

Circuit Court for Anne Arundel County
Case No: 02-K-12-000242

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 551

September Term, 2019

JAROB WALSH

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: June 8, 2020

*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.

Jarob D. Walsh, appellant, was charged with attempted second-degree murder, first and second-degree rape, and other offenses. In 2012, he appeared in the Circuit Court for Anne Arundel County and, pursuant to a plea agreement with the State, pled guilty to attempted second-degree murder. The court sentenced Mr. Walsh to 30 years' imprisonment, to run consecutive to any outstanding sentence. Mr. Walsh did not seek leave to appeal.

In 2019, Mr. Walsh filed a motion to correct an illegal sentence in which he alleged that his sentence breached the terms of the plea agreement because it was run consecutive to a sentence he was serving in an unrelated case imposed by the Circuit Court for Frederick County. The court denied the motion. Mr. Walsh appeals. He maintains that, at the plea hearing, he was not advised that the State would request that his sentence in this case be run consecutive to any previously imposed sentence. He also asserts that a reasonable person in his position would not have understood that the court could order the sentence to be run consecutive to any outstanding sentence and, in particular, consecutive to a sentence imposed by another jurisdiction. We shall affirm the judgment denying his motion because the sentence did not breach the terms of his plea agreement and it is legal.

At the plea hearing held on September 27, 2012, the prosecutor informed the court of the terms of the plea agreement:

Your Honor, it is my understanding today, we are going to proceed by way of a guilty plea to Count Number 1, which is attempted second-degree murder.

On a finding of guilt, Your Honor, at the time of sentencing, the State will nolle prosequi the balance of the indictment.

Both sides are requesting a presentence investigation to be ordered by the Court in this case and for a deferred sentencing.

Your Honor, at the time of sentences – **at the time of sentencing, the State is free to argue, as is the defense to – for any sentence that they deem appropriate.** [Emphasis added.]

Immediately after the prosecutor stated those terms, defense counsel responded: “That’s our understanding as well, Your Honor.”

In examining Mr. Walsh before accepting his plea, the court elicited from him that he was then 30 years old, that he had attended “some college,” could read and understand the English language, and he was not under the influence of any substances that impaired his understanding of the proceedings. The court’s colloquy with him also included the following exchange:

THE COURT: Now, are you on parole or are you on probation for any offense?

WALSH: Parole, Your Honor.

THE COURT: Probation, sir, is when you received a sentence from a judge, a portion was suspended, you were released, and you report to a probation officer. Parole is when you were sentenced to an institution, a prison, or a jail, and they released you early on parole because you had good conduct, diminution credits, et cetera.

Do you understand that if you are on parole this case could violate your parole or probation, if you had any probation, and you may have to finish the remainder of any sentence?

WALSH: Yes, Your Honor.

THE COURT: **I reserve the right to impose a sentence consecutive to any parole violation.** But if I sentence you before the Parole Board, they cannot impose a sentence

consecutive to mine. That’s my understanding. Do you understand that? [Emphasis added.]

WALSH: Yes, Your Honor.

The court also advised Mr. Walsh that he was facing “up to 30 years in jail” and it would render a sentence after it heard from the State, defense counsel, and the victim, and after it “read every page of what the doctors prepared.” The court explained that it would “make a decision as to what an appropriate sentence will be” and “[i]t could be anything from a suspended sentence to 30 years.” Mr. Walsh responded that he understood. He also confirmed that, “other than the plea agreement,” there had been no “other promises” made to him.

At the sentencing hearing held on November 5, 2012, after the victim testified as to the trauma she experienced from the assault, the State urged the court to sentence Mr. Walsh to the maximum term of 30 years’ imprisonment and to run the sentence consecutive to a sentence Mr. Walsh was then serving for assault in an unrelated case. Defense counsel asked the court to impose a sentence within the guidelines range of 10 to 18 years, and to “run [it] concurrently with the sentence he’s currently serving for the parole violation.” The court sentenced Mr. Walsh to 30 years’ imprisonment, to run consecutive to any outstanding sentence. The State then nol prossed the remaining charges.

In short, as the record reflects, the State did not agree to recommend any particular sentence and the court did not bind itself to impose any particular sentence. Moreover, the court advised Mr. Walsh that it could impose a sentence consecutive to “any parole violation.” Accordingly, we hold that the circuit court did not err in denying Mr. Walsh’s

motion to correct an illegal sentence because the sentence did not breach the terms of the plea agreement and it is legal. Moreover, despite his claim to the contrary, he was informed that the sentence could be run consecutive to the “parole violation” sentence.

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