

Circuit Court for Baltimore County
Case Nos.: 03-K-17-005290 & 03-K-18-002222

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

Nos. 220 & 221

September Term, 2022

DAVID NORTON PORTER

v.

STATE OF MARYLAND

Kehoe,
Beachley,
Kenney, James A., III
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: September 2, 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.

On August 16, 2018, David Norton Porter, appellant, pleaded guilty in the Circuit Court for Baltimore County to sexual abuse of a minor in case number 03-K-17-005290, and three counts of filming child pornography in case number 03-K-18-002222. Thereafter, on November 2, 2018, the court sentenced him to a total of 35 years’ imprisonment with all but 15 years suspended in favor of 5 years’ probation. Appellant did not thereafter seek leave to appeal his guilty plea in this Court.

On February 23, 2022 appellant, acting *pro se*, filed a paper titled “Motion for Enforcement of Breached Plea Agreement.” The circuit court summarily denied that motion on March 4, 2022, from which appellant noted this appeal.¹ In his *pro se* brief before this Court, he claims that the State and the court breached the terms of the guilty plea agreement.² We do not reach the merits of appellant’s arguments because we dismiss this appeal as not allowed by law.

¹ In November 2020 and in August 2021 appellant previously filed, and the circuit court previously denied, motions raising, among other things, claims substantially similar, if not identical, to the claims he now raises. He did not perfect an appeal to this Court from the denial of either of those motions.

In addition, the same day he filed his February 23, 2022 “Motion for Enforcement of Breached Plea Agreement” that is the subject of this appeal, he filed a paper titled “Motion for Correction of Date of Offence.” The circuit court denied both motions on the same day. Appellant noted appeals from both denials, which, upon his request, we consolidated. In his briefs before this Court, however, appellant only addresses the appeal from the denial of his “Motion for Enforcement of Breached Plea Agreement.” He has, therefore, abandoned the appeal from the denial of his “Motion for Correction of Date of Offence,” and we shall not address it.

² We note that the guilty plea agreement reached in this case did not bind the court to impose a particular sentence. Moreover, this fact was repeated to appellant throughout the guilty plea proceedings.

Appellant had, or has, various methods to attack his guilty plea that are authorized by Maryland law. He could have moved in the circuit court to withdraw his guilty plea pursuant to the provisions and deadlines of Maryland Rule 4-242, but did not. He could have sought leave to appeal from the guilty plea in this Court pursuant to section 12-307 of the Courts Article and Maryland Rule 8-204, but did not. Presumably, he could still seek post-conviction relief pursuant to the provisions of sections 7-101, *et. seq.* of the Criminal Procedure Article and Maryland Rules 4-401, *et. seq.*, and, if aggrieved after that, could seek leave to appeal in this Court pursuant to section 7-109 of the Criminal Procedure Article.

Appellant cites to no authority authorizing the attack he mounted on his guilty plea, the denial of which is the subject of this appeal. We are otherwise aware of none. For that reason alone, the circuit court did not err in denying appellant's motion. Moreover, in our view, appellant is not entitled to pursue a direct appeal from a proceeding unauthorized by law. If that were the situation, then a litigant who invents his own method of attacking a conviction unauthorized by law would then create for themselves greater appellate rights than a litigant who attacks a conviction pursuant to extant law and procedure. That cannot be the law.

Consequently, pursuant to Maryland Rule 8-602, we dismiss this appeal.

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANT.**