UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0019

September Term, 2015

THOMAS C. BONACKI, JR.

v.

DEPARTMENT OF PUBLIC SAFETY & CORRECTIONAL SERVICES

Eyler, Deborah S.,
Graeff,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: September 20, 2016

Appellant, Thomas C. Bonacki, Jr., appeals orders of the Circuit Court for Montgomery County granting appellee's, Department of Public Safety and Correctional Services's ("DPSCS's"), motion for summary judgment and denying his Motion to Alter or Amend Judgment or, in the Alternative, to Reconsider and Revise Judgment.

Mr. Bonacki presents two questions for our review, which we have re-worded and consolidated into one:[1]

> Did the circuit court err or abuse its discretion by finding there was no genuine dispute of material fact, granting DPSCS's Motion for Summary Judgment, and denying Mr. Bonacki's requests to alter, amend, reconsider or revise the judgment?

For the reasons that follow, we affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

At an April 11, 2000, plea hearing Mr. Bonacki entered a plea of guilty to one count of third degree sex offense related to a January 16, 2000, incident involving a fourteen-year-old female. The State set forth the facts supporting the plea:

> On January 16th [2000], . . . the mother of the victim, contacted the police to report that her daughter, . . . age 14, was missing. Montgomery County police officers went to [the mother's] residence . . . and upon arrival they were told the following.

[1] Mr. Bonacki presents the following questions on appeal:

1. Was the lower court legally correct in finding there was no genuine dispute of material fact and granting [DPSCS's] Motion for Summary Judgment, which was entered on February 4, 2015?
2. Did the lower court abuse its discretion in finding there was no reasonable indication of a meritorious defense or other equitable circumstances that justify striking the judgment entered February 4, 2015, and denying [Mr. Bonacki]'s request for reconsideration of its granting of [DPSCS's] Motion for Summary Judgment?

> On the 15th, the day before, the victim's mother had given her daughter permission to spend the night at a friend's house. However, she later became suspicious that she was not, in fact, at the friend's house. She looked in her daughter's bedroom and at that time she found a telephone number with the name "Tom" on it.
>
> She called the number and asked whether or not her daughter was there. A person answered the phone, later determined to be . . . Mr. Bonacki, [and] identified himself as Tom Anderson. And when the mother asked if her daughter was there, he said no, she's not here.
>
> A second call was placed by the mother later on. This time she spoke with the roommate of Mr. Bonacki, who also told her that [her daughter] was not there. In fact, . . . she was there.
>
> The police took the telephone number that the mother had given them and they checked the listing on it, and it came back to . . . [Mr. Bonacki's] address. . . .
>
> The officer then called that phone number and had a conversation with [Mr. Bonacki], and [he] advised the officer that he had had sexual intercourse with [the victim]. The 14-year-old daughter.

When prompted by the court, defense counsel stated that he did not "have any material objections or corrections" to those facts. In addition, the circuit court examined Mr. Bonacki and determined that he understood that he was subject to a maximum sentence of ten years, that he could "be required to register as a sex offender," and that he was pleading guilty "freely and voluntarily and intelligently."

A sentencing hearing was held on June 28, 2000, and the court ruled on the record:

> Okay, well to the extent that there is a request for a disposition under Article 27, Section 641,[2] that's denied. I will impose a suspended

[2] Md. Code (1957, 1996 Repl. Vol.), Article 27 § 641, entitled "Probation prior to judgment; terms and conditions; intoxicated drivers; violation of probation; fulfillment of terms of probation" provides in part:

> (a) Probation after plea or finding of guilt; terms and conditions; waiver of right to appeal from judgment of guilt. - (1) (i) 1. Whenever a person accused of a crime pleads guilty or nolo contendere or is found guilty of an offense, a court exercising criminal jurisdiction, if satisfied that the best interests of the person and the welfare of the people of the State (cont.)

> sentence. I think that the State's Attorney's remarks make a lot of sense, and it is a matter of concern, but because this is your first offense and because it appears to me that you are truly remorseful for what has happened I will impose a suspended sentence, rather than requiring an actual executed jail sentence.
>
> The sentence of this Court is that you are to be incarcerated for a period of 18 months. I will suspend the execution of that sentence and place you on probation. The period of probation will be for two years.
>
> The usual conditions apply. The special conditions of probation are as follows. No unsupervised contact with children under 16. Psychotherapy. *The sex offender registry*. All of those are special conditions.

