

Circuit Court for Baltimore City
Case No. 816180013

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2031

September Term, 2018

ALEXANDER H. JIGGETTS

v.

STATE OF MARYLAND

Leahy,
Gould,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: February 14, 2020

*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 2016, appellant, Alexander H. Jiggetts, pleaded guilty, in the Circuit Court for Baltimore City, to two counts of telephone misuse. Pursuant to a plea bargain, the court then sentenced Jiggetts to three years, all but time served suspended, for the first count, and a consecutive three years, all but time served suspended, for the second count. The court also placed Jiggetts on probation for two terms of three years, to run concurrently. Jiggetts later moved to correct his sentence as illegal for the court’s failure to award him “two years and seven months[’]” credit against his terms of probation. The court denied Jiggetts’ motion. In this appeal, Jiggetts presents for our review a single question, which we rephrase for clarity:¹

Did the circuit court err in denying Jiggetts’ motion to correct an illegal sentence?

We affirm the judgment of the circuit court. Because Jiggetts has completed the sentence and terms of probation that he now challenges—his appellate brief having been filed mere days prior to the expiration of his probation—his appeal is now moot. Notwithstanding the mootness of his appeal, because Jiggetts understood that under the plea agreement he would be required to serve a term of probation of three years, his sentence was not illegal.

BACKGROUND

On November 10, 2013, Jiggetts made multiple calls to 911, during which he falsely stated that there was a “possible active shooter or barricade situation” at Under Armour

¹Jiggetts’ question presented *verbatim* is: “Did the trial court of Judge Marcus Shar err when the court denied appellant’s motion to correct illegal sentence and award the two years and seven month [sic] without a hearing?”

Headquarters on Hull Street in Baltimore City. Police subsequently determined that the calls were a hoax, and had been made from a vacant home on Calhoun Street. Police responded to the home where they discovered Jiggetts, who was in possession of four cell phones. While Jiggetts was sitting in a police interview room awaiting transportation to booking, an officer overheard Jiggetts say: “I don’t know why I’m charged because there’s no law on the Maryland books for terroristic threats so I shouldn’t be charged at all.” The following day, police discovered a fifth cell phone and Jiggetts’s birth certificate at the Calhoun Street home.

Jiggetts was charged on November 12, 2013, in Baltimore City District Court, with several counts of telephone misuse and false statements. He was subsequently referred for a psychological evaluation and was found incompetent to stand trial. He was then released from pretrial detention and committed to the Department of Health and Mental Hygiene, now the Maryland Department of Health. On June 9, 2016, Jiggetts was returned to pretrial detention after a finding that he was no longer incompetent. Jiggetts requested a jury trial and his case was transferred to the Circuit Court for Baltimore City.

On July 28, 2016, the court held a plea hearing during which Jiggetts pled guilty to two counts of telephone misuse. Defense counsel explained that Jiggetts had been “diagnosed paranoid schizophrenic” and “found incompetent to stand trial,” and had “been continuously incarcerated for two years and nine months” at “Spring Grove.”² Defense counsel stated that he was “looking for . . . a suspended sentence and probation or time

²We assume that defense counsel was referring to the Spring Grove Hospital Center in Catonsville, Maryland.

served disposition.” The prosecutor responded that “the State would be asking for some probation,” because “the State’s real concern is ensuring that . . . Jiggetts continues on his mental health treatment and medication.” The prosecutor suggested a total sentence of “six years suspend all but time served with something like three years or four years of probation.” Defense counsel requested a term of probation of three years, and the court bound itself to impose such a sentence.

During the plea colloquy, defense counsel told Jiggetts: “The judge is, in fact, sentencing you to . . . three years but he’s suspending all of that time except for the time that you served and you would have to do three years of probation.” Defense counsel later asked Jiggetts: “[H]as anyone in any way, shape[,] or form, other than what the judge has said he would sentence you to, has anyone promised you, threatened you, coerced you, or did anything to make you enter this plea . . . against your will?” Jiggetts replied: “No.” The court subsequently imposed the agreed-upon sentence.

On February 21, 2017, Jiggetts was charged with violation of probation. On October 26, 2017, the charge was dismissed.

