

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2008

September Term, 2015

CRAIG S. BROOKS

v.

FRANK BISHOP, WARDEN

Krauser, C.J.,
Graeff,
Nazarian,

JJ.

PER CURIAM

Filed: December 12, 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.

Craig S. Brooks, an inmate at the North Branch Correctional Facility, appeals from an order of the Circuit Court for Baltimore City denying his petition for a writ of habeas corpus, in which he claimed that the Department of Correction (“DOC”) and the Maryland Parole Commission (“Parole Commission”) had violated his civil and constitutional rights by increasing his sentence, and that he was entitled to immediate release from prison. Because Brooks is not entitled to immediate release, we affirm.

Maryland Rule 15-303(e)(3)(A) provides, in pertinent part, that, if a petition for a writ of habeas corpus complies with Rule 15-302, “the judge shall grant the writ unless . . . the judge finds from the petition, any response, reply, document filed with the petition or with a response or reply, or public record that the individual confined or restrained is not entitled to any relief[.]” “We review the denial of an application for habeas corpus relief under the standard set forth in Maryland Rule 8-131(c). We will review the case on both the law and the evidence, and will not set aside the judgment on the evidence unless clearly erroneous.” *Wilson v. Simms*, 157 Md. App. 82, 91, *cert. denied* 382 Md. 687 (2004).

In 1988, Brooks was convicted of armed robbery and a handgun violation. That same year, he was convicted of a second armed robbery offense. These convictions resulted in consecutive sentences totaling 35 years, resulting in a maximum expiration date of his term of confinement of October 18, 2022. In June 2008, Brooks was released on parole.

In 2012, while on parole, Brooks was convicted of first-degree murder and a related handgun violation. He was sentenced to life imprisonment, with all but 50 years

suspended, for the murder conviction, and a 20-year sentence for the handgun violation, to be served concurrently with the life sentence. These sentences began on July 18, 2011. Brooks was also convicted in 2012 of first-degree assault, and was sentenced to 25 years’ imprisonment, without the possibility of parole, beginning July 25, 2011, and to be served concurrent to any outstanding or unserved sentence. Because Brooks is serving a combination of sentences imposed before and after his release on parole, the sentences are aggregated into a single term of confinement, which is defined as “the period of confinement between the earliest starting date of the sentences and the latest expiration date of the sentences, excluding time out of custody for which credit is not allowed.”¹

Maryland Code (1999, 2016 Supp.), Correctional Services Article (“CS”), §7-501(b), provides that “[a]n inmate convicted of a violent crime committed on or after October 1, 2009, is not eligible for a conditional release under this section until after the inmate becomes eligible for parole under § 7-301(c) or (d) of this title.” CS § 7-301(c)(1)(ii) provides, in relevant part:

[a]n inmate who has been sentenced to the Division of Correction after being convicted of a violent crime committed on or after October 1, 1994, and who has been sentenced to more than one term of imprisonment, including a term during which the inmate is eligible for parole and a term during which the inmate is not eligible for parole, **is not eligible for parole until the inmate has served . . . a period equal to the term during which the inmate is not eligible for parole.**

(Emphasis added).

¹ See Code of Maryland Regulations (“COMAR”) 12.02.06.01.B(18)(e).

Brooks’s aggregated term of confinement includes the twenty-five year sentence, without the possibility for parole, for first-degree assault, which is a “violent crime” that was committed after the applicable dates in §§ 7-501(b) and 7-301(c).^{2,3} Therefore, pursuant to CS § 7-501(b), *supra*, Brooks is not eligible for release on mandatory supervision until he becomes eligible for parole on his sentence for first-degree assault on July 25, 2036.

Habeas corpus actions based on unlawful detainment may be maintained where the available remedy is either immediate release, or “the ordering of a proceeding or hearing which may lead to the petitioner’s release.” *Lomax v. Warden*, 356 Md. 569, 575 (1999). Because Brooks is not eligible for immediate release, or a hearing that would entitle him to immediate release, he is not entitled to habeas corpus relief.

**ORDER OF THE CIRCUIT COURT FOR
BALTIMORE CITY AFFIRMED. COSTS
TO BE PAID BY APPELLANT.**

² See CS § 7-101(m)(1); and Maryland Code (2002, 2012 Repl. Vol.) Criminal Law Article, § 14-101(a)(19).

³ According to a “Sentence Calculation Worksheet” included in the appendix to appellee’s brief, the date of the offense of first-degree assault was May 3, 2011.