

Circuit Court for Baltimore City  
Case Nos. 102084040-41

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 859

September Term, 2023

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DEZAI WILLIAMS

v.

STATE OF MARYLAND

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Wells, C.J.,  
Arthur,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: May 9, 2024

\*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.

Dezai Williams, appellant, appeals from the denial, by the Circuit Court for Baltimore City, of a motion to correct illegal sentence. For the reasons that follow, we shall affirm the judgment of the circuit court.

On July 16, 2003, Mr. Williams was convicted in circuit court case number 102084040 of second degree murder and use of a handgun in the commission of a crime of violence, and in circuit court case number 102084041 of second degree assault. On September 15, 2003, the court sentenced Mr. Williams to a term of thirty years' imprisonment for the second degree murder. For the use of a handgun in the commission of a crime of violence, the court sentenced Mr. Williams to a consecutive term of twenty years' imprisonment, the first five years of which to be served without the possibility of parole. For the second degree assault, the court sentenced Mr. Williams to a consecutive term of five years' imprisonment.

On March 27, 2023, Mr. Williams filed the motion to correct illegal sentence, in which he contended that the sentence for use of a handgun in the commission of a crime of violence was “inherently illegal” because “it was imposed pursuant to [an] inappropriate unit of punishment . . . , exceeding the limits imposed by” former Article 27, § 36B(d), *recodified as* Md. Code (2002), § 4-204 of the Criminal Law Article. On May 23, 2023, Mr. Williams filed a second and substantively identical motion. The court denied the motion.

Mr. Williams contends that for two reasons, the sentence for use of a handgun in the commission of a crime of violence is “inherently illegal.” Mr. Williams first contends that the sentencing court was prohibited from ordering that his sentence for use of a handgun

in the commission of a crime of violence run consecutively to the sentence for second degree murder, because he had “no previous conviction” for use of a handgun in the commission of a crime of violence. We disagree. It is true that Art. 27, § 36B(d)(2), stated that “[f]or a second or subsequent offense” of use of a handgun in the commission of a crime of violence, a defendant was required to “be sentenced to . . . a term of not less than 5 nor more than 20 years, [to] be served consecutively and not concurrently to any other sentence imposed by virtue of the commission of” the crime of violence. But, the statute did not prohibit a court from ordering that the sentence for a *first* offense of use of a handgun in the commission of a crime of violence be served consecutively to a sentence for the crime of violence. Also, the Supreme Court of Maryland has long held that a “court has a power to impose whatever sentence it deems fit as long as it does not offend the constitution and is within statutory limits as to maximum and minimum penalties,” and that “[t]his judicial power includes the determination of whether a sentence will be consecutive or concurrent, with the same limitations.” *Kaylor v. State*, 285 Md. 66, 70 (1979) (citations omitted). Mr. Williams’s sentence for use of a handgun in the commission of a crime of violence does not offend the constitution and was within statutory limits, and hence, the sentencing court did not err in ordering that the sentence run consecutively to the sentence for second degree murder.

Mr. Williams next contends that the sentence for use of a handgun in the commission of a crime of violence illegally includes “two mandatory minimum penalties,” specifically “a first 5 years not eligible for parole penalty[] and a consecutive penalty.” But, for the preceding reasons, the sentencing court’s order that the sentence for use of a

handgun in the commission of a crime of violence run consecutively to the sentence for second degree murder was discretionary, not mandatory. The sentence does not include “two mandatory minimum penalties,” and hence, the court did not err in denying the motion to correct illegal sentence.

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