Circuit Court for Worcester County
Case Nos. 23-K-14-0308, 23-K-14-0579

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

Nos. 674 & 927

September Term, 2017

SHAKIEM WILLIAMS
v.
STATE OF MARYLAND

Fader, C.J.,
Woodward,*
Eyler, Deborah S.,**

JJ.

Opinion by Woodward, J.

Filed: February 8, 2019

*Woodward, Patrick L., J., now retired, participated in the hearing and conference of this case while an active member of this Court, and as its Chief Judge; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the preparation of this opinion.

**Eyler, Deborah S., J., participated in the hearing and conference of this case while an active member of this Court; after being recalled pursuant to the Constitution, Article IV, Section 3A, she also participated in the adoption of this opinion.

Appellant, Shakiem Williams, pleaded guilty to drug-related crimes pursuant to binding plea agreements in two separate cases, case 23-K-14-0308, ("case 308"), and case 23-K-14-0579, ("case 579"). In accepting the terms of the plea agreements, the Circuit Court for Worcester County agreed to be bound to sentences within the guidelines of five to ten years in each case. On June 17, 2015, appellant was sentenced to ten years and five years to run concurrently in case 308, and twenty years with all but five years suspended in case 579. The sentences in cases 308 and 579 were to run consecutively, for a total of fifteen years of active incarceration. Appellant subsequently filed motions to correct an illegal sentence in both cases, arguing that the sentences in each case exceeded the ten-year limitation negotiated in the plea agreements and were therefore illegal. The circuit court denied the motions without a hearing and this timely appeal followed. On appeal, appellant presents the following question for our review: "In each case, was an illegal sentence imposed, in violation of a binding plea agreement setting forth a maximum of ten years?"

For the following reasons, we affirm the judgments imposed in case 308 as the sentences complied with the ten-year limitation set forth in the plea agreement. We vacate the sentences imposed in case 579, however, because the plea agreement did not specify that the five to ten year guidelines range applied only to active incarceration, and consequently, the twenty-year sentence imposed exceeded the ten-year limitation. Accordingly, we will remand case 579 to the circuit court for resentencing consistent with this opinion.

BACKGROUND

In April 2014, appellant was arrested and later charged by information[1] in case 308 with five counts of drug-related crimes arising out of drug sales to an undercover police officer. The five counts included: distribution of marijuana on April 5, 2014 (Count 1), possession of ten or more grams of marijuana on April 5, 2014 (Count 2), distribution of marijuana on April 9, 2014 (Count 3), possession of ten or more grams of marijuana on April 9, 2014 (Count 4), and conspiracy to distribute oxycodone (Count 5). Appellant was released from custody after posting bail.

While awaiting action in case 308, appellant was charged in case 579. In that case, appellant was arrested and charged by information with six counts of drug-related crimes arising out of the execution of a search warrant at his residence on October 31, 2014. The six counts included: possession of heroin with intent to distribute (Count 1), possession of heroin (Count 2), possession of cocaine with intent to distribute (Count 3), possession of marijuana with intent to distribute (Count 4), possession of cocaine (Count 5), and possession of ten or more grams of marijuana (Count 6).

Thereafter, cases 308 and 579 were placed on the same docket in the Circuit Court for Worcester County. Over the course of three separate hearings before the court,

[1] Appellant was arrested on April 22, 2014 pursuant to a search and seizure warrant of his person and his residence based on drug sales to an undercover police officer on April 5 and 9, 2014. The arresting officer filed a statement of charges in the District Court of Maryland for Worcester County pursuant to Maryland Rule 4-211 and thereafter, appellant had his initial appearance. On July 18, 2014, the State's Attorney filed an information in the Circuit Court for Worcester County, and the case was transferred there.

appellant and the State negotiated binding plea agreements in both cases. Because the hearings are relevant to the issue in this appeal, we discuss them in detail below.

