

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1672

September Term, 2021

DURON LAMONT HUGHES

v.

STATE OF MARYLAND

Berger,
Reed,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 5, 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.

In 2008, Duron Lamont Hughes, appellant, entered an *Alford* plea to third-degree sexual offense in the Circuit Court for Caroline County. The court sentenced him to a term of two years' imprisonment, with all but three months suspended, and ordered him to complete one year of supervised probation upon release. As a special condition of his probation appellant was required to register as a child sexual offender pursuant to § 11-701 of the Criminal Procedure Article. Following a 2011 violation of probation hearing, appellant's probation was revoked, he was sentenced to time served, and his case was closed unsatisfactorily.

In December 2021, appellant filed a motion for declaratory judgment in his criminal case, which he subsequently amended, requesting the court to order him to be removed from the sex offender registry. Specifically, he claimed, that: (1) he should not be required to register as a sex offender for life because his conviction was not classified as a crime of violence; (2) the Maryland Sex Offender Registration Act (MSORA) is unconstitutional; and (3) the 2010 amendments to MSORA had created Tier III registration requirements upon him retroactively. The court denied the motion without a hearing. This appeal followed.

Appellant raises three issues on appeal. However, we do not reach the merits because the circuit court cannot issue a declaratory judgment in a criminal cause regarding a person's status as a sex offender. *See Sinclair v. State*, 199 Md. App. 130, 140 (2011). Rather, because "registration remains a collateral consequence of criminal punishment," a person "can seek removal from the sex offender registry only through a civil action for declaratory judgment." *Rodriguez v. State*, 221 Md. App. 26, 39 (2015). Because appellant

filed the motion for declaratory judgment in his criminal case, and the motion did not challenge the legality of his underlying sentence and conviction, the circuit court lacked jurisdiction to address his claim for declaratory relief. *Sinclair*, 199 Md. App. at 140. Consequently, we shall vacate the order of the circuit court, without affirmance or reversal, and remand the case to the circuit court to dismiss appellant’s motion for declaratory judgment without prejudice. *Id.*

**JUDGMENT OF THE CIRCUIT COURT FOR
CAROLINE COUNTY VACATED. CASE
REMANDED TO THAT COURT, WITHOUT
AFFIRMANCE OR REVERSAL, WITH
INSTRUCTIONS TO DISMISS, WITHOUT
PREJUDICE, THE APPELLANT’S MOTION
FOR DECLARATORY JUDGMENT.**

ANY COSTS TO BE PAID BY APPELLANT.