

Circuit Court for Montgomery County
Case No: 75465

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 773

September Term, 2018

BRUMAN STALIN ALVAREZ

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: April 29, 2019

*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 1996, Bruman Stalin Alvarez appeared in the Circuit Court for Montgomery County and pleaded guilty to five counts of first-degree murder and one count of first-degree rape. The court sentenced Mr. Alvarez to life imprisonment without the possibility of parole for each of the five murders and to life imprisonment for the rape, and ordered the sentences to run consecutive to each other. Remaining charges were nol prossed.

More than 20 years later, Mr. Alvarez filed a motion to correct an illegal sentence in which he alleged that, when he entered the plea, he had not understood that his sentences could be run consecutively and, therefore, his sentences were illegal. The circuit court denied the motion. On appeal, Mr. Alvarez maintains that the “sentencing to *consecutive* terms was a deviation from the binding plea agreement.” We disagree and shall affirm.

Mr. Alvarez was sentenced the same day he entered the guilty pleas. The transcript reflects that the pleas were the result of a negotiated plea agreement with the State. The parties and the court mentioned, more than once, a written plea memorandum that had been filed with the court, which defense counsel stated he had “executed on behalf of Mr. Alvarez.” After the court confirmed with defense counsel that a copy of the plea memorandum was at that moment “in front of” counsel, the court turned to Mr. Alvarez and asked: “other than that plea agreement, has anyone made any promises to you that you’d be given a lesser sentence or any other benefit if you pled guilty?” Mr. Alvarez replied: “No.”

The plea memorandum, which is in the record before us, provided that Mr. Alvarez would plead guilty to five counts of murder and one count of first-degree rape. It also stated that the court agreed to sentence Mr. Alvarez to life imprisonment without the

possibility of parole for the murder counts and to life imprisonment for the rape count, with “[e]ach sentence to run consecutively and not concurrently to the other.”¹

Although there was not an explicit on-the-record discussion that the sentences were to be run consecutive, it is clear to us that the plea memorandum was made a part of the plea hearing record. Moreover, when the court turned to sentencing after accepting the plea, defense counsel stated that the defense was “prepared to go forward with sentencing” and that, “[o]ther than what’s been recited in the plea agreement, Your Honor, we have nothing further to say.” The State then asked the court to “impose the sentence that the defendant has accepted by his plea today.” Specifically, the State urged the court “to impose five lives, without parole consecutive in each of the murder counts” and to “impose a consecutive life sentence for the rape charge.”

Immediately after the State made its sentencing recommendation, the court permitted Mr. Alvarez to speak. He did not object to the State’s recommended sentence; instead, he begged forgiveness from the victims’ families. And when the court imposed sentence, neither defense counsel nor Mr. Alvarez objected to the court’s pronouncement that the sentences were to be run consecutive.

In short, the trial court did not breach the terms of the plea agreement by ordering the sentences to be run consecutive to each other. And we are not persuaded that Mr. Alvarez was unaware, when he entered the pleas, that the sentences to be imposed would

¹ At the time of Mr. Alvarez’s plea, death was still a possible penalty for first-degree murder. *See* Md. Code Ann., Article 27, § 412(b) (1992 Repl. Vol.).

be run consecutively. Accordingly, the circuit court did not err in denying Mr. Alvarez’s motion to correct an illegal sentence.

Finally, Mr. Alvarez asserts that the circuit court erred or abused its discretion in denying his motion without a hearing. A hearing, however, was not required. Rule 4-345(f) provides that a “court may modify, reduce, correct, or vacate a sentence only on the record in open court,” but does not preclude a court from denying a motion to correct an illegal sentence without a hearing. *See Scott v. State*, 379 Md. 170, 190 (2004) (acknowledging that the “hearing requirement found in Rule 4-345 ordinarily applies only when the court intends to ‘modify, reduce, correct, or vacate a sentence.’”).

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