

Circuit Court for Anne Arundel County
Case No: 02-K-11-001952

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1263

September Term, 2019

CRAIG STEVEN BROOKS

v.

STATE OF MARYLAND

Arthur,
Beachley,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 22, 2020

*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 2012, Craig Steven Brooks, appellant, appeared in the Circuit Court for Anne Arundel County and pled guilty to first-degree assault and was sentenced as a subsequent offender to 25 years’ imprisonment, to be served without parole eligibility.¹ In 2019, Mr. Brooks filed a motion to correct an illegal sentence in which he asserted that his sentence was illegal because the State had not filed a timely notice of its intent to seek an enhanced penalty. The circuit court denied the motion, without a hearing. Mr. Brooks appeals that ruling. We shall affirm the judgment.

In *Bailey v. State*, 464 Md. 685, 697 (2019), the Court of Appeals held that “the imposition of a sentence enhancement despite the State’s failure to timely serve the notice for the enhanced sentence does not qualify as an illegal sentence pursuant to Maryland Rule 4-345(a).” In other words, even if the State did fail to provide timely notice of its intent to seek a sentence of 25 years without the possibility of parole, that would not render Mr. Brooks’ sentence “inherently illegal” for Rule 4-345(a) purposes.

Moreover, the circuit court found that, at the plea hearing, Mr. Brooks acknowledged that he was facing a mandatory sentence of 25 years’ imprisonment without parole eligibility, a fact confirmed by our review of the plea hearing transcript. Before the court accepted the plea, the prosecutor reviewed Mr. Brooks’ criminal record and the prior convictions that made him “eligible as a subsequent offender.” When the court asked Mr.

¹ The first-degree assault conviction was Mr. Brooks’ third conviction for a crime of violence, thus qualifying him for a mandatory sentence of not less than 25 years imprisonment without the possibility of parole pursuant to Md. Code, Criminal Law Article, § 14-101(d).

Brooks whether he understood why he was subject to a mandatory sentence of 25 years imprisonment without the possibility of parole, Mr. Brooks answered, “Yes.” When the court explained that “mandatory” meant that the court had to impose 25 years without parole, Mr. Brooks confirmed that he understood. Later in the proceeding, when reviewing the terms of the plea agreement, the court advised Mr. Brooks that “there is no agreement at all actually as to sentencing, other than that you would receive a mandatory penalty of 25 years without parole[.]” When asked whether that was his understanding, Mr. Brooks replied, “Yes.” The court reiterated that, because the sentence was “mandatory,” it would have to impose the 25 years without parole. Mr. Brooks, again, confirmed that he understood that fact. He also replied “no” when asked if “anyone made any threats or used any force against you to get you to take this guilty plea.” In sum, the court did not violate the terms of the plea agreement when imposing the sentence of 25 years without the possibility of parole and there is nothing in the record before us that in any way even hints that Mr. Brooks entered the plea unknowingly or involuntarily.² His sentence, therefore, is legal.

There is also no merit to Mr. Brooks’ claim that the circuit court erred in failing to hold a hearing on his motion to correct his sentence. As the Court of Appeals stated in

² Mr. Brooks asserts that the transcript differs from the “audio visual recording” of the proceeding and urges this Court to review that recording as well, although he claims that portions of it were “erased.” The record before us does not include the “audio video recording” and we decline Mr. Brooks’ request to order the State to produce it. The transcript of the April 17, 2012 plea hearing contains the “Certificate of Transcriber” certifying that the “transcript is a true and accurate record,” and we have no reason to question its accuracy.

Scott v. State, 379 Md. 170, 191 (2004), Rule 4-345(a) “does not require a hearing in open court.”

Finally, Mr. Brooks seems to maintain that his defense counsel was ineffective for failing to object to the imposition of a mandatory sentence. An ineffective assistance of counsel claim, however, is not the proper subject of a Rule 4-345(a) motion to correct an illegal sentence. *Brightwell v. State*, 223 Md. App. 481, 488 (2015) (“a motion to correct an illegal sentence is not the appropriate mechanism through which to claim ineffective assistance of counsel”).

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