a. April 10, 2015 Hearing

On April 10, 2015, appellant and the State appeared before Judge Thomas Groton III, in the circuit court for a motions hearing in both cases 308 and 579. After dealing with preliminary matters, defense counsel announced to the court that the parties had reached a plea agreement in case 308. Defense counsel stated that appellant would plead guilty to Count 1, distribution of marijuana, and Count 5, conspiracy to distribute oxycodone, and that "the sentencing guidelines in this matter are five [to] ten years[.]" The State added that upon a finding of guilt, it would enter a nolle prosequi on the remaining charges in case 308. The court accepted the plea agreement and proceeded to advise appellant of the nature of the charges and the maximum penalties, asking whether appellant understood that he was agreeing to "plead guilty to Count No. 1," which "carries a maximum penalty of five years and $15,000[,]" and plead guilty to "Count No. 5, . . . which carries a maximum penalty of 20 years and $25,000." Appellant responded with confusion and the following conversation ensued:

> [Appellant]: **I just have to understand one thing, Your Honor. Upon me entering this plea, the agreement was that my guidelines were five to ten. You just said a charge that carried 20 years.**
>
> The Court: That's the maximum penalty for the offense; yes, sir.
>
> * * *
>
> [Appellant]: That would be over my guidelines?

> The Court: The guidelines are not the maximum penalty. The maximum penalty is whatever is set forth in the code, the Annotated Code of Maryland. The guidelines are something completely different than the maximum penalty.
>
> [Appellant]: Okay.
>
> The Court: Do you understand that?
>
> [Appellant]: Yes, I do. **My question is, if I accept this plea, can you go outside my guidelines? That's my question.**
>
> The Court: Is this a - - is there any binding nature to this plea?
>
> [Prosecutor]: No binding nature, Your Honor.
>
> The Court: Yes, sir. If I felt that that was appropriate, then I could.
>
> [Appellant]: **See, see, that's what I said. It has to be a binding plea. He said no. So, therefore, that's not the deal we're going to accept.**
>
> The Court: All right.

(Emphasis added).

After appellant expressed his unwillingness to accept an agreement that was not binding, the trial court took a recess for defense counsel and the State to attempt to salvage a plea agreement in case 308. When the proceedings resumed, defense counsel asked the court if it was willing to bind itself to a sentence within the guidelines, which the State reiterated were five to ten years. The court agreed, stating, "I agree to bind myself." The court then asked appellant if he understood that, "because of [the court's] agreement to be bound by the guidelines, *the maximum sentence that . . . could be imposed would be ten years*." (Emphasis added). Appellant responded that he understood and wished to proceed. After the plea colloquy and the State's recitation of the facts, the court found appellant guilty of Counts 1 and 5. Pursuant to the agreement, the State then entered a nolle prosequi

on the remaining charges in case 308. As requested by defense counsel, disposition was postponed to allow for a presentence investigation. Additionally, pursuant to earlier discussions, the court agreed to grant a continuance in case 579 and the parties set a hearing date in that case for June 2, 2015.

b. June 2, 2015 Hearing

On June 2, 2015, appellant and the State appeared before Judge Donald Davis in the circuit court for a motions hearing in case 579. During a recess, the State and defense counsel negotiated a plea agreement in that case. When the proceedings resumed, the State announced to the court that the parties had reached a plea agreement and stated the terms as follows:

> Your Honor, the agreement is that: In this case, [appellant is] pleading guilty to Count 1, which is possession with the intent to distribute heroin; in Count 3, possession with the intent to distribute cocaine; the State will enter a nol pros to remaining counts; and the State will recommend a sentence towards the higher end of the Maryland Guidelines; and [appellant] voluntarily forfeits $505 to the Ocean City Police Department. I'll have an order to that effect at the time of sentencing.
>
> He has a major criminal history. Therefore, his guidelines fall between the range of five to ten years. This is part of a global disposition in which [appellant] has already pled guilty in [case 308] and is pending sentencing on June 17th.

The court asked if the agreement in case 579 affected the agreement in 308, to which the prosecutor answered,

> only to the extent that whatever sentence -- the State is recommending that, because of the two cases, that the sentences run consecutive, no matter what active portion is imposed by Judge Groton in case 308 or Your Honor in Case 579, that the sentences run consecutive to each other.

Defense counsel confirmed his understanding of the State's request, but added that he "would be seeking the lower end of the guidelines" and "would be asking [the court] to consider concurrent" sentences.

