Circuit Court for Anne Arundel County
Case No. C-02-CR-18-000973

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 836

September Term, 2024

STATE OF MARYLAND

v.

LONNIE WILSON

Nazarian,
Beachley,
Harrell, Jr., Glenn T.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: January 21, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

On the second day of his trial, Lonnie Wilson pleaded guilty to sexual abuse of a minor and sexual offense in the third degree. At the plea hearing, the circuit court didn't advise Mr. Wilson that Lifetime Sexual Offender Supervision ("LSOS") would be a consequence of his guilty plea, nor did the court impose LSOS at sentencing. After being told later that LSOS is a mandatory sentencing requirement for the crime to which he pleaded guilty, Mr. Wilson filed a petition for post-conviction relief seeking a new trial. He argued that his sentence should have included LSOS and that his guilty plea was unknowing and involuntary because he didn't know LSOS would be a consequence of pleading guilty. The post-conviction court agreed, vacated his guilty plea, and remanded the case for a new trial. The State appeals, and the parties now question whether LSOS should have attached to Mr. Wilson's sentence in the first place given the facts of his case and the evolution of the LSOS statute. Because this issue hasn't been briefed or argued before the post-conviction court and appears dispositive, we vacate the judgment and remand for further proceedings consistent with this opinion.

I. BACKGROUND

On or around May 4, 2018, a grand jury in the Circuit Court for Anne Arundel County indicted Mr. Wilson on ten counts of sexual abuse of a minor and sexual offense in the second and third degree. The indictment alleged that he abused and harmed his stepdaughter, K, sexually on three separate occasions that spanned November 1, 2009 and December 31, 2012 and occurred when K was under the age of fourteen. Count 1 alleged that Mr. Wilson had sexually abused a minor. Counts 2 and 3 charged third-degree sexual

offenses arising from the first incident of abuse, which took place in the family home in Severn (the "first home"). Counts 4–6 arose from a second incident of abuse in a parking lot in Odenton. Counts 7 and 8 arose from a third incident in a different family home in Severn (the "second home"). Counts 9 and 10 charged Mr. Wilson with committing sexual abuse and third-degree sexual offenses against K's younger sister, D.[1]

On October 2, 2018, Mr. Wilson pleaded not guilty to the charges and elected to proceed to a jury trial. K testified on the second day of trial. She told the jury her birthday, that she was approaching her senior year of high school in August 2017, and that, at the time of trial, she was 18 and a college freshman. She recounted that her family moved to the first home at the end of her fourth-grade year and that she lived there throughout the fifth grade. She testified that the first incident of sexual abuse happened in her bedroom at the first home when she was ten years old. She told the jury that the second incident of abuse occurred in Mr. Wilson's car in the parking lot of a car wash in Odenton. She recounted that they lived in the first home at the time. She testified that the third incident happened in the kitchen and bathroom at the second home. She recalled that she attended middle school and was thirteen years old at the time. Throughout her testimony, K denied that any of the incidents of abuse involved vaginal penetration.

K's mother testified next. She told the jury that she married Mr. Wilson on

[1] The circuit court granted Mr. Wilson's motion to sever Counts 9 and 10 on August 7, 2018. Under Mr. Wilson's plea agreement, the State entered a *nolle prosequi* for those counts and afforded D an opportunity to address the court and give an impact statement at sentencing.

November 14, 2009. She recounted that she, Mr. Wilson, K, and D moved to the first home in January 2010 and lived there for a year and a half, until June 2011. She said that K was ten and eleven years old when the family lived at the first home, that they moved from there to the second home, and lived there for three years. Mother testified that she separated from Mr. Wilson in October 2012. As she prepared to tell the jury about why they separated, Mr. Wilson's counsel asked for a bench conference and the parties recessed for lunch afterwards.

