

Circuit Court for Baltimore County
Case No.: 03-K-82-001467

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 393

September Term, 2021

RICHARD O'BRIEN PRESTON

v.

STATE OF MARYLAND

Fader, C.J.,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 22, 2021

*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.

In 1982, appellant Richard O’Brien Preston appeared in the Circuit Court for Baltimore County and pleaded guilty to first-degree murder and conspiracy to commit robbery. The court sentenced him to life imprisonment, plus 10 years. In 2018, he filed a Rule 4-345(a) motion to correct an illegal sentence, pointing out that, in pronouncing sentence on the conspiracy count, the court sentenced him to 10 years for “the conspiracy to commit murder.” The circuit court denied relief. Upon appeal to this Court, we agreed with Mr. Preston that his 10-year sentence for conspiracy was illegal “insofar as the court sentenced him for conspiracy to commit *murder* instead of conspiracy to commit *robbery*.” *Preston v. State*, No. 3505, September Term, 2018 (Md. App. January 13, 2020), slip op. at 7. Accordingly, we vacated the sentence for conspiracy to commit murder and remanded for resentencing. Our order specifically provided:

SENTENCE BY THE CIRCUIT COURT FOR BALTIMORE COUNTY FOR CONSPIRACY TO COMMIT MURDER VACATED. ALL SENTENCES OTHERWISE AFFIRMED. CASE REMANDED FOR RESENTENCING CONSISTENT WITH THIS OPINION.

Id. at 8.

Upon remand, the court sentenced Mr. Preston to a five-year term for conspiracy to commit robbery, to run concurrent with his life sentence. Thus, that sentence is now served.

Mr. Preston, representing himself, appeals the resentencing because upon remand the court refused to also resentence him for the murder conviction. He maintains that the resentencing court “was required to impose a sentence for all offenses” for which he had been sentenced. The State disagrees, as do we.

Our 2020 decision was clear. The only sentence at issue in that appeal (and in the Rule 4-345(a) motion) was the sentence imposed for the conspiracy offense and that was the only sentence we vacated. *Id.* at 7 (“we vacate the sentence for conspiracy to commit murder[.]”).

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