(Emphasis added). Mr. Bonacki's reporting and registration requirements commenced on that date. On his first DPSCS form, dated June 28, 2000, the only option provided for a child sexual offender stated that the person must "[r]egister as a Child Sexual Offender annually for the next ten years, in person, with the designated law enforcement agency in the county where you reside." The June 13, 2001, form signed and initialed by Mr. Bonacki was modified to include two

---

> would be served thereby, and with the written consent of the person after determination of guilt or acceptance of a nolo contendere plea, may stay the entering of judgment, defer further proceedings, and place the person on probation subject to reasonable terms and conditions as appropriate. The terms and conditions may include ordering the person to pay a fine or pecuniary penalty to the State, or to make restitution, but before the court orders a fine, pecuniary penalty, or restitution the person is entitled to notice and a hearing to determine the amount of the fine, pecuniary penalty, or restitution, what payment will be required, and how payment will be made. The terms and conditions also may include any type of rehabilitation program or clinic, or similar program, or the parks program or voluntary hospital program.

options for the length of registration term "the next ten years" and "life," but neither option was checked-off.[3]

On June 26, 2001, the court held a hearing on a defense motion pursuant to Maryland Rule 4-345 to modify Mr. Bonacki's sentence to "remove the requirement that [he] has to register as a sexual offender." Defense counsel, at the hearing on the motion, stated that "the main thing [he] want[ed] to achieve [t]here [was] the ability to get [Mr. Bonacki] off the sexual offender registry" because the registry can be "for 10 years" and counsel did not think registration was "appropriate." The State did not rebut counsel's comment about a potential ten year maximum for sex offender registration, but argued against the court granting Mr. Bonacki probation before judgment. The court ruled stating:

> [w]ith respect to the request to dispose of the case under Article 27, Section 641, I'm going to deny that, at this time. I would be willing to consider it at a later date. And in order for me to do that you must file a motion to reconsider within 90 days from today and I'll hold it in abeyance for a year and then take a look at that issue.
>
> As to the request that the term of probation that he register as a sex offender is concerned, I will grant the request to delete that, at this time, and it is hereby deleted. However, I will extend the period of probation for an additional year. So that instead of it being two years of probation it will be three years of probation.

[3] Nor was either option check-off on his June 20, 2002, form. On the June 16, 2003, form provided by Mr. Bonacki, the "next ten years option" was checked-off, and on June 28, 2004, he wrote a letter for his file taking the "legal position that [he was] only subject to re-register for a total period of ten years." On May 31, 2011, he wrote an additional letter to the Montgomery County Police ("MCP") restating his position, but acknowledging his continued compliance with the registration requirement because the MCP "has declared that [he] must or be subject to criminal penalties."

At a July 6, 2001, hearing the court acknowledged that the relevant statute "only allows for [removal from the sex offender registry] if he receives probation before judgment" and that it had "no discretion" to order Bonacki's removal from the registry in this case. Counsel for Mr. Bonacki agreed with the court's understanding of the law. Thus, the sentence as modified at the June 26 hearing was vacated and the initial conditions of probation and sex offender registration were reinstated.

On September 30, 2014, Mr. Bonacki filed a complaint for declaratory judgment alleging that at the time of his conviction he was only required to register as a sex offender for ten years, but "eight years after the date of [his] release, the Maryland General Assembly amended the sex offender registration requirements, and [he] was then . . . required to register every six (6) months for twenty-five (25) years . . . ." He requested that the circuit court "enter an Order of Declaratory Judgment stating that the Petitioner is no longer required to register as a sex offender and that his name be removed from the list of sex offenders maintained by the . . . Department of Public Safety and Correctional Services."