After recess, the parties informed the court that Mr. Wilson had decided to enter into an open plea agreement with the State and to plead guilty to Counts 1 and 5 of the criminal indictment.[2] His counsel qualified his guilty plea and the circuit court determined that the plea was knowing and voluntary. Having heard K's testimony, the court invited the State to give an abridged factual summary of Mr. Wilson's crimes. The State presented an overview of the three incidents of abuse, specifying that the first incident occurred when K was ten years old, that K was between ten and thirteen years old during all three incidents, and that there had been no vaginal penetration. The circuit court found that the State's recitation coupled with the witness testimony heard that day satisfied the criminal elements of Counts 1 and 5 and adjudged Mr. Wilson guilty of both crimes. On November 30, 2018, the court sentenced him to serve twenty-five years of incarceration for Count 1, suspending all but twenty-four years; ten years of incarceration for Count 5, fully suspended and concurrent with his sentence under Count 1; and five years of probation.

[2] Under the agreement, the State entered a *nolle prosequi* for Counts 2–4 and 6–8.

The court did not discuss or impose LSOS.

On August 16, 2021, Mr. Wilson filed a petition for post-conviction relief with the circuit court; he filed a supplemental petition on December 6, 2022. In his *first* claim, he alleged that his guilty plea was not knowing and voluntary because he hadn't been aware that LSOS would be a consequence of pleading guilty. The court held a post-conviction hearing on September 11, 2023 and heard closing arguments approximately two months later. To obviate the State's ripeness challenge, Mr. Wilson asked the post-conviction court to make a finding on whether LSOS should have been a part of his sentence:

> [COUNSEL FOR MR. WILSON]: [T]he State has raised . . . an argument that [Claims One and Two] are not ripe because Mr. Wilson's . . . sentence did not include what it is legally required to include, which is the lifetime sex offender supervision provision. And if I understand the . . . State's argument, it's that these claims cannot be considered at this time, because his sentence has not yet been corrected and—and made legal.
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> I've spoken to the State about this . . . the State is not interested in filing a motion to correct illegal sentence and . . . so if he waits until he is released and off his probation, of course, you know, if I were to withdraw his post-conviction petition today so he retains his post-conviction rights, that would do him no good when he is, you know, 15 or 20 years from now and he's on lifetime supervision and it's finally added as a condition. He will not be able to avail himself of post-conviction relief at that time. I—I therefore make the argument that the State has an obligation here to—unless the State is—is of the opinion that lifetime supervision does not apply to Mr. Wilson, there is some obligation for them to take a role in correcting that illegality so that he can seek post-conviction relief. And in the absence of the State doing that, I would ask Your Honor to make a finding as to whether in fact Mr. Wilson is subject to sex offender lifetime supervision. I am obviously not asking

> for that finding—
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> THE COURT: Isn't [the sentencing judge] the only one that can make that determination?
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> [COUNSEL FOR MR. WILSON]: Your Honor, I think—
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> THE COURT: [The sentencing judge] knows what he was contemplating at the time of the sentence; and what he was contemplating at the time that you all asked to have the sentence amended and asked to have the sentence read exactly as it ultimately read, isn't it [the sentencing judge], then, who is—I can't correct his sentence.
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> [COUNSEL FOR MR. WILSON]: . . . I am not asking Your Honor to correct the sentence at this time. I—I agree that that is best done by the judge who imposed it. However, I would point out that [the sentencing judge] clearly doesn't seem to have been aware of this requirement at the time, and as trial counsel, I would proffer to this Court, will testify that she was unaware, as I suspect that the State was unaware at the time of this requirement. It seems to be a requirement that was little known, and remains little known to this day, except as it's starting to come up in the post-conviction context. I would ask the Court not to correct the illegal sentence at this time, but to make a finding that [Mr. Wilson] will be subject to [LSOS], and therefore that his claim is ripe for consideration on post-conviction.

