

Circuit Court for Prince George's County
Case No: CT16-1462A

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 700

September Term, 2019

DEANDRE MALIK DAVIS

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: May 5, 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.

In 2017, in the Circuit Court for Prince George’s County, Deandre Malik Davis pled guilty to armed robbery (Count 2), transporting a handgun (amended Count 3), armed robbery (Count 6), and wearing, carrying, and transporting a handgun on public roads (Count 11). Remaining counts were nol prossed. Following a pre-sentence investigation, the court sentenced Mr. Davis as follows:

- Count 2: 20 years, all but five years suspended
- Count 3: 3 years, concurrent with Count 2
- Count 6: 20 years, suspend all but 5 years, consecutive to Count 2
- Count 11: 3 years, all suspended, concurrent with Count 6

Mr. Davis did not seek leave to appeal. In 2019, as a self-represented litigant, he filed a motion to correct an illegal sentence in which he appears to have asserted that his sentences for armed robbery should have either merged or have been run concurrently. The circuit court denied the motion, noting that Mr. Davis had been charged with “two separate robberies and he was made aware of this when he knowingly, voluntarily, and intelligently plead guilty.” Mr. Davis appeals that ruling. We shall affirm the judgment because his sentences are legal.¹

Count 2 of the indictment charged Mr. Davis with the attempted armed robbery of Taiwo Oduwole on August 20, 2016. Count 6 charged him with the armed robbery of Savienne Mitchell on August 20, 2016. In short, he was charged with robbing or attempting to rob two separate victims and, therefore, separate sentences are legal.

¹ The State moves to dismiss the appeal because Mr. Davis failed to produce the transcripts from his plea and sentencing proceedings. Because we can reach a disposition without the transcripts, we shall deny the motion to dismiss.

Borchardt v. State, 367 Md. 91, 148 (2001) (holding that the “unit of prosecution for the crime of robbery is the individual victim from whose person or possession property is taken by use of violence or intimidation”). Moreover, running the sentences consecutively was within the sound discretion of the sentencing court. *Kaylor v. State*, 285 Md. 66, 70-71 (1979) (a court’s sentencing “power includes the determination of whether a sentence will be consecutive or concurrent”).

STATE’S MOTION TO DISMISS APPEAL DENIED. JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.