DPSCS filed a Motion for Summary Judgment on November 10, 2014, asserting that at the time of sentencing Maryland law required that anyone convicted of the offense to which Mr. Bonacki pleaded guilty "register as a sex offender on the Maryland Sex Offender Registry ('MSOR') for life" and that the amendments reduced his registration requirement to twenty-five years. DPSCS requested that the court "declare that Mr. Bonacki is obligated to register as a sex offender under State law for a period of 25

years." On December 2, 2014,[4] Mr. Bonacki filed an opposition asserting that there "is a genuine dispute as to material facts in this case such that [DPSCS] is not entitled to judgment as a matter of law." DPSCS replied on January 5, 2015, pointing out that the "MSOR is a conviction based registration scheme and the length of a sex offender's registration term in 2000 (ten years or lifetime), when Mr. Bonacki initially registered, was not set by the Department or by the criminal court."

A hearing before the circuit court took place on February 4, 2015. DPSCS took the position that Mr. Bonacki "should remain on the sex offender registry until the expiration of the 25-year term." Counsel for Mr. Bonacki argued that the "2009 and 2010 amendments which increased his registration from 10 to 25 years [are] being retroactively applied to his disadvantage, which is in violation of the Maryland Declaration of Rights." He also contended that there is a material dispute as to "how we interpret the statutes that apply in this case."

The court issued its ruling on the record at the hearing, which was entered later that day, stating:

> The Court must consider the evidence in the light most favorable to the non-moving party, and that is [Mr. Bonacki], and has to find that there is a genuine issue as to a material fact in this case. And I don't find that there is a general [sic] dispute of material fact. I am going to grant the [DPSCS]'s motion for summary judgment.[5]

[4] On November 26, 2014, Mr. Bonacki's counsel filed a Line extending the time to file a response through December 12, 2014, to which DPSCS consented.

[5] It is well settled that a trial court must enter a declaratory judgment when an action is appropriate for resolution by declaratory judgment and is in error when it disposes of such an action with oral rulings and a grant of judgment. *Harford Mut. Ins. Co. v. Woodfin Equities Corp.*, 344 Md. 399, 414 (1997). An action is appropriate (cont.)

On February 18, 2015, Mr. Bonacki filed a Motion to Alter or Amend Judgment (Rule 2-534) or, in the Alternative, to Reconsider and Revise Judgment (Rule 2-535) asserting that "there is a reasonable indication of a meritorious defense or other equitable circumstances that justify striking the judgment entered February 4, 2015," and requested a hearing. DPSCS responded on March 4, 2015, asserting that Mr. Bonacki "failed to offer any compelling reason for the Court to alter, amend, reconsider or revise its judgment because it is undisputed that the lifetime registration requirement" was in effect when he committed his offense.

Mr. Bonacki filed an interlocutory Notice of Appeal on March 4, 2015, appealing the February 4, 2015, grant of DPSCS's motion for summary judgment. On March 31, 2015, the circuit court denied the motion in a written Order entered on April 2, 2015. On April 8, 2015, Mr. Bonacki filed an Amended Notice of Appeal as to both the February 4, 2015, order granting DPSCS's motion for summary judgment and the April 2, 2015,

for resolution by declaratory judgment if "[a] party asserts a legal . . . right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it." Md. Code (1973, 2013 Repl. Vol.), § 3-409 of the Courts and Judicial Proceedings Article ("CJP § 3-409"). "The fact that the side which requested the declaratory judgment did not prevail in the circuit court does not render a written declaration of the parties' rights unnecessary." *Harford Mut. Ins. Co.*, 344 Md. at 414. The failure, however, to enter a declaratory judgment is not jurisdictional. As the Court of Appeals, in *Bushey v. N. Assurance Co. of Am.*, 362 Md. 626, 651 (2001) stated, an appellate court "may, in its discretion, review the merits of the controversy and remand for the entry of an appropriate declaratory judgment by the circuit court." We will do so in this case.

order denying the motion to alter or amend or in the alternative to reconsider and revise judgment.

STANDARD OF REVIEW

Maryland Rule 2-501 provides in relevant part that "[a] court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law." Thus, in our review, we first determine whether a genuine dispute of material fact exists, and if such a dispute is lacking, we proceed to review the court's determinations of law. *Nationwide Mut. Ins. Co. v. Wilson*, 167 Md. App. 527, 535 (2006), *aff'd*, 395 Md. 524 (2006). We review the circuit court's entry of an order granting summary judgment under a de novo standard "and ask whether the trial court was correct as a matter of law." *Ramlall v. MobilePro Corp.*, 202 Md. App. 20, 30 (2011). In doing so, "we construe the record, including all inferences, in the light most favorable to the non-moving party." *Columbia Ass'n, Inc. v. Poteet*, 199 Md. App. 537, 546–47 (2011).

