

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0694

September Term, 2015

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CHAUNCEY ANTONIO HILL

v.

STATE OF MARYLAND

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Krauser, C.J.,  
Berger,  
Reed,

JJ.

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Opinion by Berger, J.

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Filed: June 8, 2016

\*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 2007, a jury in the Circuit Court for Anne Arundel County convicted Chauncey Antonio Hill, appellant, of child abuse, second-degree rape, and third-degree sex offense. The court sentenced Hill to a term of 15 years' imprisonment for child abuse, a consecutive 10 years for second-degree rape, and a consecutive 5 years for third-degree sex offense. Hill appealed and argued for a reversal on the ground that the trial court erred in admitting DNA evidence. This Court rejected the argument and affirmed the judgments. *Chauncey Hill v. State*, No. 2452, September Term, 2007 (filed August 4, 2009), *cert. denied*, 411 Md. 356 (2009). Years later, upon the appeal of the denial of a motion to correct an illegal sentence, this Court held that Hill's convictions for second-degree rape and third-degree sex offense should have merged into his conviction for child abuse for sentencing purposes. Thus, we vacated the sentences for second-degree rape and third-degree sex offense, leaving intact his 15-year sentence for child abuse. *Chauncey A. Hill v. State*, No. 2629, September Term, 2013 (filed July 7, 2015).

In April 2015, Hill filed a *pro se* "motion to vacate the convictions under the court's supervisory power and Maryland Rule 4-331(b)." As grounds, Hill alleged that a warrant issued in Virginia, where he was residing before his arrest, was defective and hence his subsequent arrest invalid. Indeed, the warrant authorized the police to obtain a DNA sample from Hill. The circuit court summarily denied the motion, prompting this appeal. For the reasons discussed below, we affirm.

Rule 4-331 provides, in pertinent part, that where more than 90 days has passed since the imposition of sentence, a court has “revisory power and control over the judgment to set aside an unjust or improper verdict and grant a new trial” in the “case of fraud, mistake, or irregularity.” Rule 4-331(b)(1)(B). We have observed that this “phrase ‘fraud, mistake, or irregularity’” should be narrowly construed. *Minger v. State*, 157 Md. App. 157, 172 (2004). In *Minger*, we concluded that “there are strong public policy reasons why the phrase ‘fraud, mistake, or irregularity’ should be given a narrow interpretation,” noting that a broad reading of the phrase, to “encompass [unobjected to] prejudicial trial errors” and the like, could mean that “almost no criminal conviction would be safe from belated attack.” *Id.*

In this appeal, Hill claims that the Virginia warrant was defective or invalid because it was signed by an “in-take officer” and not by a “magistrate.” He does not, however, allege that the warrant was fraudulently issued.

As for “mistake,” we have noted that, for purposes of Rule 4-331(b), “the word ‘mistake’ ‘has uniformly been interpreted to mean jurisdictional error only.’” *Ramirez v. State*, 178 Md. App. 257, 281 (2008) (quoting *Minger*, 157 Md. App. at 170), *cert. denied*, 410 Md. 561 (2009). For example, a jurisdictional error which would justify a revision of judgment under Rule 4-331 would be where the court never obtained personal jurisdiction over the party. *Minger*, 157 Md. App. at 172. Even if we were to assume

that the warrant for Hill’s DNA was issued by mistake, it did not result in a jurisdictional error.

An “irregularity” under Rule 4-331(b)(2) “typically means ‘irregularity of process or procedure.’” *Ramirez*, 178 Md. App. at 281 (quoting *Minger*, 157 Md. App. at 171). Thus, “[i]rregularities warranting the exercise of revisory powers most often involve a judgment that resulted from a failure of process or procedure by the clerk of a court, including, for example, failures to send notice of a default judgment, to send notice of an order dismissing an action, to mail a notice to the proper address, and to provide for required publication.” *Minger*, 157 Md. App. at 173-174 (quoting *Thacker v. Hale*, 146 Md. App. 203, 219-220 (2002)). In other words, we observed that, because an “irregularity” for purposes of Rule 4-331(b) is a “narrow concept” “the Court of Appeals consistently has rejected attempts to exercise revisory power over judgments that have been called into question on their merits, rather than on the basis of questionable procedural provenance.” *Id.* Hill does not allege an “irregularity” of the type contemplated by Rule 4-331(b).

The thrust of Hill’s argument is that his trial counsel was ineffective for failing to “investigate” the validity of the Virginia warrant and for failing to move to suppress the evidence obtained pursuant to that warrant, namely his DNA. The State points out that Hill raised this same claim in an earlier petition for post-conviction relief. After an evidentiary hearing, the post-conviction court found that the warrant was “proper and

valid” and also found that trial counsel was not ineffective for failing to challenge it. We denied Hill’s application for leave to appeal that decision. *Chauncey Antonio Hill v. State*, No. 845, September Term, 2011 (filed July 31, 2012).

In sum, we hold that Hill failed to establish that his conviction was the result of “fraud, mistake, or irregularity.” Accordingly, we affirm the circuit court’s decision to deny Hill’s motion to revise or vacate the convictions.

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