

Circuit Court for Baltimore City
Case Nos. 506177011, 106321026-27

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 832

September Term, 2023

KEISHA PAYLOR

v.

STATE OF MARYLAND

Wells, C.J.,
Zic,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 6, 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.

Keisha Paylor, appellant, appeals the denial, by the Circuit Court for Baltimore City, of her motion for modification of sentence. For the reasons that follow, we shall affirm.

In 2007, appellant was convicted of attempted first-degree murder, conspiracy to commit murder, and other related offenses following a jury trial. The court imposed a total sentence of 50 years' imprisonment, with all but 30 years suspended. On direct appeal, this Court affirmed the judgments, but determined that the court should have merged her sentences for certain conspiracy counts with her sentence for conspiracy to commit murder. *Paylor v. State*, No. 1183, Sept. Term 2007 (filed Jan. 16, 2009). We thus remanded the case to the circuit court with instructions to vacate appellant's sentences for those offenses. On September 25, 2009, the circuit court re-sentenced appellant in accordance with our opinion. Appellant's total term of imprisonment following resentencing, however, remained unchanged. In 2023, appellant filed a motion for modification of sentence. The court denied the motion, finding that its power to revise appellant's sentence had expired, as more than five years had elapsed since she had been re-sentenced in 2009. This appeal followed.¹

Maryland Rule 4-345(e)(1) specifically provides that, in the circuit court, a motion for modification of sentence must be filed “within 90 days after imposition of a sentence” “whether or not an appeal has been filed[.]” Because appellant was re-sentenced in 2009,

¹ As a general rule, this Court does not have the authority to review a decision on a motion to modify a sentence under Rule 4-345(e) that is “addressed to the court's discretion.” *Schmidt v. State*, 245 Md. App. 400, 408 (2020) (citation omitted). However, this Court “may review such a decision where, as here, the circuit court ruled as a matter of law that it did not have the ability to consider the motion on its merits.” *Id.* (citation omitted).

her 2023 motion for modification of sentence was, therefore, untimely. Appellant nevertheless asserts that the court erred in denying the motion because she had “no previous knowledge” of her sentence being modified in 2009. Although it is somewhat unclear, she appears to be claiming that she was unaware of the 2009 re-sentencing and that, had she known about the resentencing, she would have filed a motion for modification of sentence sooner. But this claim, however construed, is not preserved for appellate review as it was not raised in the circuit court. Consequently, we will not consider it for the first time on appeal. *See* Maryland Rule 8-131(a) (noting that an appellate court will not ordinarily decide an issue “unless it plainly appears by the record to have been raised in or decided by the trial court”).

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