

Circuit Court for Montgomery County
Case No. 76512C

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1612

September Term, 2024

KARL W. HUBIG

v.

STATE OF MARYLAND

Wells, C.J.,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 13, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Karl W. Hubig, appellant, appeals from the denial, by the Circuit Court for Montgomery County, of motion for modification of sentence. For the reasons that follow, we shall affirm the judgment of the circuit court.

In April 1996, Mr. Hubig pleaded guilty to possession of cocaine and possession of marijuana. The court subsequently imposed a term of imprisonment of four years, all but 180 days suspended, for the possession of cocaine. For the possession of marijuana, the court imposed a term of imprisonment of one year, all suspended, to be served consecutively to the sentence for possession of cocaine. The court ordered that, following Mr. Hubig's release, he serve a term of probation of three years.

In August 1996, Mr. Hubig filed the motion for modification of sentence. In August 1998, the court held a hearing on the motion. The record indicates that following the hearing, the court took "no action."

In July 2024, Mr. Hubig filed a motion for a hearing on the motion for modification of sentence. The court subsequently denied the motion for modification of sentence, stating: "The Supreme Court of Maryland has recently ruled that Rule 4-345(e)¹ imposes a strict temporal limit on the Circuit Court's ability to exercise revisory power over a sentence, prohibiting any revision more than [five] years after the imposition of a sentence." The court cited *State v. Thomas*, 488 Md. 456 (2024), in which the Supreme

¹Rule 4-345(e)(1) states: "Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, 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 and it may not increase the sentence."

Court of Maryland stated “that a sentencing court does not . . . have fundamental jurisdiction over a timely-filed Rule 4-345(e) motion beyond the five-year period provided under the rule.” *Id.* at 481.

Applicant now contends that the court erred in denying the motion. Citing the “rules order of May 11, 2004, implementing the amendments to Rule 4-345,”² Mr. Hubig contends that “his request for modification is not subject to the five-year time limit of” the Rule. The State concedes that Mr. Hubig is correct, but counters that “once [he] fully served his sentence, including the term of probation – which happened over two decades ago – there was no longer a sentence to modify.”

We agree with the State. In *Barnes v. State*, 423 Md. 75 (2011), the appellant filed a motion to correct illegal sentence after his “incarceration for his 2005 conviction had ended almost a year earlier, . . . and there [was] no indication that he [was then] subject to any consequences stemming from his convictions, other than the requirement that he register as a sex offender.” *Id.* at 87. Dismissing the case as moot, a plurality of the Supreme Court of Maryland stated: “[B]ecause Barnes served his full sentence, there is no

²The order states, in pertinent part:

[I]t is this 11th day of May, 2004,

ORDERED, by the Court of Appeals of Maryland, that the amendments to Rule 4-345 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that the rule changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all sentences imposed on or after July 1, 2004[.]

sentence for us to revise, meaning that we can no longer fashion an effective remedy.” *Id.* at 88 (internal citation and quotations omitted). Here, Mr. Hubig has completed his terms of imprisonment and probation, and hence, has served his full sentence. There is no sentence for us or the circuit court to revise, and hence, the court did not err in denying the motion for modification of sentence.

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