Mr. Wilson's trial counsel testified that she hadn't been aware of the LSOS consequence when her client entered his guilty plea. Mr. Wilson testified that he first learned about LSOS from his post-conviction counsel in 2022. In its closing argument at the hearing, the State conceded that his sentence was illegal. The post-conviction court reviewed Md. Code (2001, 2018 Repl. Vol.), § 11-723 of the Criminal Procedure Article ("CP"), the law that mandates LSOS for certain criminal offenders, but didn't explore the extent to which LSOS applied to the facts of Mr. Wilson's case, in part, because the parties didn't raise this issue:

> THE COURT: [Except] where a term of natural life without the possibility of parole is imposed, which it was not here, a

> sentence for the following persons shall include a term of lifetime sex offender supervision. We know that [Mr. Wilson] qualifies under [CP § 11-723(a)(4)], which is the age, although I even had a discussion there about the fact that he pled to that count, some of it was when she was twelve, some of it was when she was thirteen, arguably, so an issue that was never raised here was how do I know which events created it. But it was not raised, so therefore that is raised.

After holding the matter *sub curia*, the post-conviction court denied relief on all of Mr. Wilson's claims except the first one, vacated his sentence, and remanded the case for a new trial. Relying on *Arias-Rivera v. State*, 246 Md. App. 500 (2020), and the sentencing court's obligations under CP § 11-723(d)(1), the court concluded that the issue was ripe for adjudication and that Mr. Wilson's sentence was illegal, and it determined that his plea was unknowing and involuntary because he didn't know about the LSOS consequence of that plea. On March 29, 2024, the State filed an application for leave to appeal the court's order that we granted on June 28, 2024.

II. DISCUSSION

The State presents one issue on appeal: Did the circuit court err when it granted post-conviction relief to Mr. Wilson on the ground that his guilty plea was not knowing and voluntary because he hadn't been informed about the possibility of LSOS?[3] *First*, the State argues that Mr. Wilson's claim isn't ripe for post-conviction review because his

[3] Mr. Wilson stated his Question Presented as:

> Where a conviction and sentence have the "largely automatic effect" of LSOS, and the defendant is never advised of this consequence prior to acceptance of their plea, is the defendant's plea knowing and voluntary?

sentence doesn't include LSOS. It argues *next* that the sentencing court had no obligation to impose LSOS because it is a collateral consequence of pleading guilty rather than a direct one. *Lastly*, the State questions whether LSOS would have applied to Mr. Wilson's sentence in the first place because the three incidents of abuse spanned 2009 to 2012, a period straddling the General Assembly's amendment of CP § 11-723 to mandate LSOS in 2010. Similarly, Mr. Wilson questions whether LSOS should have attached to his sentence in the first place while nevertheless maintaining that his sentence is illegal. With regard to the State's ripeness argument, Mr. Wilson likens LSOS to a consecutive sentence that can be challenged before it expires and reinforces that the State can move to correct his sentence at any time in the future, even if it claims that it won't do so right now.

When reviewing a circuit court's ruling on post-conviction relief, we defer to the court's factual findings unless there is a clear error and review its legal conclusions *de novo*. *See Wallace v. State*, 475 Md. 639, 653 (2021). In this appeal, however, the arguments have revealed a foundational question—whether LSOS should have attached to Mr. Wilson's sentence at all given the facts of his crimes and the 2010 amendment of CP § 11-723—that wasn't briefed or argued before the post-conviction court and wasn't decided by that court in the first instance. Therefore, we decline to consider the merits of their arguments and remand this matter to the post-conviction court to determine whether the facts established at Mr. Wilson's trial and plea hearing implicated LSOS and make a finding about whether his sentence was legal and, if not, how it should have been adjusted had it been imposed properly. Only then can we know if Mr. Wilson's post-conviction

claim is ripe[4] as it relates to the voluntariness of his guilty plea.