"In general, the denial of a motion to alter or amend a judgment or for reconsideration is reviewed by appellate courts for abuse of discretion." *Miller v. Mathias*, 428 Md. 419, 438 (2012) (quoting *RRC Northeast, LLC v. BAA Maryland, Inc.,* 413 Md. 638, 673 (2010)). The Court of Appeals "has defined abuse of discretion in numerous ways, but has always enunciated a high threshold." *Sumpter v. Sumpter*, 436 Md. 74, 85 (2013). This court has said that an abuse of discretion occurs "'where no

reasonable person would take the view adopted by the [trial] court,' or when the court acts 'without reference to any guiding rules or principles.'" *North v. North*, 102 Md. App. 1, 13–14 (1994) (citations omitted) (internal quotation marks omitted).

DISCUSSION

Mr. Bonacki contends that "the trial court did not draw appropriate inferences from the underlying facts in the light most favorable to [him]," and that it "erred in failing to consider the numerous disputes of material facts presented by [him] in [his] briefs and oral argument." He goes on to list several of such "disputes," including, (1) whether the applicable law at the time Mr. Bonacki committed his offense required him to register as a sex offender for ten years; (2) whether the unrebutted statement by Mr. Bonacki's counsel at the June 26, 2001, motion to modify sentence hearing that he "was facing ten (10) years of sexual offender registration requirements" supports the inference that Mr. Bonacki's registration term was ten years; (3) whether the 2010 amendments to the sex offender registration requirements retroactively increased Mr. Bonacki's term of registration; (4) whether Mr. Bonacki's "obligation to register would have expired on June 28, 2012, but for the retroactive application of the 2010 amendment," which changed the options on his registration form from "ten years" and "life" to "twenty-five years;" and, (5) whether the 2010 amendments, "as applied to [Mr. Bonacki], violate Maryland's prohibition against ex post facto laws."

DPSCS counters that the circuit court "was correct to grant summary judgment to the Department because there were no material facts in dispute . . . because the law

clearly requires that Mr. Bonacki register for 25 years as the result of his conviction for committing a third degree sex offense against a fourteen-year-old girl in 2000." DPSCS asserts that "the date of the offense" and "the statute violated" are the only facts material to determining the length of Mr. Bonacki's registration period, and Mr. Bonacki admits that he was convicted of violating Maryland Code (1957, 1999 Repl. Vol.), Article 27, Section 464B(a)(5), ("Art. 27 § 464B(a)(5)"), which went into effect on October 1, 1999, prior to when he committed the offense. DPSCS also asserts that "Mr. Bonacki's obligation to register as a sex offender is, by statute, a necessary collateral consequence of his conviction of a third degree sex offense, and a requirement for all those who met the definition of 'child sexual offender' or 'sexually violent offender.'" DPSCS also contends that Maryland Rule 4-242(f) "expressly categorizes sex offender registration as a collateral consequence of a guilty plea," a fact that the sentencing court recognized "during the hearing on Mr. Bonacki's second motion for reconsideration" when it acknowledged it had no authority to extinguish his obligation to register.

Mr. Bonacki replies that neither the underlying facts of his plea nor the statements made by defense counsel, DPSCS, or the Court "suggest or . . . support that [he] met any definition of 'sexually violent offender.'" And, citing Maryland Rule 4-242(f), asserted that he was entitled to notice of the collateral consequences of his plea from counsel, DPSCS, or the court, and if the term of registration was for life, he was never properly notified.

