

Circuit Court for Wicomico County
Case No.: 22-K-91-000436

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 234

September Term, 2018

RODNEY LORENZO MITCHELL

v.

STATE OF MARYLAND

Wright,
Berger,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 5, 2019

*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.

Appellant, Rodney Lorenzo Mitchell, appeals from the order of the Circuit Court for Wicomico County denying his motion to correct illegal sentence. Because his sentence is legal, we affirm the judgment.

On June 3, 1991, appellant, Rodney Lorenzo Mitchell, was convicted by a jury sitting in the Circuit Court for Wicomico County of first degree murder, attempted robbery with a deadly weapon, and attempted robbery. On July 31, 1991, the court sentenced appellant to life for first degree murder and did not suspend any portion of the sentence. The court did not announce at sentencing that it was crediting appellant for the time he served pretrial, however, the commitment record, which was issued the next day, indicates that the sentence was to begin on October 18, 1990, the day of his arrest, and that he received 287 days of credit for time served before sentencing. On February 13, 2018, appellant filed a motion to correct illegal sentence arguing that the “indefiniteness of a life expectancy” would make it impossible for him to be credited for his time served. The trial court denied the motion without a hearing.

Maryland Rule 4-345(a) provides for the correction of illegal sentence “at any time.” We review a trial court’s denial of a motion to correct illegal sentence de novo. *Carlini v. State*, 215 Md. App. 415, 443 (2013).

Appellant contends that the court erred in denying his motion to correct illegal sentence, because pursuant to § 6-218(b) of the Criminal Procedure Article (formerly Art. 27 638C(a) (1987 Repl. Vol., 1990 Cum. Supp.)), he must “receive credit and a reduction of the term” of his life sentence for the time he spent in custody prior to trial. He maintains that the sentence of life imprisonment is “vague and indefinite” and that the “very

indefiniteness of a life expectancy has made it impossible for [him] to receive the credit he is statutorily entitled to.”

The State responds that the “function of giving credit for time served in connection with a life sentence is to fix the start date of the defendant’s sentence and thus, to determine an earlier date for the defendant’s eligibility for parole.” *See* Md. Code Ann., Corr. Servs. § 7-301(d)(1). (“[A]n inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate’s term of confinement under § 6-218 of the Criminal Procedure Article.”)

“[T]he imposition of a life sentence for first-degree murder is a sentence permitted by law.” *State v. Wilkins*, 393 Md. 269, 276 (2006). When a defendant is given a life sentence, “full credit must be given for parole eligibility purposes” for “all time spent in confinement,” including pretrial incarceration. *Bartholomey v. State*, 267 Md. 175, 195 (1972). Appellant was awarded a credit of 287 days, which reflects the time he spent in confinement prior to trial. As a result, appellant’s sentence was not illegal and the court properly denied his motion to correct illegal sentence.

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