In one sense, this case presents a counterintuitive problem. By challenging his guilty plea through this postconviction claim, Mr. Wilson seeks to unseat his convictions and, as relief, obtain a new trial. But the sole basis for his challenge is his asserted (mis)understanding of his sentencing exposure upon pleading guilty. And the problem he asserts with his sentencing exposure inverts the typical sentencing problem. He argues that he would not have pleaded guilty had he known he was subject to LSOS, but LSOS has never been imposed on him. To the contrary, he received a sentence that *didn't* include LSOS, which means that the sentence he received is *more favorable* than the sentence to which, he contends, he was exposed. How, then, was he prejudiced? Especially because the normal process for correcting this problem is one he'd be foolish to attempt—a successful motion to correct this sort of illegal sentence would result in the addition of LSOS to his existing sentence, "relief" that would leave him worse off than he currently is. By challenging the guilty plea itself under the Postconviction Act, Mr. Wilson seeks—and in the circuit court, succeeded in gaining—an altogether new trial, one that is harder for the State to undertake so many years after the original (and even if the witnesses are

[4] When a party brings a claim anchored in a theoretical problem, the claim is premature, unripe, and not before us properly. *See Arias-Rivera v. State*, 246 Md. App. 500, 510–11 (2020) (defendant's challenge to the retroactive application of CP § 11-723 before it had been applied was premature); *Smigiel v. Franchot*, 410 Md. 302, 320–21 (2009) (petitioners' challenge to sufficiency of ballot question that hadn't been drafted yet and couldn't be reviewed by court wasn't ripe); *cf. State v. Baxter*, 329 Md. 290, 297 (1993) (reviewing court's ruling on an evidentiary matter that the trial court hadn't formally ruled on was premature, as it is "the function of the trial judge in the first instance to determine the admissibility of evidence when it is offered at trial").

available and willing to testify again as well).

Even so, we must answer the question before us, and the one the circuit court answered: Was Mr. Wilson's guilty plea knowing and voluntary? To answer this question, we look first at the plea agreement and determine whether he made it with the appropriate knowledge, or at least opportunity to know, its collateral consequences. At the time of the plea, the trial court, the State, defense counsel, or a combination of them must conduct an examination of a criminal defendant "on the record [and] in open court" before the court can accept a guilty plea. Md. Rule 4-242(c). That examination must satisfy the court that "(1) the defendant is pleading voluntarily, with understanding of the nature of the charge and the consequences of the plea; and (2) there is a factual basis for the plea," and it must announce this determination on the record. *Id.* The trial court can't accept a guilty plea until the defendant has been advised of the collateral consequences of pleading guilty to sexual offenses, although an omission of this advice does not, on its own, invalidate the defendant's plea. Md. Rule 4-242(g)(2).

This principle leads us to a practical question: What, if any, were the collateral consequences Mr. Wilson faced from his specific guilty plea? Three criminal statutory provisions bear on Mr. Wilson's post-conviction claim. *First*, Mr. Wilson pleaded guilty to violating Md. Code (2002, 2021 Repl. Vol.), § 3-602 of the Criminal Law Article ("CL"), a law that proscribes the sexual abuse of a minor by a household member. CL § 3-602(b)(2). If convicted, the offender can serve a prison sentence of up to twenty-five years. *Id.* § 3-602(c). *Second*, Mr. Wilson pleaded guilty to violating CL § 3-307. Under

this law, a "person may not . . . engage in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim." CL § 3-307(a)(3). If convicted, the offender is "guilty of the felony of sexual offense in the third degree and [may be subjected] to imprisonment not exceeding 10 years." CL § 3-307(b). *Third*, Mr. Wilson claims that his sentence violates CP § 11-723, which mandates LSOS for defendants that have been convicted of certain crimes, including CL § 3-602:

> Except where a term of natural life without the possibility of parole is imposed, a sentence for the following persons shall include a term of lifetime sexual offender supervision: . . . a person who has been convicted of a violation of [CL § 3-602]: (i) that was committed when the person was an adult against a child under the age of 13 years . . . .

CP § 11-723(a)(4).

