

Circuit Court for Prince George's County
Case No. CT93-1781A

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1309

September Term, 2017

STATE OF MARYLAND

v.

OLANDO BHARAT

Eyler, Deborah S.,*
Kehoe,
Beachley,

JJ.

Opinion by Kehoe, J.

*Deborah S. Eyler, J., participated in the hearing and conference of this case while an active member of this Court; she participated in the adoption of this opinion as a specially assigned member of this Court.

*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. See Md. Rule 1-104.

The State of Maryland has appealed from an order of the Circuit Court for Prince George's County that granted Olando Bharat's motion to correct an illegal sentence pursuant to Md. Rule 4-345. Bharat has filed a motion to dismiss the appeal. He asserts that the State's appeal is premature because the circuit court has not resentenced him. The State asserts that a motion to correct an illegal sentence is a separate civil proceeding that is culminated by the court's granting or denying the motion. According to the State, a circuit court's order granting a motion to correct an illegal sentence is a final judgment, even though no resentencing has occurred.

After oral argument, we stayed proceedings in this case until the Court of Appeals filed its opinions in several pending cases, including *State v. Clements*, No. 57, September Term 2017, 2018 WL 4140659 (filed August 29, 2018). In *Clements*, the circuit court granted a motion to correct an illegal sentence and the State filed an appeal before resentencing. This Court dismissed the State's appeal on the basis that it was premature, and the Court of Appeals granted a writ of certiorari to consider several issues, including whether the State's appeal was timely. As to that issue, the Court concluded:

[T]he circuit court's grant of Clements's Rule 4-345(a) motion to correct an illegal sentence and vacation of the sentence imposed in 1989 was an interlocutory order that will not become a final judgment . . . until such time as the circuit court imposes a new sentence.

Id. at *7.

In all relevant matters, the case before us is procedurally indistinguishable from *Clements*. Accordingly, we grant Bharat's motion to dismiss the State's appeal.

**APPEAL DISMISSED. COSTS TO BE PAID
BY PRINCE GEORGE'S COUNTY.**