In proceeding to the plea colloquy, the court advised appellant that the court was "not obligated to follow . . . the guidelines or the State's recommendation. I can impose any sentence that I think is appropriate[.]" Defense counsel further clarified this same point, stating that "[t]he judge can do what he believes is appropriate, including the time and the sentencing. So it's his decision. That's what he wants to make clear." In both instances, appellant confirmed that he understood.

At the end of the plea colloquy, defense counsel requested an off the record discussion with appellant and the State. When they returned, defense counsel informed the court that appellant was withdrawing his motions but would not be accepting the State's guilty plea, to ensure that "everybody is on the same page[.]" As a result, the court set case 579 for trial and case 308 for sentencing on June 17, 2015.

c. June 17, 2015 Hearing

On June 17, 2015 the parties appeared before Judge Groton for sentencing in case 308 and trial in case 579. The State announced that the parties had reached a plea agreement in case 579, and stated the terms as follows:

> The agreement is [appellant] is entering a plea of guilty to Count 1, possession with the intent to distribute heroin, along with Count 3, possession with intent to distribute cocaine. The State is going to enter a nol pros to remaining counts and will recommend a sentence toward the higher end of the Maryland Sentencing Guidelines, which at the time this plea was entered into were believed to be five to ten. The State would ask that the Court take that into consideration when

> fashioning a sentence. He also agreed to voluntarily forfeit $505 to the Ocean City Police Department.

When the court asked what the actual sentencing guidelines were, the State responded that they were seven to fourteen. The court then stated:

> All right. Well, I reviewed the transcript on the prior case, and that's what was represented by the State, **and that's what the Court will be bound to since the Court agreed to be bound by the guidelines, which at that time were represented as five to ten.**

(Emphasis added). Thereafter, the parties agreed that the State would be recommending a sentence at the upper end of the five to ten-year guidelines, and the court proceeded to the waiver and plea colloquy. Once the State read in the statement of facts, the court found appellant guilty of Counts 1 and 3 in case 579.

The parties then presented their sentencing recommendations for both cases 308 and 579. Although the State had previously represented that it would be recommending a sentence within the five to ten year sentencing guidelines range, the State stated as follows:

> Your Honor, his guidelines are seven to fourteen. As I stated earlier, before I received the P.S.I., I did not know of the parole - - or revocation of probation; therefore, that added a point, making it seven to fourteen.
>
> We are asking for a sentence at the higher end of the guidelines and requesting that this Court make the sentences consecutive, based upon how they - - how they occurred and when they occurred based upon [appellant's] actions.

In response, defense counsel attempted to clarify the sentencing guidelines issue by stating, "*we're asking the Court to consider the five to ten.* I don't know whether I interpret the New York record the same way as [the State], *but, again, I want to emphasize that we're*

dealing with the five to ten." (Emphasis added). Defense counsel then stated his recommendation to the court as follows:

> So I would ask Your Honor - - you've got two cases before you with five to ten as the guideline range. I'm going to ask Your Honor to consider a sentence somewhere in the range of maybe twenty, suspend all but something between five and eight years, is what I'm going to ask Your Honor to consider, concurrently on both cases.

The court sentenced appellant to ten years and five years to run concurrently in case 308. In case 579, the court imposed a sentence of twenty years, fifteen years of which were suspended. The sentences in case 308 and 579 were to run consecutively. In both cases, the court imposed a fine of $500. The court announced the sentences to appellant as follows:

> You've already gotten a break here today because of the State's determination as to the guidelines, which were less than what the guidelines actually are. But they are the guidelines that I'm - - I've agreed to sentence you under, the five to ten, and that's what I am going to do.
>
> **In the case ending in 308, as to Count No. 5, the conspiracy to distribute oxycodone, I'm going to sentence you to ten years in the Division of Correction[s]. As to Count No. 1, the marijuana, I'm going to sentence you to five years in the Division of Corrections, and that five years is concurrent with the time - - with the time in Count No. 5.**
>
> **In the case ending in 57[9], as to Count 1, the heroin count, I'm going to sentence you to ten years in the Division of Correction[s]. That ten years is consecutive to the time in case 308.** I'm going to enter a fine of $500 and costs.
>
> * * *
>
> I'm going to place you on three years supervised probation, special condition is drug and alcohol counseling as directed by your probation officer. **As to Count No. 3, I'm going to likewise**

> **sentence you to ten years in the Division of Correction[s], and that ten years is consecutive to the ten years in Count No. 1**, likewise enter a fine of $500, put you on supervised probation for the same period of time, with the same terms and conditions. **As to Count No. 3, I'm going to suspend the ten years. As to Count No. 1, I'm going to suspend all but five years.**

(Emphasis added).

