

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1958

September Term, 2013

ERIC REYNOLDS

v.

STATE OF MARYLAND

Graeff,
Friedman,
Thieme, Raymond G., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: August 26, 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.

Appellant, Eric Reynolds, appeals from the order of the Circuit Court for Prince George's County denying his motion to correct illegal sentence. He presents nine questions, for this Court's review,¹ which we have reduced to one and rephrased as follows:

¹ Appellant presented the following nine questions for our review:

(1) Was the Appellants right to Due Process and equal protection against being twice punished for the same offense violated, subjecting the Appellant to a punishment that exceeded the maximum allowed by statute, Where the trial Court failed to Reduce the appellants Life sentence by the time already served ? (Where the Trial Court failed to reduce the Appellants Life sentence by time already served in accordance with Art. 27 § 638C (a) and (d) .)

(2) Did the lower Courts of a mandatory language order by the Legislature prejudice the appellant ?

(3) Did the lower Courts abrogation of 638C, mandatory process cause appellant cruel and unusual punishment ?

(4) Did the lower Courts reliance on the executive branch of state government cause it to not afford Appellant the equal protection and his Constitutional rights as guaranteed by the Maryland constitution, Declaration of Rights " Article 8 " and his Constitutional Rights of the United States of America, 8-14 to be violated ?

(5) Did the lower Court deny Appellants Right to due Process when it improperly interpreted the law and mandatory language of Article 27, § 638C (a) (d) ?

(6) Did the lower Court err when it abrogated the order " SHALL ", in Article 27, § 638C (a) (d) ?

(7) Did the lower Court err by not " Diminishing Thereby " this parolable life sentence. first so it could then apply the awarding of pretrial holding credits ?

(8) Did the Court err when it allowed the States Attorney general to create jurisdictional error, the implication that the office of the Attorney General is the sentencing party is error ?

(continued . . .)

Did the court err in denying the motion to correct illegal sentence?

For the reasons set forth below, we answer appellant's question in the negative, and therefore, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

In 1997, appellant pleaded guilty to first degree murder, attempted first degree murder, and use of a handgun in the commission of a felony or crime of violence. The circuit court sentenced appellant to a term of life imprisonment for the first degree murder conviction pursuant to Maryland Code (1997 Supp.) Art. 27 § 412(b),² and it imposed a concurrent term of life imprisonment for the attempted first degree murder. The court

(continued . . .)

(9) Did the lower Court err in its refusal to give Appellant the equal protection and Due Process, promised as a right under the Maryland Constitution-Declaration of rights and the Constitution of the United States of America 8-14 ?

² Maryland Code (1997 Supp.) Art. 27 § 412(b) provided:

[A] person found guilty of murder in the first degree shall be sentenced to death, imprisonment for life, or to imprisonment for life without the possibility of parole. The sentence shall be imprisonment for life unless: (1) (i) the State notified the person in writing at least 30 days prior to trial that it intended to seek a sentence of death, and advised the person of each aggravating circumstance upon which it intended to rely, and (ii) a sentence of death is imposed in accordance with § 413; or (2) the State notified the person in writing at least 30 days prior to trial that it intended to seek a sentence of imprisonment for life without the possibility of parole under § 412 or § 413 of this article.

This statute was recodified as Maryland Code (2002) § 2-201(b) of the Criminal Law Article, effective October 1, 2002.

applied credit against the sentences for 468 days of pretrial incarceration. The court also sentenced appellant to a term of ten years' imprisonment for the use of a handgun in the commission of a felony or crime of violence, to run consecutive to the terms of life imprisonment.

In 2013, appellant filed a motion to correct an illegal sentence, asserting that the court violated Maryland Code (1997 Supp.) Art. 27 § 638C(a) by applying credit against the terms of life imprisonment “without first giving the life sentence[s] a numerical equivalent in years.”³ The court denied the motion without a hearing.

DISCUSSION

Appellant contends that the court erred in denying his motion to correct illegal sentence. He asserts that, “where a [life] sentence is mandated,” the court was required by Art. 27 § 638C(a) to use “the time spent in pre-trial holding . . . to reduce the sentence,” and hence, a “[l]ife sentence . . . must have a [n]umerical [e]quivalent [sic].” (Quotations omitted.). He asserts that, pursuant to statute, a defendant may receive “credit against the

³ Maryland Code (1997 Supp.) Art. 27 § 638C(a) provided:

Any person who is convicted and sentenced shall receive credit against the term of a definite or life sentence . . . for all time spent in the custody of any state, county or city jail, correctional institution, . . . or other agency as a result of the charge for which sentence is imposed or as a result of the conduct on which the charge is based, and the term of a definite or life sentence . . . shall be diminished thereby.

This statute was recodified as Maryland Code (2001) § 6-218(b)(1) of the Criminal Procedure Article, effective October 1, 2001.

term of a definite or Life sentence” only if his sentence is finite, and because a life sentence is indefinite, his sentence is illegal.

The State contends that, “by [appellant’s] logic, all life sentences would be invalid,” which clearly is not the case. It asserts that “the purpose of giving time served in connection with a life sentence is to fix the start date of the defendant’s sentence, and thus, to determine his eligibility for parole.” *See* Md. Code (2008 Repl. Vol.) § 7-301(d)(1) of the Correctional Services Article (“[A]n inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate’s term of confinement under § 6-218 of the Criminal Procedure Article.”).

The Court of Appeals has stated that “[t]he imposition of a life sentence for first-degree murder is a sentence permitted by law.” *State v. Wilkins*, 393 Md. 269, 276 (2006). When a defendant is “given a life sentence, full credit” for “all time spent in confinement,” including pretrial incarceration, “must be given *for parole eligibility purposes*.” *Bartholomey v. State*, 267 Md. 175, 195 (1972) (emphasis added).

There was nothing illegal about appellant’s sentence. The circuit court properly denied appellant’s motion to correct illegal sentence.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**