Circuit Court for Washington County
Case No. 21-K-13-48129

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2137

September Term, 2016

LAMONT CORTEZ HARDMAN

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: December 28, 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 2013, a jury in the Circuit Court for Washington County convicted Lamont C. Hardman, appellant, of robbery, second-degree assault, false imprisonment, and theft of property valued between $1,000 and $10,000. The court sentenced him to fifteen years' imprisonment for robbery, to a consecutive term of one year and one day for false imprisonment, and to a concurrent term of five years for theft. (The court merged second-degree assault with robbery for sentencing purposes.) On appeal, this Court affirmed the convictions, but vacated the sentence for the theft conviction because it should have merged with the robbery conviction for sentencing purposes. *Lamont C. Hardman v. State,* No. 2482, September Term, 2013 (filed April 15, 2015). We rejected Hardman's contention that his conviction for false imprisonment should also have merged with the robbery offense for sentencing purposes, noting that "the victim was confined longer than the time necessary to accomplish the robbery." *Slip op.* at 8. The Court of Appeals denied his petition for writ of certiorari. *Lamont Hardman v. State,* 444 Md. 639 (2015).

In 2016, Hardman filed a motion to correct an illegal sentence pursuant to Rule 4-345(a), which the circuit court denied. He appeals that judgment. We affirm.

Hardman's arguments on appeal center upon his claim that all of the crimes that he was convicted of were essentially the "same offense" and, therefore, all should have merged for sentencing purposes. The only sentences that Hardman is serving (or is obligated to serve)[1] is the fifteen-year sentence for robbery and the one-year and one-day

[1] Hardman's sentences were ordered to run consecutive to any outstanding sentence that he was then serving or obligated to serve. It is not clear from the record before us whether he has begun serving the sentences imposed in this case.

sentence for false imprisonment. Thus, the only question before us is whether those sentences are "inherently illegal," for Rule 4-345(a) purposes, because merger was required.[2] As noted above, we answered this question in Hardman's direct appeal when we held that his robbery and false imprisonment convictions do not merge. Specifically, we concluded that the "evidence was sufficient to establish that appellant falsely imprisoned [the victim] by confining him and placing him in fear of leaving his place of confinement, and that such confinement occurred before and after appellant's robbery." *Slip op.* at 9. Because we have already considered and rejected appellant's claim that these crimes constituted the "same offense," under the law of the case doctrine our decision on direct appeal is binding, and the issue may not be relitigated. *Baltimore County v. Fraternal Order of Police,* 449 Md. 713, 729 (2016) ("'[O]nce an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case.'") (quoting *Scott v. State*, 379 Md. 170, 183 (2004))).

JUDGMENT OF THE CIRCUIT COURT FOR WASHINGTON COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[2] A court's failure to merge a sentence where merger is *required* constitutes an illegal sentence for Rule 4-345(a) purposes. *Pair v. State,* 202 Md. App. 617, 624 (2011), *cert. denied,* 425 Md. 397 (2012). As for Hardman's argument that his sentences should have merged for fundamental fairness reasons, as we did in *Pair*, we decline "to review the issue of merger pursuant to the so-called 'fundamental fairness' test because we do not believe that it enjoys the procedural dispensation of Rule 4-345(a)." 202 Md. App. at 649.