The court then summarized appellant's total sentence in both cases as consisting of fifteen years of active incarceration and fifteen years of suspended time:

> So what this sentence means to you, [appellant], is, **in Case 308 you have ten years to serve in the Division of Correction[s]**. . . . **Once you complete that sentence, then you have five years on Count No. 1 in the case ending in 57[9]. So it's a total of 15 years active time.** Once you've completed that, you are then going to be on supervised probation for a period of three years, during which time you have to pay the fines and costs within the first 12 months of your probation. You have to attend and complete any substance abuse counseling that they direct you to, during which time - - **during those three years of supervised probation, you are going to have that 15 years hanging over your head. So if you mess up during that time, what you're looking at is going back to the penitentiary for 15 years.**

(Emphasis added).

Thereafter, appellant filed a motion to correct an illegal sentence in both cases pursuant to Maryland Rule 4-345(a). In the nearly identical motions, appellant argued that his sentences were illegal because the court breached the binding plea agreements by sentencing appellant to more than the five to ten-year guidelines range in each case.[2] The

[2] In his motions, appellant also argued that the sentences were illegal because the court imposed fines not contemplated by the terms of the original plea agreements and because the court did not make clear that it could impose consecutive sentences in

court summarily denied appellant's motions without a hearing. On July 17, 2017, appellant filed this timely appeal.

STANDARD OF REVIEW

Under Maryland Rule 4-345(a), "[t]he court may correct an illegal sentence at any time." For a sentence to be subject to correction under Rule 4-345(a), "the illegality must inhere in the sentence itself, rather than stem from trial court error during the sentencing proceeding." *Matthews v. State*, 424 Md. 503, 512 (2012). "An illegal sentence is a sentence not permitted by law[.]" *Haskins v. State*, 171 Md. App. 182, 188 (2006) (internal quotation marks omitted). "[A]lthough generally the legislature determines the maximum sentence allowable by law, once a judge accepts a plea agreement, 'the judge [is] required under the dictate of Rule 4-243(c)(3) to embody in the judgment the agreed sentence.'" *Matthews*, 424 Md. at 518 (quoting *Dotson v. State*, 321 Md. 515, 523 (1991)). Because the Maryland Rules "have the force of law," a sentence identified in a binding plea agreement is "fixed [as] the maximum sentence allowable by law." *Id.* Accordingly, a sentence imposed in violation of the maximum sentence identified in a binding plea agreement constitutes an inherently illegal sentence. *Ray v. State*, 454 Md. 563, 572 (2017). "Whether a trial court has violated the terms of a plea agreement[,]" thereby imposing an illegal sentence, "is a question of law, which we review de novo." *Cuffley v. State*, 416 Md. 568, 581 (2010).

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appellant's two cases. Appellant, however, does not maintain these arguments on appeal, and therefore we need not address them here.

DISCUSSION

Appellant contends that in both cases 308 and 579 an illegal sentence was imposed in violation of the binding plea agreements that set forth a maximum sentence of ten years in each case. *First*, appellant argues that in case 308, the court imposed an illegal sentence because the ten year and five year concurrent sentences constituted a fifteen-year sentence, therefore exceeding the agreed upon ten-year limitation. *Second*, appellant similarly argues that in case 579 the court violated the binding plea agreement and imposed an illegal sentence by sentencing appellant to a total sentence of twenty years. Although fifteen years were suspended in case 579, appellant contends that the plea agreement did not clarify that the five to ten year limitation applied only to active incarceration and not the total sentence. Appellant concludes that the court exceeded the maximum sentences authorized by the plea agreements, thereby imposing illegal sentences in cases 308 and 579.[3]

