

Circuit Court for Baltimore City
No. 112241001-03

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 279

September Term, 2023

REGINALD BELLAMY

v.

STATE OF MARYLAND

Arthur,
Shaw,
McDonald, Robert N.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: March 13, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

The State of Maryland concedes that the Circuit Court for Baltimore City erred in not correcting an inmate’s commitment record to remove any reference to the offenses of which he was not properly convicted. We accept the State’s concession and reverse the judgment below.

FACTUAL AND PROCEDURAL BACKGROUND

In 2014 a Baltimore City jury convicted appellant Reginald Bellamy of first-degree rape, first-degree sexual offense, and attempted first-degree sexual offense, among other offenses. The jury indicated a verdict of guilty on three charges of second-degree assault. But when the verdict was announced and polled in open court, the clerk did not ask the foreperson about the jury’s verdict on those charges.

At sentencing, the parties proceeded as though Bellamy had been convicted of three counts of second-degree assault. The State asserted, however, that those “convictions” would merge into the greater offenses. The court imposed no sentence on the “convictions” for second-degree assault.

In 2021 Bellamy filed a motion to correct an illegal sentence, pursuant to Maryland Rule 4-345(a). Among other things, he argued that “the sentencing court ‘erred [in] upholding . . . and merging’ the conviction of second-degree assault, because ‘[t]here wasn’t unanimity of a verdict, finalization, polling[,] nor harkening of the offense.’” *Bellamy v. State*, No. 343, Sept. Term, 2022, 2022 WL 15312337, at *1 (Md. Ct. Spec. App. Oct. 27, 2022) (per curiam). The circuit court denied the motion, and this Court affirmed. *Id.*

Although Bellamy did not prevail in his appeal from the denial of his motion to correct an illegal sentence, the State made a number of notable concessions in its brief. First, the State conceded that “there were no valid verdicts of conviction on the second-degree assault charges.” Second, the State conceded that Bellamy’s jury “did not announce, poll, or hearken the verdicts of guilty for second-degree assault and, thus, they are not valid convictions.” Finally, the State conceded that, “If Bellamy’s commitment record erroneously reflects that he was convicted of three counts of second-degree assault, he is free to file a motion to correct the commitment record so that it accurately reflects his convictions.”

Bellamy’s commitment record lists at least two counts of second-degree assault. In 2022 Bellamy moved to correct his commitment record, pursuant to Maryland Rule 4-351. The State agrees that “Rule 4-351 is the proper procedural vehicle to correct a defect in sentencing procedure that does not render the sentence itself inherently illegal, but instead results in an error in the commitment record.”

But despite the State’s concessions that Bellamy’s convictions for second-degree assault were not “valid,” the circuit court denied his motion to correct his commitment record without a hearing. The court concluded that the commitment record “correctly reflects” Bellamy’s convictions and sentence. In support of that conclusion, the court cited the sentencing transcript, in which the sentencing court stated that Bellamy would not “be prejudiced in any way” and would not get “any additional punishment” because “[e]verybody . . . agreed” that the assault convictions merged into the greater offenses. Bellamy appealed.

As previously stated, the State concedes that there were no valid verdicts of conviction on the second-degree assault charges. We accept the State’s concession. *See State v. Santiago*, 412 Md. 28, 32 (2009) (holding that “a jury verdict, rendered and announced in open court, that is neither polled nor hearkened is not properly recorded and is therefore a nullity”). The circuit court erred in not ordering that Bellamy’s commitment record be corrected to delete any reference to the charges of second-degree assault, on which there were no valid verdicts of conviction.

Bellamy argues, however, that the commitment record should be corrected to reflect a verdict of not guilty on the charges of second-degree assault. He is wrong. Among other things, a commitment record lists “[t]he offense and each count for which the defendant was sentenced”; “[t]he sentence for each count, the date the sentence was imposed, the date from which the sentence runs, and any credit allowed to the defendant by law”; and “[a] statement whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of the preceding term or to any other outstanding or unserved sentence[.]” Md. Rule 4-351(a)(3)-(5). The commitment record does not list the offenses of which a person was found not guilty.

Bellamy also argues that the circuit court erred in deciding his motion to correct the commitment record without conducting a hearing. Again, he is wrong. Unlike a motion to correct an illegal sentence, a motion to correct a commitment record “does not require a hearing in open court.” *Scott v. State*, 379 Md. 170, 191 (2004). Because Rule 4-351(b) states that “[a]n error or omission in the commitment record or other failure to

comply with this Rule does not invalidate imprisonment after conviction[,]” such an error or omission “does not nullify the sentence or term of imprisonment imposed,” and thus does not “require resentencing or a hearing.” *Bratt v. State*, 468 Md. 481, 506 (2020).

In summary, the circuit court erred in denying the motion to correct the commitment record. On remand, the circuit court should order that the commitment record be corrected to delete any reference to any convictions for second-degree assault. The court did not err in not holding a hearing, and it need not hold a hearing on remand.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY REVERSED;
CASE REMANDED TO THAT COURT
FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS OPINION;
COSTS TO BE PAID BY APPELLEE.**