Circuit Court for Charles County
Case No.: 8K98-281

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1877

September Term, 2017

JACHIN BOAZ WALLS

v.

STATE OF MARYLAND

Woodward, C.J.
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 21, 2018

*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.

On December 18, 1998, the Circuit Court for Charles County sentenced Jachin Walls, appellant, for first-degree murder "to the Division of Corrections for a period to consist of the remainder of [his] natural life. That sentence to be served consecutive to all previously imposed sentences." The court also sentenced him for use of a handgun in the commission of a felony to "the Division of Corrections for a period of 20 years. 5 years of that sentence will be served without the benefit of parole. The sentence will be served consecutive to all previously imposed sentences and the sentence imposed on count 1." The court also stated, "I will credit [appellant] with 273 days served already."

In September of 2017 appellant filed a motion to correct an illegal sentence in the circuit court arguing that the sentence was illegal because the State had failed to notify him that it intended to seek a sentence of imprisonment for life without the possibility of parole, which was required under Maryland Code, Criminal Law Article § 2-203.[1] A month later he filed a supplemental motion arguing, additionally, that his sentence was illegal because a life sentence is incapable of being "diminished" for the amount of pre-trial credits he had earned which he claimed was required under Criminal Procedure Article § 6-218(b).[2] He

[1] "A defendant found guilty of murder in the first degree may be sentenced to imprisonment for life without the possibility of parole only if: (1) at least 30 days before trial, the State gave written notice to the defendant of the State's intention to seek a sentence of imprisonment for life without the possibility of parole; and (2) the sentence of imprisonment for life without the possibility of parole is imposed in accordance with § 2-304 of this title." Md. Code Ann., Crim. Law § 2-203. When appellant was sentenced in 1998, this provision was codified at Article 27 § 412.

[2] "A defendant who is convicted and sentenced shall receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in the custody of a correctional facility, (continued)

also claimed that, because the sentencing judge did not suspend any part of his sentence, or even give "consideration of suspending any part," he was "denied his right to a proper exercise of the discretion" vested in the judge. The court summarily denied the motion, without a hearing.

On appeal, appellant makes the same three arguments he did below: (1) that the sentence of "natural life" is the same as life imprisonment without parole, which was illegal in this instance because the State never gave the notice required by Criminal Law Article § 2-203; (2) that his sentence is illegal under Criminal Procedure Article § 6-218(b) because it is "incapable of being diminished for the amount of pre-trial credits he [had] earned"; and (3) that the sentencing judge abused his discretion by failing to weigh and consider suspending any part of the sentence. For reasons to be discussed, we affirm.

Maryland Rule 4-345(a) grants courts the power to revise an illegal sentence at any time. However, the illegality must "inhere in the sentence itself and must not be a procedural illegality or trial error antecedent to the imposition of sentence." *Carlini v. State*, 215 Md. App. 415, 426 (2013). A sentence is "inherently illegal" where (1) there was no conviction warranting any sentence or (2) the sentence imposed was not a permitted one. *Chaney v. State*, 397 Md. 460, 466 (2007). It appears appellant is arguing that the sentence imposed was not permitted due to the lack of notice by the State and the inability to "diminish" his sentence by his time served because the judge failed to suspend a portion

hospital, facility for persons with mental disorders, or other unit because of (i) the charge for which the sentence is imposed; or (ii) the conduct on which the charge is based."

of his sentence. However, such procedural errors do not make a sentence "inherently illegal." Regardless, we will address each contention more specifically.

The State concedes that they did not file a notice of intent to seek life without parole, but asserts that appellant "was not sentenced to life without parole." The State points out that the sentencing court never said, "life without the possibility of parole" and, therefore, "its imposition of a 'natural-life' sentence should be construed to mean life." Furthermore, the State maintains that there is no evidence "that anyone has treated [appellant's] sentence of 'natural life' as life without parole," including this Court in our opinion addressing appellant's direct appeal. There, we noted that appellant "was sentenced to life imprisonment and twenty years imprisonment to be served consecutively, of which five years must be served without the possibility of parole." We agree with the State that appellant was sentenced to life, not life without the possibility of parole and, therefore, his sentence comported with Criminal Law Article § 2-203.

As to appellant's second contention that his sentence must be "diminished" by his pre-trial credits, the State responds that "a life sentence is still a life sentence even after it is "diminished" by credit for time served. This unavoidable reality does [not] make [appellant's] sentence illegal." Appellant is arguing that his sentence should be reduced by 273 days in the form of a suspended sentence rather than in the form of a "'parole eligibility' consideration hearing." But there is no maximum expiration date of a life sentence from which to subtract the credits. *See Witherspoon v. Maryland Parole Commission*, 149 Md. App. 101, 106 (2002). Appellant's pre-trial credit of 273 days is included in his time served, as he admits that the court "back dated" the start of his sentence

to account for the time-served credit. This is the "reduction" in sentence contemplated by Criminal Procedure Article § 6-218(b). Appellant's bald assertion that applying the 273 days to a discretionary parole eligibility hearing violates the Equal Protection Clause and Due Process Clause of the 14th amendment and Article 23 of the Maryland Declaration of Rights, has no merit. Because his sentence does comport with § 6-218(b), we find no error in the manner in which the credit is reflected.

Appellant's third contention, is that "the trial court remained completely silent and made [no] mention as to [its] discretionary power to suspend any portion or all of the natural life sentence, indicating that the court was proceeding as if it had no discretion … because the court erroneously believed that the legislature had denied its discretion." However, "whether the trial court abused its discretion in failing to exercise discretion … is not a question of sentence legality" under Rule 4-354(a). *State v. Wilkins*, 393 Md. 269, 284 (2006).

In any event, we are to presume the trial judge "knew the law and applied it properly" because "a trial judge is not required to spell out in words every thought and step of logic taken to reach a conclusion." *Dickens v. State*, 175 Md. App. 231, 241 (2007) (internal quotations and citations omitted). Appellant offers nothing to persuade us that the sentencing judge "erroneously believed" that he had no discretion to suspend a portion of the life sentence. In fact, the sentencing judge made clear that based on the crime at hand and appellant's criminal history, he intended to punish appellant for as long as possible, stating, "you are truly a loose cannon inflicting indiscriminate harm on the general population. I am convinced if you are ever returned to the general population you would

pose a clear and present danger. I hope that the sentence that I impose totally eliminates that possibility."

For the foregoing reasons, we hold that the circuit court did not err in denying appellant's motion to correct his sentence.

JUDGMENT OF THE CIRCUIT COURT FOR CHARLES COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.