

Circuit Court for Baltimore City
Case Nos.: 198196072, 74, 76

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1364

September Term, 2021

THOMAS SHEDRICK

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: April 28, 2022

*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.

This appeal involves the propriety of the denial of a motion for reconsideration of an order denying a timely filed motion for modification or reduction of sentence in a criminal case. For the reasons explained herein, we shall deny the State’s motion to dismiss this appeal and reverse the judgment of the circuit court.

BACKGROUND

On June 15, 1999, in the Circuit Court for Baltimore City, Thomas Shedrick, appellant, pleaded guilty to one count of first-degree murder, one count of use of a handgun in a crime of violence, and two counts of first-degree assault. On July 14, 1999, the circuit court sentenced Shedrick to a total of life imprisonment with all but 40 years suspended.

On October 8, 1999, appellant, through counsel, filed, pursuant to Maryland Rule 4-345, a timely motion for modification of sentence in which appellant requested that the circuit court hold the motion *sub curia* “until such time as the [appellant] requests a hearing.” Nearly twenty years later, on May 20, 2019, appellant, acting *pro se*, requested a hearing on that previously filed motion for modification of sentence. On July 28, 2021, the circuit court held a hearing as appellant requested, after which the court denied appellant’s motion on the theory that it lacked the authority to act on it because more than

five years had elapsed from the date of appellant’s sentencing.^{1 2} Appellant did not note a timely appeal from that denial.

On August 21, 2021, appellant filed a *pro se* motion to reconsider the court’s July 28, 2021 denial of his motion for modification of sentence.³ In that motion for reconsideration, appellant contended that the five-year deadline for the court to act on a timely filed motion for modification or reduction of sentence had no applicability to his case because he was sentenced prior to the July 1, 2004 effective date of that five-year deadline.

On October 1, 2021, the circuit court denied appellant’s August 21, 2021 motion

¹ Specifically, the court’s July 28, 2021 order denying the motion for modification of sentence stated, in pertinent part, as follows:

FOUND the court has no revisory powers to modify Defendant’s sentence pursuant to Md. Rule 4-345, as more than five years have passed from the date the sentence originally was imposed on the Defendant; and it is further

FOUND that the Court lacks Jurisdiction to modify Defendant’s Sentence; it is therefore

ORDERED that Defendant’s Request for Modification of Sentence is DENIED.

² The current iteration of Maryland Rule 4-345(e) provides, in pertinent part:

Upon a motion filed within 90 days after imposition of a sentence ... the court has revisory power over the sentence except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant[.]

³ As the State pointed out in its Brief of Appellee, appellant’s motion for reconsideration of the denial of his motion for modification of sentence did not appear in the appellate record or in the docket entries. At some point, the State obtained a copy of the missing motion for reconsideration and, thereafter, filed in this Court a motion to correct the record to include it in the appellate record. On March 15, 2022, we granted the State’s motion to correct the record.

seeking reconsideration of the court’s July 28, 2021 denial of his motion for modification of sentence once again noting that, pursuant to Maryland Rule 4-345(e), the court “has no revisory powers to modify [appellant’s] sentence ... as more than five years have passed from the date the sentence originally was imposed[.]”

On October 26, 2021, acting *pro se*, appellant noted an appeal to this Court in which he explained, *inter alia*, that he had “repeatedly informed the [circuit court] that he doesn’t fall under the current law pertaining to modifying a sentence, all to no avail.”⁴

DISCUSSION

As noted, appellant appeals the October 1, 2021 decision of the circuit court to deny his motion for reconsideration of the July 28, 2021 decision of the circuit court to deny his motion for modification of sentence.

Generally speaking, we review the denial of a motion for reconsideration for abuse of discretion. *See Grimberg v. Marth*, 338 Md. 546, 553 (1995) (finding that an appeal, filed more than thirty days after judgment but fewer than thirty days after denial of motion for reconsideration, would lie and that the scope of review would be “limited to whether the trial judge abused his discretion in declining to reconsider the judgment”). “But, at the

⁴ The State has filed a motion to dismiss appellant’s appeal as untimely because his notice of appeal was not filed within 30 days of the circuit court’s July 28, 2021 denial of his motion for modification of sentence. The State further contends that the filing of appellant’s motion for reconsideration of the July 28, 2021 order did not extend his time for noting an appeal. As far as the State’s argument goes, we would be inclined to agree. However, the State’s argument ignores the fact that appellant noted his appeal within 30 days of the circuit court’s October 1, 2021 order denying his motion for reconsideration. Thus, we treat as timely, appellant’s appeal from that order, and deny the State’s motion to dismiss this appeal.

same time, courts do not have discretion to apply inappropriate legal standards, even when making decisions that are regarded as discretionary in nature.” *Morton v. Schlotzhauer*, 449 Md. 217, 231 (2016) (citation and quotation omitted).

Appellant contends that the circuit court erred and/or abused its discretion when it repeatedly refused to consider the merits of his timely filed motion for modification on the basis that more than five years had elapsed since his sentence was imposed. The State agrees, and so do we. This is so because the five-year limitation now found in Maryland Rule 4-345(e) has no impact on sentences imposed prior to July 1, 2004. *Montgomery v. State*, 405 Md. 67, 71 n.3 (2008); *Bereska v. State*, 194 Md. App. 664, 688 (2010). The May 11, 2004 Rules Order implementing the five-year deadline specifically states that the change “shall take effect and apply to all sentences imposed on or after July 1, 2004[.]”

Consequently, the circuit court abused its discretion by committing legal error when it denied appellant’s motion for reconsideration on the incorrect belief that it lacked the authority to act on the motion because more than five years had elapsed since appellant’s sentence was originally imposed. Therefore, we reverse the judgment of the circuit court and remand this case for it to consider appellant’s motion for modification or reduction of sentence on its merits.⁵

⁵ We take no position on the merits, *vel non*, of appellant’s motion for modification or reduction of sentence.

**STATE’S MOTION TO DISMISS
APPEAL DENIED. JUDGMENT
REVERSED. CASE REMANDED
FOR PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS TO
BE PAID BY THE MAYOR AND
CITY COUNCIL OF BALTIMORE.**