Resolution of this appeal rests on our interpretation of the Maryland Sex Offender Registration Act ("MSORA") as it existed at the time of Mr. Bonacki's conviction. The goal of construction of any statute "is to discern and carry out the intent of the Legislature." *Blue v. Prince George's Cty.*, 434 Md. 681, 689 (2013). In doing so, we consider "three general factors: 1) text; 2) purpose; and 3) consequences." *Town of Oxford v. Koste*, 204 Md. App. 578, 585 (2012), *aff'd*, 431 Md. 14 (2013). Our analysis necessarily begins with a review of the relevant text. When the statutory language is clear and unambiguous, we ordinarily need not look any further and our analysis ends. *Opert v. Criminal Injuries Comp. Bd.*, 403 Md. 587, 593 (2008). But, even "when the language of a statute is free from ambiguity, in the interest of completeness we may, and sometimes do, explore the legislative history of the statute under review." *Mayor & City Council of Balt. v. Chase*, 360 Md. 121, 131 (2000) (citation omitted) (internal quotation marks omitted).

It is undisputed that Mr. Bonacki entered a plea of guilty to violating Art. 27 § 464B (now Md. Code (2002, 2012 Repl. Vol.), § 3-307 of the Criminal Law Article ("CR § 3-307"))[6] "Third Degree Sexual Offense" on April 11, 2000. At the time of his plea, Art. 27 § 464B stated, in relevant part:

> (a) *Elements of offense* – A person is guilty of a sexual offense in the third degree if the person engages in: . . .

[6] CR § 3-307 states, in relevant part:

(a) Prohibited. – A person may not:

(5) engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old.

> (5) Vaginal intercourse with another person who is 14 or 15 years of age and the person performing the sexual act is at least 21 years of age;

At that time, the registration requirements and other relevant provisions were then contained in Art. 27:[7]

> [Art. 27 § 792(A)(2),] "Child sexual offender" means an individual who: (I) Has been convicted of violating § 35C of this article for an offense involving sexual abuse; (II) Has been convicted of violating any of the provisions of §§ 462 through 464B of this article for an offense involving an individual under the age of 15 years.
>
> [Art. 27 § 792(A)(10),] "Sexually violent offender" means an individual who: (I) Has been convicted of a sexually violent offense.
>
> [Art. 27 § 792(A)(11),] "Sexually violent offense" means: (I) A violation of any of the provisions of § 462, § 463, § 464, § 464A, § 464B, or § 464F of this article.
>
> [Art. 27 § 792(D)(2)] A child sexual offender shall register annually in person with a local law enforcement agency: (I) for 10 years; or (II) For life, if convicted of: 1. A violation of any of the provisions of §§ 462 through 464B of this article; or 2. A second violation as a child sexual offender.
>
> [Art. 27 § 792(D)(4),] A sexually violent offender shall register annually with the Department in accordance with the procedures described in subsection (H)(3) of this section: (I) for 10 years; or (II) For life, if convicted of: 1. A violation of any of the provisions of §§ 462 through 464B of this article; or 2. A second violation as a sexually violent offender.

Based on the plain language of the registration provision at the time of his plea and conviction of a third degree sex offense Mr. Bonacki met the definitions of both a

[7] DPSCS contends that when Mr. Bonacki entered a plead of guilty to a third degree sex offense involving a fourteen-year-old female, he "met the definitions of 'child sex offender' and 'sexually violent offender' under the Maryland Sex Offender Registration Act (the 'Act')."

"child sex offender" and a "sexually violent offender" and was required to register "for life." Art. 27 §§ 464B, 792. The temporal terms of registration in Art. 27 § 792 differed based on the underlying offense. Notably, not all offenders were required to register for life. Art. 27 § 792 provided that a "child sexual offender," anyone "convicted of violating § 35C of [Art. 27] for an offense involving sexual abuse" [8] or "any of the provisions of §§ 462 through 464B," register annually "(I) for 10 years; or (II) For life, if convicted of: 1. A violation of any of the provisions of §§ 462 through 464B of this article . . . ." The plain language and sentence structure of Art. 27 § 792(D)(2) required that a person convicted of Art. 27 § 464B(a)(5) register for life. In other words, the conjunction "or" separated by a semi-colon, did not provide a ten year registration option for a person convicted Art. 27 § 464B. The recodification of Maryland criminal law, and the resultant

