

Circuit Court for Prince George's County
Case No. CT031062X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1091

September Term, 2017

PRESTON G. THORNTON

v.

STATE OF MARYLAND

Woodward, C.J.,
Eyler, Deborah S.,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 5, 2018

*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 2004, a jury in the Circuit Court for Prince George’s County convicted Preston Glendale Thornton, appellant, of robbery, robbery with a dangerous weapon, attempted robbery with a dangerous weapon, first-degree assault, second-degree assault, two counts of use of a handgun in the commission of a crime of violence, and related offenses. The court sentenced Thornton to twenty years’ imprisonment for robbery with a dangerous weapon and to a consecutive term of twenty years for one count of use of a handgun in the commission of a crime of violence. The court also sentenced Thornton to twenty years’ imprisonment for attempted robbery with a dangerous weapon and to twenty years for the second handgun conviction, both to run concurrently with the sentence for robbery with a dangerous weapon. All remaining convictions were merged for sentencing purposes. This Court affirmed the judgments. *Thornton v. State*, No. 1660, September Term, 2004 (filed June 27, 2006), *cert. denied*, 395 Md. 57 (2006).

In 2017, Thornton filed a motion to correct an illegal sentence pursuant to Md. Rule 4-345(a). He asserted that the sentencing court erred in failing to merge the conviction for robbery with a dangerous weapon into the handgun conviction. He maintained that merger was required because the two offenses “arose out of the same act or transaction.” The circuit court summarily denied the motion. On appeal, Thornton continues to maintain that these offenses should have merged. We disagree and affirm.

Thornton’s sentences are legal. Section 4-204 of the Criminal Law Article (formerly Article 27, § 36B(d)) of the Maryland Code provides that the penalty for the use of a handgun in the commission of a crime of violence or felony shall be “in addition to any other penalty imposed for the crime of violence or felony.” Thornton was convicted

of crimes committed against three victims, including first-degree assault, second-degree assault, robbery, attempted robbery with a dangerous weapon, and robbery with a dangerous weapon – all of which are deemed “crimes of violence” for purposes of Crim. Law, § 4-204. *See* § 5-101 of the Public Safety Article. In *Whack v. State*, 288 Md. 137 (1980), the Court of Appeals determined that the legislature, in enacting the handgun statute, clearly intended that separate and distinct sentences be imposed for the use of a handgun in the commission of the crime of violence and the underlying crime of violence, even where the two offenses were part of the same incident. *Id.* at 149-150. Accordingly, we hold that the circuit court did not err in denying Thornton’s motion to correct an illegal sentence.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**