

Circuit Court for Prince Georges County  
Case No. CT87-722B

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1737

September Term, 2016

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JEFFREY MARCUS THURMAN

v.

STATE OF MARYLAND

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

JJ.

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PER CURIAM

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Filed: November 6, 2017

\*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 2015, Jeffrey Marcus Thurman, appellant, filed a motion, in the Circuit Court for Prince George’s County, to correct an illegal sentence on the ground that his sentence to prison “for the balance of his natural life” for felony murder was unlawful. The circuit court denied the motion, and Thurman filed a timely appeal. We affirm.

In April 1987, Thurman was indicted for offenses that occurred on or about March 16, 1987. He was tried before a jury in October 1987 and convicted of first-degree felony murder, robbery with a deadly weapon, and use of a handgun in the commission of a crime of violence. On December 4, 1987, Thurman was sentenced on the murder conviction to “the balance of [his] natural life” and to a consecutive twenty-year term for the handgun offense. (The armed robbery conviction merged with felony murder for sentencing purposes.) Following a petition for post-conviction relief, the circuit court vacated the handgun sentence.

In this appeal, Thurman asserts that the circuit court erred in denying his motion because his sentence for murder was “ambiguous” and “illegal” and “exceeded the maximum penalty authorized by law at the time of his sentencing.” He also maintains that his life sentence “illegally prohibits him from gaining the full benefit of the diminution credits he has earned” while incarcerated and “thus unlawfully lengthens his overall term of confinement.” He requests that we “vacate his sentence of the remainder of his natural life, re-impose a life sentence [and] then suspend the life sentence for a fixed number of years,” thereby “guaranteeing a mandatory release date.” We hold that Thurman’s sentence is lawful and that his complaint about the use of his diminution credits does render his otherwise legal sentence illegal under Rule 4-345(a).

At the time Thurman was sentenced, the penalty for first-degree murder was death or imprisonment for life. *See* Md. Code, Article 27, § 412(b) (1982 Repl. Vol.). Thurman was sentenced to prison for the “remainder of his natural life” which, at that time, could only have meant life imprisonment. A sentence to imprisonment for one’s “natural life” was terminology previously used to mean life imprisonment. *See* Md. Code, Article 27, § 413(a) (1976 Repl. Vol.) (“Every person convicted of murder in the first degree shall undergo a confinement in the penitentiary of the State for the period of their natural life unless otherwise provided in this section.”). Thurman was not eligible for a sentence to life without the possibility of parole because that sentencing option did not become available until July 1, 1987, *see* Acts of 1987, chapter 237, and was only applicable for offenses committed after that date. *Collins v. State*, 318 Md. 269, 298 (1990). Thurman was convicted of felony murder based on acts committed on or about March 16, 1987. Moreover, nothing on the original or amended commitment records, or in the record before us, indicates that Thurman’s sentence was a life sentence without the possibility of parole.<sup>1</sup> In short, Thurman was sentenced to life imprisonment, a lawful sentence for felony murder.

Thurman’s allegation that his life sentence “illegally prohibits him from gaining the full benefit of the diminution credits he has earned” while incarcerated does not render his sentence “inherently illegal” and thus is not an issue he may raise in a Rule 4-345(a) motion to correct an illegal sentence. Relief under Rule 4-345(a) is limited; it applies only to

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<sup>1</sup> It appears that the Parole Commission interprets Thurman’s sentence as a parolable life sentence and that Thurman, in fact, received a parole hearing in September 2016.

situations “in which the illegality inheres in the sentence itself; *i.e.*, there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which it was imposed and, for either reason, is intrinsically and substantively unlawful.” *Chaney v. State*, 397 Md. 460, 466 (2007).

In any event, Thurman’s complaint about the use of diminution credits in the context of a life sentence was addressed by this Court in *Witherspoon v. Maryland Parole Commission*, 149 Md. App. 101 (2002). There, we agreed with the Attorney General’s analysis of the issue, *see* 86 Op. Att’y Gen., 01-002 (January 25, 2001), and concluded that “[a]n inmate serving a parolable life sentence cannot obtain early release based on diminution of confinement credits . . . because there is no maximum expiration date on such an inmate’s sentence from which the diminution credits could be subtracted.” 149 Md. App. at 106. The credits are not useless, however, because they may be considered when determining the date the inmate is *eligible* for parole. *Id.* No one serving a parolable life sentence, however, *must* be paroled and, in fact, may only be paroled “with the approval of the Governor.” Md. Code, Correctional Services Article, § 7-206(3)(i) (2008 Repl. Vol., 2016 Supp.).

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