

Circuit Court for Baltimore County
Case No. 03-K-07-003256

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 867

September Term, 2022

DEDRICK CORNELL JOHNSON

v.

STATE OF MARYLAND

Berger,
Arthur,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 3, 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.

Dedrick Cornell Johnson, appellant, appeals from the denial, by the Circuit Court for Baltimore County, of a “Motion to Correct Sentence Based on Fraud, Mistake, or Irregularity” (hereinafter “motion to correct”). For the reasons that follow, we shall affirm the judgment of the circuit court.

On April 24, 2008, Mr. Johnson was convicted in the circuit court of first degree assault. The court subsequently sentenced Mr. Johnson to a term of 25 years’ imprisonment, all but time served suspended, with five years’ probation. On December 11, 2008, Mr. Johnson’s probation agent, Jeffrey Knickman, requested a warrant for violation of probation. In the statement of charges, Mr. Knickman stated that Mr. Johnson had been charged in the District of Columbia with “First Degree Murder – Armed,” did not have permission to be in the District, and did not have permission to be armed. The court subsequently issued the warrant.

On September 14, 2011, the warrant and charging document were served upon Mr. Johnson. On February 16, 2012, Mr. Johnson appeared for a violation of probation hearing, at which Mr. Knickman testified that in November 2010, Mr. Johnson was convicted in the District of Columbia of conspiracy to distribute marijuana. During Mr. Knickman’s testimony, the State submitted into evidence, without objection, a certified copy of the conviction. Following the hearing, the court found Mr. Johnson to have violated his probation by failing to obey all laws, and sentenced him to a term of 25 years’ imprisonment, with credit for time served. Mr. Johnson subsequently filed an application for leave to appeal, but on June 20, 2013, we dismissed the application at Mr. Johnson’s request.

On October 12, 2022, Mr. Johnson filed the motion to correct, in which he contended that he was not given notice prior to the violation of probation hearing that he would be charged with having been convicted of conspiracy to distribute marijuana, and that “[i]t is an irregularity for the [c]ourt to add or allow new charges to be added without ensuring proper notice is given to a defendant.” Mr. Johnson contended that because “the [c]ourt failed to ensure [that he] was notified of violating [his probation] with the specific nature of distribution of [m]arijuana,” his “conviction [for violation of probation] is illegal.” Citing, among other authority, Rule 4-345(b) (“[t]he court has revisory power over a sentence in case of fraud, mistake, or irregularity”), Mr. Johnson asked the court to “vacate the [c]onviction and [s]entence.” Finding “no illegality in the sentence imposed,” the court denied the motion.

Mr. Johnson now contends that, for numerous reasons, the court abused its discretion in failing to hold a hearing on the motion. We disagree. While a court may not “modify, reduce, correct, or vacate a sentence” unless it is done “on the record in open court, after hearing from the defendant,” Rule 4-345(f), Mr. Johnson does not cite any authority that requires a court to hold a hearing before denying a motion to correct a sentence. Also, we have stated that “irregularity as a ground for revising an enrolled judgment usually contemplates an irregularity of process or procedure but not an error, which in legal parlance, generally connotes a departure from truth or accuracy of which a defendant had notice and could have challenged.” *Gantt v. State*, 99 Md. App. 100, 105 (2004) (internal citation and quotations omitted). Here, Mr. Johnson received notice at the violation of probation hearing that he was being charged with having been convicted of

conspiracy to distribute marijuana, and could have challenged in his application for leave to appeal the alleged failure by the State to notify him of this charge prior to the hearing. What Mr. Johnson alleged in the motion to correct was not an irregularity of process or procedure, but an error, and hence, the court did not abuse its discretion in denying the motion.

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