But the timing matters. LSOS wasn't always a mandatory consequence for violating CL § 3-602. From 2006 to 2010, the consequence for violating CL § 3-602 had been Extended Sexual Offender Parole Supervision ("ESOPS"). 2006 Md. Laws, Chap. 4; 2010 Md. Laws, Chap. 176. Under ESOPS, a sex offender management team would conduct the supervision and submit progress reports on the offender to the Maryland Parole Commission and to the local law enforcement unit of the county where the offender lived or attended work or school. 2006 Md. Laws, Chap. 4, sec. 1, § 11-725. ESOPS was added to the sentence of anyone who had "been convicted of a violation of § 3-602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years . . . ." 2006 Md. Laws, Chap. 4, sec. 1, § 11-701(b-3)(4). Unless the offender

received a life sentence without the possibility of parole, the General Assembly required the sentence to include ESOPS. 2006 Md. Laws, Chap. 4, sec. 1, § 11-723(a). And for any defendant sentenced on or after August 1, 2006, the statute required an ESOPS term of at least three years with the possibility of a "maximum term of life" that would begin after the expiration of "any term of imprisonment, probation, parole, or mandatory supervision." *Id.* § 11-723(b).

In 2010, the General Assembly repealed ESOPS, replaced it with LSOS, and established certain sentencing obligations for judges:

> (1) For a sentence that includes a term of lifetime sexual offender supervision, the sentencing court . . . shall impose special conditions of lifetime sexual offender supervision on the person at the time of sentencing . . . and advise the person of the length, conditions, and consecutive nature of that supervision.
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> (2) Before imposing special conditions, the sentencing court . . . shall order: (i) a presentence investigation . . . and (ii) . . . a risk assessment of the person conducted by a sexual offender treatment provider.
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> (3) The conditions of lifetime sexual offender supervision may include: (i) monitoring through global positioning satellite tracking or equivalent technology; (ii) where appropriate and feasible, restricting a person from living in proximity to or loitering near schools, family day care centers, child care centers, and other places used primarily by minors; (iii) restricting a person from obtaining employment or from participating in an activity that would bring the person into contact with minors; (iv) requiring a person to participate in a sexual offender treatment program; (v) prohibiting a person from using illicit drugs or alcohol; (vi) authorizing a parole and probation agent to access the person's personal computer to check for material relating to sexual relations with minors; (vii) requiring a person to take regular polygraph examinations; (viii) prohibiting a person from contacting specific individuals

> or categories of individuals; and (ix) any other conditions deemed appropriate by the sentencing court . . . .
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> (4) The sentencing court . . . may adjust the special conditions of lifetime sexual offender supervision, in consultation with the person's sexual offender management team.

2010 Md. Laws, Chap. 176, sec. 1, § 11-723(d)(1)–(4). With this amendment, the General Assembly made two important changes that matter to this appeal. *First*, the legislature broadened the group of LSOS offenders to include any person who violated CL § 3-602 in a way that involved a child under the age of twelve, 2010 Md. Laws, Chap. 176, sec. 1, §§ 11-701(f)(4), 11-723(a)(4), whereas before ESOPS applied only to offenders who had committed a sexual act involving *penetration* of a child under twelve. 2006 Md. Laws, Chap. 4, sec. 1, § 11-701(b-3)(4). *Second*, the General Assembly established that LSOS would be "imposed on a defendant for a crime or act committed on or after a certain date," referring to its modification of CP § 11-723(c), to state:

> the term of lifetime sexual offender supervision imposed on a person for a crime committed on or after October 1, 2010, shall: (i) be a term of life; and (ii) commence on the expiration of the later of any term of imprisonment, probation, parole, or mandatory supervision.

2010 Md. Laws, Chap. 176, sec. 1, § 11-723(c)(1). The legislative history of CP § 11-723 teaches that two dates control the consequence that may attach to a criminal sentence—ESOPS attaches to crimes committed before August 1, 2006 and LSOS attaches to those committed on or after October 1, 2010.

