Circuit Court for Howard County
Case No.: 13-K-13-053426

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1401

September Term, 2022

DONALD E. BELL

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: April 4, 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.

Appellant, Donald E. Bell, challenges the denial by the Circuit Court for Howard County of his motion to correct an illegal sentence. For the reasons to be discussed, we shall affirm the judgment.

BACKGROUND

Pursuant to an eight-count indictment, Mr. Bell was charged with multiple counts of burglary and theft. Count 1 charged him with first-degree burglary based on the breaking and entering of a dwelling located at 7003 Copperwood Way in Columbia on or about April 3, 2013. Count 2 charged him with third-degree burglary related to the same premises on the same date as Count 1. Count 3 charged him with theft of a bicycle on or about April 3, 2013. Count 4 charged him with first-degree burglary based on the breaking and entering of a dwelling located at 9343 Kendal Circle in Laurel on or about May 7, 2013. Counts 6, 7, and 8 charged him with the unlawful taking of a motor vehicle and theft on or about May 7, 2013.

Mr. Bell's motion to sever Counts 1 through 3 from the remaining charges was granted. On December 4, 2013, he elected a bench trial on Counts 1 through 3, that is the charges related to offenses in Columbia, and at the conclusion of the trial the court found him guilty of those crimes. The court later sentenced him to 15 years' imprisonment for first-degree burglary (Count 1), a concurrent term of 10 years for third-degree burglary (Count 2), and a concurrent term of 18 months for theft (Count 3). Upon appeal, this Court affirmed the convictions, but vacated the sentence for third-degree burglary because it should have merged into the sentence for first-degree burglary, which the transcript reflected was in fact the sentencing court's intention. We remanded for a limited re-

sentencing on the theft conviction. *Bell v. State*, No. 133, September Term, 2014 (filed April 9, 2015).

On May 21, 2014, Mr. Bell appeared in court to face the remaining charges, that is, Counts 4 through 8. On that day, he entered a guilty plea to Count 4—the first-degree burglary that took place on or about May 7, 2013 in Laurel. The court sentenced him to 15 years' imprisonment, to run consecutive to the 15-year sentence imposed for Count 1. Counts 6, 7, and 8 were then nol prossed. It does not appear that he sought leave to appeal.

In 2022, Mr. Bell, representing himself, filed a motion to correct an illegal sentence. As best we can discern, Mr. Bell alleged a double jeopardy violation based on his claim that his "first trial was a jury trial" on December 4, 2013 where he was convicted of Count 1 (first-degree burglary) and, therefore, he could not have been later convicted of Count 4 (first-degree burglary). In other words, he asserted that he "was charged twice with the same crime with Count 1 and Count 4."

He also appeared to attack his guilty plea to Count 4, claiming that "Rule 4-243(d) requires the entire agreement to be placed on the record during the plea proceeding—which obviously was not done in this case" and, therefore, "it was simply not possible for the court to ascertain whether Bell was pleading guilty knowingly and intelligently[.]" He did not cite to a transcript of the May 21, 2014 plea hearing and, if the proceeding was in fact transcribed, it does not seem to be in the record before us.

The circuit court summarily denied relief.

DISCUSSION

Mr. Bell's arguments on appeal are difficult to discern. But he repeats his double jeopardy violation claim and he raises for the first time a claim about "Good Conduct Credits." None of his arguments, however, have merit or concern the legality of his sentences.

First, Mr. Bell is mistaken that Counts 1 and 4 were based on the same conduct. As noted, Count 1 charged him with the breaking and entering of a dwelling located in Columbia on or about April 3, 2013. Count 4 charged him with the breaking and entering of a dwelling in Laurel on or about May 7, 2013. Accordingly, there was no double jeopardy violation because the crimes were based on distinct incidents.

With regard to his good conduct credits, the State points out that Mr. Bell did not raise that issue in his motion filed in the circuit court and, therefore, it is not within the scope of this appeal. Moreover, the State maintains that any failure to award credit would not render his sentence illegal. We agree with the State. *See Bratt v. State*, 468 Md. 481, 499 (2020) (failure to award credit for time served pursuant to Criminal Procedure, § 6-218 does not render a sentence "inherently illegal" for purposes of Rule 4-345(a)).

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