Circuit Court for Prince George's County
Case No. CT160845X

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1469

September Term, 2024

ANTONIO PIERRE BARNETT

v.

STATE OF MARYLAND

Nazarian,
Beachley,
Albright,

JJ.

Opinion by Beachley, J.

Filed: January 14, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Following a 2017 jury trial in the Circuit Court for Prince George's County, Antonio Barnett, appellant, was convicted of involuntary manslaughter, use of a firearm in the commission of a felony or crime of violence, and possession of a regulated firearm. The court sentenced him to a total term of 35 years' imprisonment. Appellant noted a direct appeal, and this Court affirmed the convictions in an unreported opinion. *Barnett v. State*, No. 1242, Sept. Term 2017 (filed Dec. 14, 2018). Two of the arguments raised in the direct appeal are relevant to the current appeal: (1) that the court erred in excluding evidence that the police threatened to charge one of the witnesses, Dijuan Wooden, with conspiracy and murder; and (2) that the court erred by instructing the jury on self-defense and involuntary manslaughter where those issues were not generated by the evidence. *Id.* at slip op. 1, 22. We concluded that the trial court did not err.

On January 4, 2023, appellant filed a post-conviction motion, alleging in part that "the State committed prosecutorial misconduct by allowing Dijuan Wooden's untruthful testimony to go uncorrected." The court denied the motion, concluding that appellant "failed to show that the State knew Mr. Wooden's testimony was false or even that the trial testimony was false." Appellant did not note a timely appeal of that decision.

On November 22, 2023, appellant filed a motion to correct illegal sentence, claiming that there was insufficient evidence to support his conviction for illegal possession of a regulated firearm. In his view, "[n]o firearm was recovered, so it would have been impossible to determine whether the firearm in question was a regulated firearm. Therefore, this conviction cannot stand." This motion was later amended to include the

claim that the jury instruction on involuntary manslaughter was generated by the testimony of Johnel Harris and Mr. Wooden, which testimony, appellant asserted, "should not have come into evidence." Appellant further argued that "[t]he effect of this was that the indictment was constructively amended after the trial had concluded. As a result, [appellant's] sentence is illegal, as the underlying conviction was illegal." The circuit court denied the motion without a hearing. On appeal, appellant raises the same contentions that he raised in his motion to correct illegal sentence.[1] For the reasons that follow, we shall affirm.

"The court may correct an illegal sentence at any time." Md. Rule 4-345(a). Because the legality of a sentence is a question of law, we review the circuit court's decision on a motion to correct an illegal sentence *de novo*. *See Johnson v. State*, 467 Md. 362, 389 (2020) (citing *Bailey v. State*, 464 Md. 685, 696 (2019)).

> Because Rule 4-345(a) allows collateral and belated attacks on a sentence and is not subject to waiver, it is well-established that its scope is narrow. Otherwise, it would swallow the general rule of finality and allow repeated attacks on the underlying conviction. It is limited to situations where there

[1] Appellant raised the following questions in his brief:

1. Did the Circuit Court err in denying the Appellant's Motion to Correct Illegal Sentence based upon the fact that the Appellant was convicted of Illegal Possession of a Regulated Firearm, when no firearm was recovered, thus making it impossible to determine whether the firearm in question was a regulated firearm?

2. Did the Circuit Court err in denying the Appellant's Motion to Correct Illegal Sentence based upon the fact that the jury was instructed as to gross negligence involuntary manslaughter, an uncharged lesser-included offense, the instruction having been generated by testimony which should not have come into evidence?

> is some illegality inherent in the sentence itself or where no sentence should have been imposed in the first place.

Hamrick v. State, 263 Md. App. 270, 283 (2024) (quoting *Farmer v. State*, 481 Md. 203, 223 (2022)). A sentence is inherently illegal "when the alleged error relates to the trial court's fundamental power or authority and the sentence should have never been imposed or the particular sentence was beyond the limits prescribed by statute or rule." *Id.* (quoting *Farmer*, 481 Md. at 223-24).

