

Circuit Court for Prince George's County
Case No. CT910261B

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1814

September Term, 2016

LAMONT EUGENE COLBERT

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: December 7, 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 1991, a jury in the Circuit Court for Prince George’s County convicted Lamont Eugene Colbert and a co-defendant of first-degree murder and carrying a weapon openly with intent to murder. The evidence included the testimony of two eye-witnesses who testified that they observed Colbert confront the victim and knock him to the ground and kick him. The co-defendant then approached and both he and Colbert “tussled” with the victim and started stabbing him. One eye-witness related that “first [Colbert] had the knife and [the co-defendant] snatched it out of his hand.” When either Colbert or the co-defendant wielded the knife, the other held the victim. The victim died as a result of five stab wounds to the back. The court sentenced both Colbert and the co-defendant to life imprisonment. This Court affirmed the judgments. *Colbert v. State*, No. 647, September Term, 1992 (filed December 17, 1992).

In 2016, Colbert filed a motion to correct an illegal sentence pursuant to Rule 4-345(a), in which he maintained that his life sentence was inherently illegal because his first-degree murder conviction was a “nullity.” Specifically, he argued that his co-defendant was the principal in the first degree and he was merely an accomplice. He claimed that the court’s instructions to the jury on that point were confusing. He also asserted the evidence before the jury was insufficient to support a finding that he had the “mens rea” or “specific intent” to commit first-degree murder and, therefore, he could only have been convicted of a lesser offense, such as second-degree murder. The circuit court found “no meritorious basis to conclude that an illegal sentence was imposed” and denied relief, without a hearing. Colbert appeals that decision. We affirm.

Relief under Rule 4-345(a) is limited; it applies only to 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).

Colbert was convicted of first-degree murder and a life sentence for that offense is lawful. (He does not contend otherwise.) His claim, that the evidence was insufficient to support a conviction for first-degree murder and that the court erred in its instructions to the jury, is something he should have raised on direct appeal. A Rule 4-345(a) motion to correct an illegal sentence is very narrow in scope and is clearly “not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case.” *Colvin v. State*, 450 Md. 718, 725 (2016) (quotation omitted).

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