

Circuit Court for Baltimore County
Case No. 03-K-18-000034

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 809

September Term, 2023

CARRICK ARTHUR HOPSON

v.

STATE OF MARYLAND

Graeff,
Berger,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 1, 2023

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Carrick Arthur Hopson, appellant, appeals the denial, by the Circuit Court for Baltimore County, of his motion to correct illegal sentence. For the reasons that follow, we shall affirm.

In 2018, appellant pleaded guilty to one count of first-degree assault. The parties informed the court that there was a binding plea as to sentencing, wherein the State and appellant were free to argue for a total sentence of between 10 and 25 years. The parties further agreed that “active incarceration would be a sentence of no less than ten years,” because appellant was a repeat violent offender, and “no more than 12 years.” After the court accepted the plea agreement, the State provided the court with a copy of a repeat violent offender notice, which was “not contested” by defense counsel and admitted into evidence without objection.¹ Thereafter, the court sentenced appellant to 25 years’ imprisonment, with all but 12 years suspended, followed by 3 years’ supervised probation upon release.

In 2023, appellant filed a motion to correct illegal sentence, claiming that his sentence was illegal because the State failed to serve him with a timely notice of its intent to seek a mandatory minimum penalty pursuant to Maryland Rule 4-245(c). The court denied that motion without a hearing. This appeal followed.

As he did in the circuit court, appellant claims on appeal that his sentence was illegal because the State failed to serve him within 15 days of sentencing with notice of his alleged

¹ The notice indicated that the State intended to proceed against appellant as a subsequent offender pursuant to Section 14-101 of the Criminal Law Article and identified appellant’s prior conviction as a first-degree assault conviction in Baltimore County Case No. 03-K-99-3137.

prior conviction, as required by Maryland Rule 4-245(c).² We disagree. Maryland Rule 4-345(a), which allows the court to correct an illegal sentence at any time, is narrow in scope and applies only to sentences that are “inherently illegal, not just merely the product of procedural error.” *Bailey v. State*, 464 Md. 685, 696 (2019) (quotation marks and citation omitted). In other words, 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).

In *Bailey*, the Supreme Court of Maryland addressed whether the imposition of an enhanced sentence after the State filed a belated notice under Rule 4-245(c) rendered a sentence illegal under Rule 4-345(a). 464 Md. at 696. The Court concluded that the sentence could not be challenged under Rule 4-345(a), stating that “[t]he State’s imperfect compliance created a procedural deficiency in the sentence but not a sentence in which the circuit court did not have statutory power to impose.” *Id.* at 697.

Moreover, in *Mack v. State*, 244 Md. App. 549 (2020), this Court considered whether the State’s complete failure to give notice of its intention to seek an enhanced sentence rendered the sentence inherently illegal under Rule 4-345(a). Relying on *Bailey* and other decisions, we concluded that the sentence was not inherently illegal, noting that “[t]he lack of timely notice, or of any notice at all, [] is a procedural flaw in the sentencing process.” *Id.* at 584.

² Although appellant contends otherwise, we note that the docket entries indicate that the State filed the required notice, and served it on appellant’s defense counsel, 7 months before the sentencing hearing.

In short, even if we were to assume that appellant was not served with notice of the State’s intention to seek an enhanced sentence in this case, that failure would not render the sentence inherently illegal. Consequently, the circuit court properly denied his Rule 4-345(a) motion.

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