We can summarily resolve appellant's challenge to the sufficiency of the evidence related to his conviction for illegal possession of a regulated firearm because this claim is not cognizable in a motion to correct illegal sentence. *See Bryant v. State*, 436 Md. 653, 666 (2014) ("[T]he sentence imposed was not intrinsically and substantively unlawful. What is challenged is not the sentence itself, but the sufficiency of the evidence to support the sentence[.]"); *O'Connor v. Warden, Md. Penitentiary*, 6 Md. App. 590, 597 (1969) ("It appears, however, that the applicant's claim that his sentence was illegal is, in reality, based on the insufficiency of evidence to prove grand larceny. If this is so, it is a mere allegation that the evidence was insufficient to support a grand larceny conviction and would not constitute a ground for relief" under a motion to correct an illegal sentence.). In his reply brief, appellant contends that his sufficiency of the evidence argument should be considered in a motion to correct illegal sentence because the State's failure to prove the elements of the crime resulted in the trial court not having the "power or authority" to convict him. (Quoting *Rainey v. State*, 236 Md. App. 368, 381 (2018)). However, a dearth of evidence does not render the trial court's sentence inherently illegal. "Rule 4-345(a) is

generally reserved for situations in which 'there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which it was imposed.'" *Rainey*, 236 Md. App. at 381 (quoting *Colvin v. State*, 450 Md. 718, 725 (2016)). Cases in which the appellate courts have determined that the trial court lacked the "power or authority" to convict, rendering the sentence for that conviction illegal, have involved situations such as a conviction on an offense not charged in the indictment, *Johnson v. State*, 427 Md. 356, 366, 370 (2012), or where the defendant had been charged and convicted under the wrong statute, *Moosavi v. State*, 355 Md. 651, 663 (1999).

Appellant's second argument, concerning his involuntary manslaughter conviction and sentence, fails for a similar reason. He argues that the jury should not have been instructed as to the lesser-included charge of involuntary manslaughter because the instruction was generated by testimony which should not have been admitted. According to appellant, the improper jury instruction was equivalent to a constructive amendment of the indictment, rendering his conviction, and therefore his sentence, illegal. However, a motion to correct an illegal sentence "may not be used as a 'vehicle for belatedly raising any alleged error in the trial or proceedings that resulted in the sentence[.]'" *Hamrick*, 263 Md. App. at 284 (quoting *Farmer*, 481 Md. at 225). A challenge to the admission of evidence or to jury instructions, like a challenge to the sufficiency of the evidence, does not relate to the inherent illegality of a sentence and must be raised on direct appeal. *See Pitts v. State*, 250 Md. App. 496, 503 (2021) ("Rule 4-345(a) focuses narrowly on the

sentence itself. It is not a broadscale review of the antecedent trial procedure culminating in the sentence.").

Additionally, some of the issues raised in appellant's argument have already been decided in prior proceedings. In the direct appeal, this Court determined that it was not error to give the involuntary manslaughter instruction. *Barnett*, No. 1242, Sept. Term 2017, slip op. at 23.[2] The argument raised in this appeal concerning the State's knowledge of Mr. Wooden's allegedly false testimony is identical to the one raised in appellant's motion for post-conviction relief, the denial of which was not timely appealed. These arguments are barred by the law of the case doctrine. *See Nichols v. State*, 461 Md. 572, 593 (2018); *Scott v. State*, 150 Md. App. 468, 474 (2003) ("[A] trial court ruling may stand as the law of the case when no appeal is taken from it." (alteration in original) (quoting *Ralkey v. Minn. Mining & Mfg. Co.*, 63 Md. App. 515, 521 (1985))). Moreover, we noted in our prior unreported opinion that appellant did not challenge any admissions or statements he made to Harris or Wooden. *Barnett*, No. 1242, Sept. Term 2017, slip op. at 3-4.

Finally, appellant's argument that instructing the jury as to involuntary manslaughter "constructively amended" the indictment is not supported by any legal authority. *See Silver v. Greater Balt. Med. Ctr., Inc.*, 248 Md. App. 666, 711 n.12 (2020)

[2] We note that our prior unreported opinion concluded that involuntary manslaughter "was the most likely form of criminal homicide for which the appellant, on the evidence of this case, could have been convicted." *Barnett*, No. 1242, Sept. Term 2017, slip op. at 21.

("[W]here a party fail[s] to cite any relevant law on an issue in its brief, [appellate courts] will not 'rummage in a dark cellar for coal that [may or may not] be there.'" (alterations in original) (quoting *HNS Dev., LLC v. People's Counsel for Balt. Cnty.*, 425 Md. 436, 459 (2012))). Even if we were to consider this argument, it would fail because appellant was charged with first-degree murder under a statutory short-form indictment, which "also *charges* second degree murder and manslaughter." *Dishman v. State*, 352 Md. 279, 289-90 (1998). Thus, no amendment of the indictment would be required to include a manslaughter charge.

"[A] motion to correct illegal sentence is not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case." *Colvin*, 450 Md. at 725 (alteration in original) (quoting *State v. Wilkins*, 393 Md. 269, 273 (2006)). Thus, even if appellant's contentions were true, these errors would not render his sentences inherently illegal.

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.