

Circuit Court for Baltimore County
Case No. 03-K-00-000520

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1275

September Term, 2020

LUNDES ANTHONY CARTWRIGHT

v.

STATE OF MARYLAND

Kehoe,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 7, 2021

*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 2002, Lundes Anthony Cartwright, appellant, was convicted of second-degree murder, first-degree assault, and use of a handgun in a crime of violence in the Circuit Court for Baltimore County. The court sentenced him to a term of 30 years' imprisonment for second-degree murder, a consecutive term of 20 years' imprisonment for first-degree assault, and a concurrent term of 20 years' imprisonment for use of a handgun in a crime of violence.

In November 2020, Mr. Cartwright filed an “Emergency Motion to Modify Sentence in Light of Considerations Related to COVID-19” (motion to modify sentence), wherein he requested the court to modify his sentence and release him from custody based on Chief Judge Barbera’s April 14, 2020 “Administrative Order Guiding the Response of the Trial Courts of Maryland to the Covid-19 Emergency as it Relates to Those Persons Who Are Incarcerated or Imprisoned.”¹ Specifically, he alleged that: (1) the United States was “experiencing a second wave of COVID-19 infections”; (2) the “conditions of prison increase[d] the chance of COVID-19 infection”; and (3) he was at a higher risk of complications if he contracted COVID-19 because of his underlying medical conditions. The court denied the motion to modify sentence without a hearing.

¹ In the introductory paragraph of the motion to modify sentence, Mr. Cartwright cites to Section 3-701 of the Courts and Judicial Proceedings Article and Maryland Rule 15-301, both of which deal with petitions for writ of habeas corpus. However, we decline to construe his motion as a habeas petition as he did not challenge the legality of his confinement or request the court to issue a writ of habeas corpus. Rather, his sole request for relief was a modification of his sentence. In any event, the Court of Appeals has held that “complaints of prisoners with regard to their treatment by correctional authorities,” including complaints regarding improper or inadequate medical treatment, “do not entitle [a] petitioner to relief under habeas corpus.” *See State v. McCray*, 267 Md. 111, 129-132 (1972) (collecting cases).

Mr. Cartwright raises a single issue on appeal: whether the court erred in denying his motion without a hearing. However, the denial of a motion for modification of sentence pursuant to Maryland Rule 4-345 is not an appealable order unless the court concludes that it lacks jurisdiction to consider the motion, which it did not in this case. *See Hoile v. State*, 404 Md. 591, 615 (2008) (“[T]he denial of a motion to modify a sentence, unless tainted by illegality, fraud, or duress is not appealable.” (citations omitted)). Consequently, the appeal must be dismissed.²

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANT.**

² We note that even if the appeal was not subject to dismissal, Mr. Cartwright’s claim lacks merit because Rule 4-345 does not require a hearing in open court unless the court intends to modify, reduce, correct, or vacate a sentence. *See Scott v. State*, 379 Md. 170, 190 (2004).