

Circuit Court for Baltimore City
Case No. 108221043

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 613

September Term, 2020

BRUCE A. RICKS

v.

STATE OF MARYLAND

Graeff,
Zic,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 2, 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.

Bruce A. Ricks, appellant, appeals the denial of his motion to correct illegal sentence. Because Mr. Ricks has not demonstrated that his sentence is illegal, we shall affirm.

Mr. Ricks was charged by indictment with the offenses of robbery with a dangerous weapon, robbery, and wearing or carrying a dangerous weapon. Following a 2009 jury trial in the Circuit Court for Baltimore City, Mr. Ricks was convicted of attempted robbery with a dangerous weapon. He was acquitted of the remaining offenses. In affirming Mr. Ricks’s conviction on direct appeal, we held that the trial court had not erred in instructing the jury on the offense of attempted robbery with a dangerous weapon, despite the fact that it had not been charged in the indictment, because it was a lesser-included offense of armed robbery. *Ricks v. State*, No. 471, Sept. Term 2009 (filed March 7, 2013).

In 2019, Mr. Ricks filed a motion to correct illegal sentence, claiming that his sentence for attempted armed robbery was illegal under *Johnson v. State*, 427 Md. 356 (2012) because he had not been charged with that offense in the indictment. After the circuit court denied that motion, Mr. Ricks filed the instant appeal raising the same issue. However, we have already considered and rejected Mr. Ricks’s contention that the court erred in allowing the jury to convict him of attempted armed robbery. Consequently, this claim is barred by the law of the case doctrine. *See Baltimore County v. Baltimore County Fraternal Order of Police, Lodge No. 4*, 220 Md. App. 596, 659 (2014) (noting that “neither the questions decided [by the appellate courts] nor the ones that could have been raised and decided are available to be raised in a subsequent appeal” (quotation marks and citation omitted)).

Moreover, even if this claim were not barred by the law of the case doctrine it lacks merit. In *Johnson*, the Court of Appeals held that a sentence imposed for a crime not charged in the indictment constitutes an inherently illegal sentence that may be corrected at any time pursuant to Maryland Rule 4-345(a). *Id.* at 371. However, the Court also noted that “[a]n exception to this rule . . . exists for lesser included offenses of crimes charged in the indictment.” *Id.* at 376 n. 12. Because attempted armed robbery is a lesser included offense of armed robbery, an offense that was charged in the indictment, Mr. Ricks’s conviction and sentence are not inherently illegal. Consequently, the court did not err in denying his motion to correct illegal sentence.

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