Circuit Court for Baltimore City
Case Nos. 190164007-08

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 653

September Term, 2020

LUIS SIMS

v.

STATE OF MARYLAND

Shaw Geter,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 4, 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 1991, Luis Sims, appellant, was convicted by a jury in the Circuit Court for Baltimore City of the first-degree murder of Israel McCloud, the attempted first-degree murder of Shirley Palmer, and two counts of using a handgun in a felony or crime of violence. He was sentenced to life imprisonment and a consecutive term of twenty years' imprisonment. This Court affirmed his convictions on direct appeal. *See Sims v. State*, No. 1030, Sept. term 1991 (filed April 27, 1992).

In 2020, Mr. Sims, representing himself, filed a motion to correct illegal sentence claiming that his sentence was illegal because (1) he was convicted of first-degree murder under a theory of aiding and abetting but was not charged with aiding and abetting in the indictment; (2) the prosecutor "knowingly made false statements and submitted misleading information to the court" during his trial; and (3) the prosecutor withheld *Brady* material. The court denied the motion without hearing. On appeal, Mr. Sims raises the same claims as he did in his motion for illegal sentence. For the first time, he also contends that the court erred "in refusing to allow [him] to argue that [two of the detectives that were involved his case] were found guilty by the US Court of Appeals . . . of intentionally and maliciously withholding exculpatory evidence" in an unrelated case involving another defendant.[1] For the reasons that follow, we shall affirm.

[1] Notably, the case cited by Mr. Sims did not find the detectives "guilty" or hold that there was sufficient evidence that they had violated *Brady*. Rather, it held that the plaintiff's complaint against the detectives had stated a claim upon which relief could be granted. *See Owens v. Baltimore City State's Attorney's Office*, 767 F.3d 379 (4th Cir. 2014). The City of Baltimore subsequently settled that case with the plaintiff.

The Court of Appeals has explained that there is no relief, pursuant to Rule 4-345(a), where "the sentences imposed were not inherently illegal, despite some form of error or alleged injustice." *Matthews v. State*, 424 Md. 503, 513 (2012). A sentence is "inherently illegal" for purposes of Rule 4-345(a) where there was no conviction warranting any sentence, *Chaney v. State*, 397 Md. 460, 466 (2007); where the sentence imposed was not a permitted one, *id.*; or where the sentence imposed exceeded the sentence agreed upon as part of a binding plea agreement. *Matthews*, 424 Md. at 514. A sentence may also be "inherently illegal" where the underlying conviction should have merged with the conviction for another offense for sentencing purposes, where merger was required. *Pair v. State*, 202 Md. App. 617, 624 (2011). Notably, however, a "motion to correct an illegal sentence is not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case." *Colvin v. State*, 450 Md. 718, 725 (2016) (quotation marks and citation omitted).

With those principles in mind, we conclude that, even if true, Mr. Sims's claims regarding the prosecutor and detectives in his case would not render his sentence inherently illegal. Finally, although Mr. Sims's claim that he was convicted of an uncharged offense is cognizable in a motion to correct illegal sentence, it lacks merit. *See Johnson v. State*, 427 Md. 356 (2012) (holding that the appellant's sentence for assault with intent to murder was illegal because he had not been charged with that offense in the original indictment and the rule governing amendment of indictments precluded the State from amending the indictment to add that charge once jeopardy had attached). Mr. Sims was charged with one count of murder using the "short form" indictment, a "formula" first established by the legislature in

1906. *See Ross v. State*, 308 Md. 337, 342-343 (1987). And such an indictment was sufficient to charge him with "murder, manslaughter, *or for being an accessory thereto*." *Souffie v. State*, 50 Md. App. 547, 569 (1982) (internal quotation marks and citation omitted) (emphasis added); *see also Pope v. State*, 284 Md. 309, 326 n.13 (1979) ("[O]n an indictment charging one as principal in the first degree, he may be convicted on evidence showing that he was present aiding and abetting, and conversely." (quotation marks and citation omitted)). Consequently, Mr. Sims was not convicted of an uncharged offense and the circuit court did not err in denying his motion to correct illegal sentence without a hearing. *See Scott v. State*, 379 Md. 170, 190 (2004) (noting that Rule 4-345(a) does not require a hearing in open court unless "the court intends to modify, reduce, correct, or vacate a sentence"). (internal quotation marks and citation omitted).

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