The State responds by arguing that the sentence in case 308 conformed to the plea agreement, but concedes that the sentence in case 579 exceeded the ten-year limitation. In case 308, the State contends that the sentence complied with the ten-year limitation, and is therefore legal, because appellant "received ten years of active incarceration on Count 5 and a *concurrent* five years on Count 1." Although appellant characterizes the sentence as

[3] Appellant does not challenge that the sentences in case 308 and 579 were imposed consecutively instead of concurrently. As noted above, appellant made this argument in his motions to correct an illegal sentence, but does not maintain this issue on appeal. Accordingly, we need not address it here. Moreover, the record of the plea proceedings is clear that appellant was aware that the court could impose the sentences in case 308 and 579 consecutively.

a fifteen-year sentence, the State asserts that this is inaccurate because the court sentenced appellant to "ten years to serve in the Division of Correction." (internal quotation marks omitted). In case 579, however, the State concedes that the sentence was illegal. The State acknowledges that the sentence exceeded the maximum allowed by the plea agreement because the total sentence, including suspended time, was twenty years. Agreeing with appellant that no one made it clear on the record that the agreement applied only to executed time, the State requests that this Court vacate the sentence in case 579 and remand for resentencing. For the reasons stated below, we agree with the State that the sentence imposed in case 308 complied with the plea agreement, but that the sentence imposed in case 579 did not. We shall explain.

As previously stated, a sentence imposed in violation of the maximum sentence identified in a binding plea agreement constitutes an inherently illegal sentence. *See Dotson*, 321 Md. at 523; *Cuffley*, 416 Md. at 586; *Baines v. State*, 416 Md. 604, 620 (2010); *Matthews*, 424 Md. at 519 (clarifying the Court's previous holdings, stating, "again to be clear, a sentence imposed in violation of the maximum sentence identified in a binding plea agreement and thereby 'fixed' by that agreement as 'the maximum sentence allowable by law,' is, . . . an inherently illegal sentence." (quoting *Dotson*, 321 Md. at 524); *Ray*, 454 Md. at 572. The Court of Appeals established this watershed principle in a series of cases, a review of which is instructive to our analysis.

In *Dotson*, the Court of Appeals first considered whether a sentence imposed in violation of a binding plea agreement was illegal. 321 Md. at 522. In that case, the defendant pleaded guilty to two counts of sexual offense in the second degree after the trial

court agreed to sentence the defendant to no more than a total of fifteen years. *Id.* at 519-20. In explaining the binding plea agreement to the defendant, the court stated that, "if you are willing to plead guilty to [the] two offenses now, I will promise you I will give you 15. I won't go higher." *Id.* After the defendant tendered the guilty pleas, the court imposed a sentence of fifteen years on each conviction, to run concurrently. *Id.* at 520. The defendant then moved for reconsideration of his sentence by a review panel.[4] *Id.* The review panel vacated the trial court's sentence and imposed a sentence of fifteen years on each conviction to run consecutively rather than concurrently. *Id.* at 521. According to the Court of Appeals, the result was that "the sentence was doubled." *Id.*

The defendant appealed, arguing that the sentence imposed by the review panel was illegal. *Id.* The Court of Appeals agreed and held that, when a judge accepts a binding plea agreement, the plea agreement fixes the maximum sentence allowable by law. *Id.* at 524. The Court explained that, "[w]hen the judge accepted the pleas, the agreement as to punishment came into full bloom[,] . . . . and the judge was required under the dictate of Rule 4-243(c)(3) to embody in the judgement the agreed sentence." *Id.* at 523. In *Dotson*, the defendant's plea agreement fixed the maximum sentence allowable by law to fifteen years. *Id.* at 524. Because the review panel's sentence of thirty years exceeded the plea agreement, the Court concluded that the sentence was inherently illegal. *Id.*

[4] The defendant requested a review of his sentence under Maryland Code (1957, 1987 Repl. Vol.), Art. 27, § 645JC, which has since been repealed and is now codified under Maryland Code, Criminal Procedure, Art., §§ 8-102 – 8-109.