On April 30, 2018, Jiggetts moved to correct his sentence as illegal, claiming that although he “was incarcerated for about two years and seven months,” he “was only credited 54 days” on his “probation order,” and he “should only have to do about four months of probation.” On June 5, 2018, the circuit court denied the motion without a hearing. Jiggetts then filed a notice of appeal on July 9, 2018, after the deadline to appeal had passed. On September 5, 2018, the circuit court granted Jiggetts “permission for a belated application for leave to appeal” and extended his leave to appeal for thirty days

from the date of filing. Jiggetts did not file a brief within that timeframe, and on October 19, 2018, this Court issued an “Order to Show Cause, in writing, within 30 days, why appeal should not be dismissed. On November 5, 2018, the Order was returned by mail as undeliverable. On November 7, 2018, this Court received the record and, the next day, mailed a Session Briefing Notice to the parties. The mail to Jiggetts was again returned as undeliverable.

On November 15, 2018, this Court issued an order to show cause why a transcript was not received in the case. The next docket entry reflects that on June 11, 2019, a corrected Session Briefing Notice was mailed to the parties and also noted that Jiggetts’ brief should be filed by July 22, 2019. On July 22, 2019, Jiggetts filed 10 copies of his appellate brief and filed a motion to allow the office of the public defender to file a transcript on his behalf. On July 24, 2019, this Court entered an order directing Jiggetts to file 15 copies of a corrected brief on or before August 14, 2019. On July 30, 2019, Jiggetts filed six additional copies of his brief.³ At that time, Jiggetts had served the entirety of his sentence and his term of probation.

DISCUSSION

Jiggetts contends that the court erred in denying his motion to correct illegal sentence because the court was required to give him credit for two years and seven months

³ On August 15, 2019, Jiggetts filed a “Motion to Extend Time to File Brief[.]” On August 22, 2019, this Court ordered “that [Jiggetts’] brief filed on July 22, 2019 [was] accepted for filing[.]” and that “appellee’s brief shall be filed on or before the 30th day following the date of” the order. This Court further ordered that Jiggetts’ motion for an extension of time to file was “denied as moot.” The State filed its brief on September 20, 2019.

against his sentence “whether [the] sentence is over or not.” Jiggetts asserts that had the court given him that credit, he “would have only [five] months left to do . . . on [his] sentence or probation.”

The State responds that Jiggetts’ “grievance . . . is now moot,” because his “probation . . . expired in July” 2019, and he “does not appear to have any pending violations” and “is not currently incarcerated on the present case.” Even if Jiggetts were still on probation, the State asserts, “a failure to award credit is not an illegality inhering in the sentence itself, and is therefore not within the ambit of sentences that may be ‘corrected’ by operation of Rule 4-345(a).”

We agree with the State that Jiggetts’ appeal is moot. In *Barnes v. State*, 423 Md. 75 (2011), the Court of Appeals explained that

[a]s Rule 4-345(a) simply permits a court to revise an illegal sentence, rather than to modify or overturn the underlying conviction, it follows that a court can no longer provide relief under that rule once a defendant has completed his or her sentence. In that instance, there is no longer a sentence to correct, and a court should dismiss the motion as moot unless special circumstances demand its attention.

Barnes, 423 Md. at 86 (citations omitted). Here, Jiggetts received an executed sentence of time served and a suspended period of time, along with three years of probation. Jiggetts had completed his term of probation within days of filing his appellate brief. While we do not fault Jiggetts for the delay, even if, *arguendo*, Jiggetts’ motion was meritorious, “because [Jiggetts] served his full sentence, there is no ‘sentence’ for us to revise, meaning that we can ‘no longer fashion an effective remedy.’” *Barnes*, 423 Md. at 88. Consequently, Jiggetts’ motion to correct his sentence is moot.

While this case presents no “special circumstances” that would warrant consideration of a moot issue, we note that even if Jiggetts’ motion was not moot, we would conclude that the motion is without merit. Jiggetts does not cite any authority that would have required the court to reduce the term of *probation* by the amount of time that he was committed to Spring Grove, rather than the term of *imprisonment*. Moreover, even though Jiggetts was sentenced to two three-year terms of probation, as a result of the plea agreement he was only required to serve three years on probation. Before Jiggetts entered his plea, defense counsel explicitly advised him that he would be required to serve a term of probation of three years, and Jiggetts explicitly confirmed that no one had promised him otherwise. Jiggetts knowingly and voluntarily agreed to the term of probation, and therefore, the court did not err in denying the motion to correct illegal sentence.

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