State*, 478 Md. 99, 105-06 (2022). “Factually inconsistent verdicts are permissible in a criminal trial because they “may be the product of lenity, mistake, or a compromise to reach unanimity.” *Id.* at 106 (quoting *McNeal v. State*, 426 Md. 455, 470 (2012)). Legally inconsistent verdicts on the other hand, “are ones where the jury acts contrary to the instructions of the trial court with regard to the proper application of law. Verdicts where a defendant is convicted of one charge, but acquitted of another charge that is an essential element of the first charge, are inconsistent as a matter of law. *McNeal*, 426 Md. at 458. Legally inconsistent verdicts are not allowed. *Givens v. State*, 449 Md. 433, 436 (2016); *see also Price v. State*, 405 Md. 10, 29 (2008) (“with regard to ... similarly situated cases on direct appeal where the issue was preserved, and verdicts in criminal jury trial rendered after the date of our opinion in this case, inconsistent verdicts shall no longer be allowed.”).

In the present case we are dealing with a verdict that was legally inconsistent. The jury found Mr. Edwards guilty of, inter alia, first-degree felony murder pertaining to Mr. McGregor. It also found Mr. Edwards not guilty of robbery with a dangerous weapon pertaining to Mr. McGregor. At the request of Mr. Edwards’ counsel, the jury was polled.

The verdict was hearkened and recorded, and the jury was dismissed. Before sentencing, the defense attorney filed what was categorized by the trial court as a “motion to set aside the verdict,” and argued that Mr. Edwards’ conviction for felony murder could not be sustained because the State did not prove an underlying felony, as the jury acquitted the Mr. Edwards of robbery. The trial court denied the motion stating that the jury was properly instructed on the law, and that in the absence of irregularity, inconsistent jury verdicts were permitted. Mr. Edwards filed a timely appeal.

A panel of this Court addressed the issue of inconsistent verdicts for this case in *Edwards v. State*, No. 1942 Sept. Term 2007 decided March 11, 2009 (“*Edwards P*”). The panel acknowledged that the then-recent Court of Appeals decision in *Price* no longer permitted inconsistent jury verdicts. *Edwards v. State*, No. 1942 (Sept. Term 2007). However, the panel concluded that in Mr. Edwards’ case the issue of inconsistent verdicts was not preserved for appeal because defense counsel did not timely object. According to the Supreme Court of Maryland, “to preserve the issue of legally inconsistent verdicts for appellate review, a defendant in a criminal trial by jury must object or make known any opposition to the allegedly inconsistent verdicts before the verdicts become final and the trial court discharges the jury.” *Givens v. State*, 449 Md. 433, 438 (2016). At trial, the jury announced its verdict on June 30, 2007. Mr. Edwards made no objection until September 21, 2007, long after the court had discharged the jury. Therefore, the issue of inconsistent verdict was waived. Since the issue of legally inconsistent verdicts has been properly adjudicated in this case, we will not reconsider the matter.

### **Illegal Sentence**

Mr. Edwards concedes that any relief based upon the inconsistent verdicts was waived when Mr. Edwards' trial counsel failed to object to the verdicts before the jury was dismissed. However, Mr. Edwards believes that the felony murder sentence is not based on a valid conviction. Mr. Edwards argues he never should have been sentenced for felony murder because he was acquitted of the underlying felony. Therefore, the sentence for felony murder is illegal and should be vacated. Based on this, Mr. Edwards asks this Court to exercise its discretion under Maryland Rule 4-345(a) to reverse his conviction. We decline.

Maryland Rule 4-345(a) states that “the court may correct an illegal sentence at any time.” A sentence is “illegal” under Maryland Rule 4-345(a) where “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).

*Johnson v. State* provides an example of when Maryland Rule 4-345(a) properly applies. 427 Md. 356, 362 (2012). When Mr. Johnson was arrested, the arresting officer prepared a “statement of charges” that listed assault with intent to murder along with ten other charges. *Id.* However, assault with intent to murder was not included in Mr. Johnson's indictment. *Id.* The indictment charged four crimes (1) attempted murder, (2) common law assault, (3), unlawful wearing, carrying or transporting of a handgun, and



(4) unlawful use of a handgun in the commission of a felony or crime of violence. *Id.* At trial, Mr. Johnson was acquitted of attempted murder, but was found guilty of (1) assault with intent to murder, (2) common law assault, (3) unlawful use of a handgun, and (4) unlawful wearing, carrying, or transporting of a handgun. *Id.* at 363. At sentencing, Mr. Johnson was sentenced to thirty years for assault with intent to murder, merging common law assault into that conviction. *Id.* Mr. Johnson was also sentenced to a twenty-year consecutive sentence for the use of a handgun in a felony or crime of violence, merging unlawful wearing, carrying, or transporting a handgun into that conviction. *Id.* Mr. Johnson filed a motion to correct an illegal sentence, arguing that his sentence for assault with intent to murder was illegal because he was never indicted for that crime. *Id.* The Supreme Court of Maryland held, in pertinent part, that Mr. Johnson was not charged with assault with intent to murder, nor was the indictment properly amended to include that charge. *Johnson*, 427 Md. at 380. Therefore, pursuant to *Chaney*, Mr. Johnson's conviction and sentence for assault with intent to murder was illegal and the Supreme Court of Maryland vacated both. *Id.*

Unlike in *Johnson*, Mr. Edwards was charged, indicted, and convicted of felony murder. There is nothing illegal with Mr. Edwards' felony murder sentence because when it was imposed, Mr. Edwards had been convicted of first-degree felony murder.<sup>2</sup> The

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<sup>2</sup> Mr. Edwards does not argue that the length of his sentence for felony murder was in excess of beyond what was permitted by law.

situations where Rule 4-345(a) applies as defined in *Chaney* are extremely narrow and does not apply to Mr. Edwards case.

Finally, Mr. Edwards argues that at sentencing, when the issue of inconsistent verdicts was first raised, the State attempted to resolve the issue by suggesting that there was enough evidence to find Mr. Edwards guilty of felony murder based upon attempted robbery. Mr. Edwards believes the State’s attempt to introduce “attempted robbery” at sentencing was a “constructive indictment” and therefore illegal. Mr. Edwards was sentenced to life in prison for the first-degree felony murder, with a 20-year consecutive sentence for the first-degree assault, plus two 20-year sentences for the use of a handgun in the commission of a crime of violence, one of which was to run concurrent to the life sentence, and the other to run concurrent to the first-degree assault sentence. Mr. Edwards was never charged with attempted robbery and no jury instruction was given regarding attempted robbery. Nor was he sentenced for armed robbery. The State’s attempt to explain the inconsistent verdicts at the sentencing did not persuade the trial court to sentence him for a crime he was never indicted for nor to impose a sentence that was inconsistent with Maryland statute. Therefore, Mr. Edwards’ sentence was not “illegal” as the term is used in Rule 4-345(a). The circuit court did not err in denying his motion.

**THE JUDGMENT OF THE CIRCUIT  
COURT FOR CHARLES COUNTY IS  
AFFIRMED. APPELLANT TO PAY  
COSTS.**