Over a decade later, the Court built upon *Dotson* in *Cuffley*, a case more analogous to the one before us. 416 Md. at 573. In *Cuffley*, the defendant pleaded guilty to robbery pursuant to a binding plea agreement that called for a sentence "within the guidelines" of four to eight years. *Id.* The circuit court approved the agreement, stating: "I will impose a sentence somewhere within the guidelines. The guidelines in this case are four to eight years. Any conditions of probation are entirely within my discretion." *Id.* at 574. The court subsequently sentenced the defendant to "15 years at the Department of Correction[s], all but six years suspended, consecutive to the sentence imposed by [the judge who presided over the probation violation]." *Id.* Thus, the defendant had six years active incarceration but a total sentence of fifteen years. *Id.* The defendant filed a motion to correct an illegal sentence arguing that the fifteen-year sentence violated the binding plea agreement because "he understood the agreement to call for a *total* sentence of no more than eight years." *Id.* at 574-75 (emphasis added).

On appeal, the Court of Appeals agreed that the trial court violated the binding plea agreement by imposing a sentence that exceeded a total of eight years. *Id.* at 585-86. Reviewing the record of the plea proceedings, the Court noted that there was no mention at any time that the four to eight year sentence referred to executed time only. *Id.* at 585. Neither the State, defense counsel, nor the court explained to the defendant "that the court could impose a sentence of more than eight years' incarceration that would include no more than eight years of actual incarceration, with the remainder suspended." *Id.* The Court concluded that a reasonable person would not understand that the court could impose the

sentence that it did. *Id.* Therefore, the court breached the plea agreement and the sentence was illegal. *Id.* at 586.

Decided on the same day as *Cuffley*, *Baines* also considered "whether a judge who agrees to be bound to the terms of a plea agreement that calls for a sentence within the guidelines may impose a split sentence that exceeds the guidelines and suspend all but the part of the sentence that falls within the guidelines." 416 Md. at 607 (internal quotation marks omitted). In *Baines*, the defendant agreed to plead guilty to two counts of robbery with a dangerous weapon in exchange for sentencing within the guidelines of seven to thirteen years. *Id.* at 609-10. After approving of the plea agreement and committing itself to the guidelines range, the court sentenced the defendant on the first count to twenty years' incarceration, all but seven years suspended, and on the second count to a consecutive twenty years, all but six years suspended. *Id.* at 610. As a result, the defendant had thirteen years of active incarceration but a total sentence of forty years. *Id.* The defendant appealed, arguing that his sentence was illegal because the total sentence of forty years exceeded the thirteen-year maximum set out in the binding plea agreement. *Id.* at 611.

Consistent with its opinion in *Cuffley*, the Court of Appeals again agreed with the defendant and held that the circuit court breached the plea agreement by imposing a total sentence exceeding thirteen years, including non-suspended and suspended time. *Id.* at 607. Just as in *Cuffley*, the Court observed that "[t]here was no indication, much less a plain statement, that the court, consistent with the agreement, was free to impose a sentence beyond the guidelines so long as the court suspended all but the part of the sentence that was within the guidelines." *Id.* at 620. Based on the record in that case, it was plain that

the defendant "reasonably understood the plea agreement to call for a total sentence of no more than thirteen years." *Id.* Accordingly, the Court held that the trial court breached the plea agreement and that the defendant was entitled to re-sentencing in accordance with the plea agreement. *Id.*

With these opinions in mind, we return to the case at hand to determine whether the sentences imposed violated the binding plea agreements. To do so, we must interpret the terms of the plea agreements. The Court of Appeals has set out three steps in interpreting plea agreements. *Ray*, 454 Md. at 577. "First, we must determine whether the plain language of the agreement is clear and unambiguous as a matter of law. If the plain language of the agreement is clear and unambiguous, then further interpretive tools are unnecessary, and we enforce the agreement accordingly." *Id.* "Second, if the plain language of the agreement is ambiguous, we must determine what a reasonable lay person in the defendant's position would understand the agreed-upon sentence to be, based on the record developed at the plea proceeding." *Id.* Third, if any ambiguity regarding what the defendant reasonably understood remains after examining the agreement and plea proceeding record, "then the ambiguity should be construed in favor of the defendant." *Id.*

