

Circuit Court for Baltimore City
Case No. 24-H-21-000011

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 440

September Term, 2021

RONALD GERALD

v.

STATE OF MARYLAND

Reed,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 21, 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.

Ronald Gerald, appellant, contends that the Circuit Court for Baltimore City erred in denying his petition for writ of habeas corpus. For the reasons that follow, we shall affirm the judgment of the circuit court.

In March 2000, Mr. Gerald was convicted by a jury “of robbery with a deadly weapon, first degree assault, use of a handgun in the commission of a felony or crime of violence, possession of a firearm by a convicted felon, and lesser included offenses.” *Gerald v. State*, 137 Md. App. 295, 298 (2001). “The court then sentenced him to twenty-five years’ incarceration for the first degree assault; twenty years’ incarceration for the armed robbery, to run consecutively to the first degree assault sentence; twenty years’ incarceration for the use of a handgun, to run consecutively to the first degree assault sentence, but concurrently with the armed robbery sentence; and five years’ incarceration for possessing a handgun as a convicted felon, to be served consecutively to all the other sentences.” *Id.* Because Mr. Gerald “had previously been convicted of robbery with a dangerous weapon in 1994 and attempted second degree murder in 1995,” the court was “required . . . to impose a twenty-five-year minimum sentence given the predicate offenses.” *Id.* at 313 (citations omitted). On appeal, we “conclude[d] that the first degree assault merged into the robbery, although the mandatory twenty-five-year sentence that the court attached to the assault stands, as it must reattach to the surviving robbery conviction.” *Id.* at 299. In October 2001, the court issued, pursuant to our judgment, an amended commitment record reflecting a sentence of twenty-five years’ incarceration for armed robbery, a consecutive sentence of twenty years’ incarceration for use of a handgun, and a

consecutive sentence of five years' incarceration for possessing a handgun as a convicted felon, for a total term of incarceration of fifty years.

In March 2011, the court, for reasons that are not clear from the record, issued an amended commitment record reflecting what it called a “[s]entence modification.” The commitment record indicated that Mr. Gerald was to serve a sentence of twenty years' incarceration for use of a handgun and a consecutive sentence of five years' incarceration for possessing a handgun as a convicted felon, for a total term of incarceration of twenty-five years, and that this Court had “vacated [the] remaining counts.” In April 2013, the State filed a motion to correct the commitment order. In June 2013, the court granted the motion and issued a corrected commitment record reflecting the convictions, sentences, and total term of fifty years' incarceration listed in the October 2001 commitment record.

In January 2021, Mr. Gerald filed the petition for writ of habeas corpus, in which he contended that the March 2011 commitment record reflects “the [c]orrect [s]entence,” and that the record had not been forwarded to the Department of Public Safety and Correctional Services. Mr. Gerald further contended that the “State’s Attorney” violated Mr. Gerald’s rights by “having the [c]ourts . . . rewrite” the commitment record. The court denied the petition.

Mr. Gerald now contends that the court erred in denying the petition for three reasons. First, Mr. Gerald contends that in issuing the June 2013 commitment record, the court “illegally increased” his sentence. We disagree. It is clear from the record that in issuing the June 2013 commitment record, the court corrected the erroneous omission, from the March 2011 commitment record, of Mr. Gerald’s sentence of twenty-five years’

incarceration for armed robbery. Mr. Gerald next contends that his total term of incarceration was reduced to twenty-five years due to a “properly entered modification of sentence from a Petition for Writ of Error Coram Nobis . . . that was filed in” June 2009. But, the record does not reflect that Mr. Gerald received any such relief. On the contrary, the record reflects that in October 2013, the court denied the petition for writ of error coram nobis in full. Finally, Mr. Gerald contends that the sentences reflected in the October 2001 commitment record are “ambiguous,” and “under the Rule of Lenity, should[] be construed” as a total term of incarceration of twenty-five years. We disagree. On appeal, we recognized that, although “the court mistakenly employed its discretion to attach the [mandatory] sentence [of twenty-five years] to the lesser included offense,” the sentence “stands, albeit for the robbery instead of the assault.” *Id.* at 313 (citations omitted). There is no ambiguity in Mr. Gerald’s sentences, and hence, the court did not err in denying the petition for writ of habeas corpus.

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