

Circuit Court for Queen Anne's County
Case No.: C-17-CR-21-000221

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 216

September Term, 2024

TIFFANY R. HINEFELT

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 3, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Tiffany Hinefelt appeals from the denial of her motion to correct an illegal sentence. For the reasons to be discussed, we shall affirm the judgment.

BACKGROUND

On June 21, 2021, Ms. Hinefelt entered a guilty plea to three counts: possession of a controlled dangerous substance – not marijuana (Count 2); reckless endangerment (Count 4); and driving a vehicle while impaired (Count 6). The court sentenced her as follows:

Count 2: one year, no time suspended.
Count 4: five years, all but one year suspended.
Count 6: sixty days, all suspended.

The court ordered the sentences to run consecutively—a total term of six years, sixty days with all but two years suspended to begin on February 16, 2021 and to be served at the local detention center. The court imposed a three-year term of supervised probation upon release.

It appears from the record before us that Ms. Hinefelt was released from incarceration on January 14, 2022 – about eleven months after the start date of the sentence. Soon thereafter, she was arrested and charged with crimes committed while on probation. On August 8, 2022, Ms. Hinefelt appeared in court and pleaded guilty to possession of CDS paraphernalia and was fined \$200 and ordered to pay court costs.

As a result of the new conviction, the court found Ms. Hinefelt in violation of her probation in this case. The court then inquired whether she had served one year of her sentence in this case. The prosecutor responded: “Well I think on - - how Maryland calculates a year, yes. She was not released early for any sort of programs[.]”

With respect to the disposition for the violation of probation, the State recommended that the court impose some period of incarceration, the amount left to the court’s discretion, and to continue Ms. Hinefelt on probation. The defense urged the court to continue probation without any additional confinement. The court announced its disposition as follows:

THE COURT: For her violation of probation, she’s going to serve 15 days at the Queen Anne’s County Detention Center. Madam State, any particular count you want that on?

[THE STATE]: No, Your Honor, with the Court. Thank you.

THE COURT: Count 2, 15 days.

She’s going to continue on probation. All terms and conditions of prior probation will continue[.]

A Commitment Record filed on August 8, 2022, the day of the violation of probation hearing, reflects a sentence of fifteen days for Count 2, to run concurrently with any outstanding sentence. It also notes that the commitment “is for execution of previously suspended time after defendant was found in violation of probation[.]” and that “[t]his commitment supersedes commitment issued on: 06/21/2021.” This Commitment Record does not mention Counts 4 and 6. Ms. Hinefelt did not seek leave to appeal and presumably served the fifteen days.

On October 31, 2023, the Department of Public Safety and Correctional Services filed a Supervision Summary report with the court advising that Ms. Hinefelt had been charged with driving a vehicle without a license. A supplemental report, filed on February

28, 2024, informed the court that Ms. Hinefelt was convicted of the new charge.¹ As a result, Ms. Hinefelt was charged with violating conditions of her probation in this case.

At a hearing held on March 5, 2024, defense counsel moved to dismiss the probation proceeding, arguing that, because the court had ordered Ms. Hinefelt to serve fifteen days following the previous violation of probation and had not imposed any suspended time with respect to that sentence, she was no longer on probation in this case. The court disagreed. Ms. Hinefelt then admitted to violating her probation and the court found her in violation. The court did not impose any sanction and it continued her probation. Ms. Hinefelt did not seek leave to appeal.

Ten days later, Ms. Hinefelt filed a motion to correct an illegal sentence pursuant to Md. Rule 4-345(a), making the same argument raised at the violation of probation proceeding. Specifically, counsel maintained that “the August 8, 2022 [fifteen day] sentence only imposed active incarceration without any suspended portion, therefore rendering the imposed probation illegal.” The court summarily denied the motion.

DISCUSSION

On appeal, Ms. Hinefelt maintains that the court erred in denying her motion to correct an illegal sentence. She asserts that, because the “probation court sentenced [her] to 15 days and no period of probation . . . continuation on probation was impossible.” In short, her position is that, by failing to include any suspended time, “the court effectively ended her period of probation.”

¹ Ms. Hinefelt was sentenced for this offense on February 6, 2024 to sixty days, with all but ten days suspended, followed by an 18-month term of supervised probation.

The State disagrees, noting that at the August 8, 2022 hearing, the court required Ms. Hinefelt to serve fifteen days as a sanction for violating her probation and in doing so “did not negate the remaining balance (4 years and 45 days) of the suspended portion of the sentence that it had originally imposed, nor did it terminate Hinefelt’s probation.” The State points out that the court expressly ordered that Ms. Hinefelt would “continue on probation” pursuant to all the originally imposed conditions. Moreover, the State, relying on *Benedict v. State*, 377 Md. 1, 8 (2003), correctly states that an order directing a probationer to serve all or a portion of previously suspended time is not an imposition of a new sentence. Rather, as the State points out, the Maryland Supreme Court stated in *Moats v. Scott*, 358 Md. 593, 597 (2000) that “[t]he effect of the court’s action is simply to lift the previously ordered suspension and direct execution of the now unsuspended part.”

We agree with the State that the court did not terminate or close out Ms. Hinefelt’s probation when it ordered her in August 2022 to serve fifteen days for violating her probation as the court expressly announced that her probation would continue. The court did err, however, in directing that the fifteen-day sanction for the probation violation be executed with respect to the sentence imposed for Count 2.

The sentence for Count 2 was a flat one-year term of incarceration with no suspended time and it appears that Ms. Hinefelt had fully served that sentence when she violated her probation in this case. Consequently, upon her release from confinement in January 2022, Ms. Hinefelt was serving probation only with respect to the sentences imposed for Counts 4 and 6 – the only sentences that carried suspended time. The probation court did not alter or modify either of those two sentences or direct that the fifteen

days be served with respect to either of them. Accordingly, we affirm the judgment of the circuit court denying the motion to correct an illegal sentence. Ms. Hinefelt, however, should receive credit against any outstanding sentence(s) in this case for the fifteen days she served for the August 2022 violation of probation.

**JUDGMENT OF THE CIRCUIT COURT
FOR QUEEN ANNE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**