a. Case 308 Complied with the Binding Plea Agreement

Reviewing the record of the plea proceeding in case 308, the plea agreement was clear and unambiguous. In accepting the plea agreement, the court bound itself to a sentence within the guidelines of five to ten years. The court then explained to appellant that "because of [the court's] agreement to be bound by the guidelines, *the maximum sentence that . . . could be imposed would be ten years*." (Emphasis added). Thereafter, the court

sentenced appellant to ten years and five years to run *concurrently*, for a total sentence of ten years. At sentencing, the court explained that "in Case 308 you have ten years to serve in the Division of Correction[s]." The trial court imposed a total sentence of ten years, and therefore was consistent with its agreement to be bound by the guidelines.

Appellant characterizes the sentence imposed in case 308 as a fifteen-year sentence, arguing that the sentence therefore exceeded the ten-year limitation. Appellant, however, has pointed to no authority for the proposition that concurrent sentences must, *in the aggregate*, fall below the agreed upon sentencing guidelines limit, and we have found none in our research. Moreover, the holding of the Court of Appeals in *Dotson* implicitly rejects appellant's position. There, the Court recognized that two fifteen-year concurrent sentences complied with a plea agreement that bound the trial court to a maximum sentence of fifteen years, but two fifteen-year consecutive sentences did not. *See Dotson*, 321 Md. at 521 (recognizing that when the two fifteen year concurrent sentences were transformed into two fifteen year consecutive sentences, the length of "the sentence was doubled"). Because in the instant case the plea agreement was clear, further interpretive tools are unnecessary, and "we give effect to its meaning." *Ray*, 454 Md. at 578. Enforcing the agreement as is, we conclude that the trial court complied with the terms of the plea agreement and therefore the sentence in case 308 was legal. Accordingly, we affirm the judgments of the circuit court in case 308.

b. Case 579 Violated the Binding Plea Agreement

In case 579, the State concedes that the trial court violated the binding plea agreement, thereby imposing an illegal sentence. Upon our own independent review, we agree with the State and shall explain.

In the plea proceeding for case 579, the trial court approved of the proposed plea agreement and agreed to bind itself to a sentence within the guidelines of five to ten years. The record, however, is devoid of any clear statements that the agreement to sentence appellant within the guidelines applied only to executed incarceration, and that the court could impose additional suspended time in its discretion. Just as in *Cuffley* and *Baines*, no one explained to appellant at the plea proceeding that the court could impose a sentence of more than ten years' incarceration, with no more than ten years of executed incarceration and the remainder suspended. *See Cuffley*, 416 Md. at 585; *Baines*, 416 Md. at 620. In those cases, the Court of Appeals held that, where there was no indication as to whether the cap was upon the executed portion of the sentence or on the total sentence, the sentencing cap was "accordingly ambiguous by definition." *Ray*, 454 Md. at 579 (summarizing the non-specific caps on the sentences in *Cuffley* and *Baines*). Because case 579 involved a "non-specific sentencing cap," we conclude that the plea agreement in case 579 was ambiguous.

Moreover, given that the plea agreement limited appellant's sentence to the guidelines of "five to ten" years, a reasonable person in appellant's position would not understand that the court could impose a total sentence of up to forty years, and suspend all but five to ten years of executed incarceration. Because appellant is entitled to have

such ambiguity resolved in his favor, we hold that the trial court breached the agreement by imposing a sentence that exceeded a total of ten years' incarceration.

Accordingly, we shall vacate the sentences imposed in case 579, and remand the case to the circuit court to impose sentences consistent with appellant's plea agreement in that case—a total sentence of no more than ten years.

JUDGMENTS OF THE CIRCUIT COURT FOR WORCESTER COUNTY AFFIRMED IN CASE 23-K-14-0308; SENTENCES OF THAT COURT IN CASE 23-K-14-0579 VACATED AND CASE REMANDED FOR RESENTENCING CONSISTENT WITH THIS OPINION. COSTS TO BE DIVIDED EQUALLY BETWEEN APPELLANT AND WORCESTER COUNTY.