[8] The relevant portions of Art. 27 § 35C provide:
(a) *Definitions* – (1) In this section the following words have the meanings indicated.
(2) "Abuse" means: . . .
(ii) Sexual abuse of a child, whether physical injuries are sustained or not
. . . .
(6) (i) "Sexual abuse" means any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member.
(ii) "Sexual abuse" includes, but is not limited to:
1. Incest, rape, or sexual offense in any degree;
2. Sodomy; and
3. Unnatural or perverted sexual practices.
(b) *Violation constitutes felony; penalty; sentencing*. – (1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a child or a household or family member who causes abuse to the child is guilty of a felony and upon conviction is subject to imprisonment in the penitentiary for not more than 15 years.

transfer of Art. 27 § 792 into the Criminal Procedure Article,[9] and Art. 27 § 464B into a new Criminal Law Article in 2002,[10] did not substantively change those provisions, notwithstanding, any resultant changes in the Montgomery County registration forms. *See Comptroller v. Blanton*, 390 Md. 528, 538 (2006) (stating that the purpose of recodification is presumed to be clarification and not change of meaning).

In 2010, the General Assembly changed the notification and registration provisions of the sex offender laws to comply with the recently adopted federal Sex Offender Registration and Notification Act ("SORNA").[11] To do so, the General Assembly replaced Maryland's four categories of sexual offenders (offender, child sexual offender, sexually violent offender, and sexually violent predator) with a tiered system resembling the federal statute. *See* Revised Fiscal and Policy Note, S.B. 854 at 8-12 (2010 Session). Under the revised system, Mr. Bonacki was a "Tier II sex offender" based on his conviction for "committing a violation of § 3-307(a) . . . (5)" of the Criminal

[9] The provisions in Art. 27 § 792 were transferred to several sections of the new Criminal Procedure Article, including Md. Code (2001) §§ 11-701, 11-705 of the Criminal Procedure Article. *See* Senate Bill 1 of the 2001 Session.

[10] The provisions in Art. 27 § 464B were transferred to Md. Code (2002) § 3-307 of the Criminal Law Article. *See* 2002 Md. Laws, ch. 26.

[11] The Department of Legislative Services Revised Fiscal and Policy Note for SB 854 and HB 936 states that "[f]ailure to comply with SORNA puts a state at risk to lose 10% of Byrnes Justice Assistance grants, which states use to pay for such things as drug task forces, ant-gang units, police overtime, and other law enforcement activities." The fiscal and policy note also states that the modifications proposed in the 2010 amendments "would be needed to comply with SORNA." SORNA was enacted as Title I of the *Adam Walsh Child Protection and Safety Act of 2006*, 42 U.S.C. § 16911 (2012).

Law Article.[12] As a Tier II sex offender, the relevant statute provides in part: "*[i]n general.* – (1)(i) A . . . tier II sex offender shall register in person every 6 months . . . for the term provided under paragraph (4) of this subsection. . . . [(4)] the term of registration is: . . . (ii) 25 years, if the person is a tier II sex offender." The amendments applied retroactively to Mr. Bonacki because he was "subject to registration under this subtitle on September 30, 2010." Md. Code (2001, 2008 Repl. Vol., Cum. Supp. 2015) § 11.702.1(a)(2) of the Criminal Procedure Article. Because the 2010 amendments decreased Mr. Bonacki's registration term from "life" to "25 years," we need not consider further his arguments regarding Maryland's prohibition on ex post facto laws.

In sum, the circuit court was legally correct when it granted DPSCS's motion for summary judgment and did not abuse its discretion when it denied Mr. Bonacki's motion to alter or amend or for reconsideration. The only facts material to the resolution of this case were the date of Mr. Bonacki's conviction and the offense with which he was charged. The disputes alleged by Mr. Bonacki relate only to the meaning and implication of various provisions of the Maryland Code, and our review of the record and those provisions persuades us that at the time of his conviction Mr. Bonacki was, as a matter of

[12] As noted previously, CR § 3-307(a)(5) provides "(a) Prohibited. – A person may not: . . . (5) engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old."

law, subject to a lifetime registration that was subsequently statutorily reduced to twenty-five years.

JUDGMENTS AFFIRMED. CASE REMANDED TO THE CIRCUIT COURT FOR MONTGOMERY COUNTY FOR ENTRY OF A DECLARATORY JUDGMENT IN ACCORDANCE WITH THIS OPINION. COSTS TO BE PAID BY APPELLANT.