The interplay between the 2006 and 2010 versions of CP § 11-723 lies at the heart of whether LSOS should have attached to Mr. Wilson's sentence. For ESOPS to have been

a consequence of his guilty plea, the State would have had to prove that Mr. Wilson sexually abused K in acts involving vaginal penetration when she was younger than twelve. For LSOS to have been a consequence, the State would have had to prove that one of the incidents of sexual abuse took place after October 1, 2010, when LSOS became mandatory, and before K turned twelve in late 2011. But neither the parties nor the postconviction court undertook this analysis, and the hearing proceeded on the premise that Mr. Wilson's sentence was illegal because it didn't include LSOS under CP § 11-723. Because it is not normally our role to conduct this analysis in the first instance, we are vacating the judgment, without affirming or reversing, and remanding this case to the postconviction court to determine whether, and if so to what extent, Mr. Wilson was even exposed to LSOS in connection with his guilty plea, and then from there to determine whether any potential exposure bore on the voluntariness of his guilty plea. *See* Md. Rule 8-131(a) ("Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court . . . .").

As the circuit court examines this question, certain facts from the trial record stand out. At trial, K testified that she was born in late 1999,[5] that she was seventeen and entering her senior year of high school when she first reported the abuse on August 25, 2017, and that she was eighteen and attending her first year of college when she gave her testimony at trial on October 3, 2018. From those facts, we can infer that in September 2009, K was

[5] We are omitting the exact date here to protect her privacy, but the record reveals it precisely.

a fourth grader who was nine years old and set to turn ten on her 2009 birthday; that in September 2010, K was in fifth grade, was ten years old, and approached her eleventh birthday; and that in September 2011, K was a sixth grader who was eleven years old and would turn twelve on her 2011 birthday.

K testified that the first incident of abuse happened when she was ten and the family lived at the first home. She told the jury that she lived at the first home during the end of fourth grade and throughout her fifth grade year. She testified that the second incident of abuse also happened when the family lived at the first home but did not testify to her age when it happened. Mother testified that the family moved to the first home in January 2010 and lived there until June 2011. She testified that K was ten when they moved to the first home and eleven when they moved out. K testified that the third incident of abuse happened when she was thirteen, while she was a middle school student, and when they lived at the second home. Throughout her testimony, K denied that any of the acts of sexual abuse involved penetration.

Based on the evidence adduced at trial, the first two incidents of abuse happened when K was younger than twelve and neither involved vaginal penetration. These facts suggest that assignment to ESOPS shouldn't have been a consequence of Mr. Wilson's guilty plea. Additionally, neither the evidence at trial nor the record developed at the plea hearing appears to establish that the first or second incident of abuse occurred between October 1, 2010, when the LSOS would attach, and June 2011, when the family moved out of the first home and K was still younger than twelve. As a result, there may not have been

a factual basis for LSOS to attach to Mr. Wilson's sentence. At the same time, we can't ignore that the State conceded the illegality of Mr. Wilson's sentence at the post-conviction proceedings, a position inconsistent with our reading of the record and with what the State is arguing on appeal. The post-conviction court is the proper place to reconcile these facts and differing positions. And it cannot resolve the question of whether Mr. Wilson's guilty plea was knowing and voluntary without first answering whether LSOS was a consequence that should have attached to his guilty plea in the first instance based on the facts established at trial and presented at the plea hearing. The post-conviction court should consider also whether the State waived its argument that Mr. Wilson's sentence may not be illegal because of the 2010 amendment to CP § 11-723, keeping in mind that Mr. Wilson didn't object to the State's new argument on this ground.

We vacate the judgment, without affirming or reversing, and remand to the post-conviction court for further proceedings consistent with this opinion.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY VACATED, WITHOUT AFFIRMING OR REVERSING, AND CASE REMANDED. COSTS TO BE DIVIDED EVENLY.