

Circuit Court for Prince George's County
Case No. CT97-0455B

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2105

September Term, 2017

JAMES ALBERT WEST

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: December 31, 2018

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

This is an appeal from the denial of a motion to correct an illegal sentence. In 1998, a jury sitting in the Circuit Court for Prince George’s County convicted James Albert West, the appellant, of first-degree felony murder, robbery with a deadly weapon, robbery, conspiracy to commit robbery with a dangerous weapon, conspiracy to commit robbery, and use of a handgun in the commission of a felony. The court sentenced Mr. West to life imprisonment for first-degree murder, to a concurrent 10-year term for conspiracy to commit armed robbery, and to a consecutive 20-year term for the handgun conviction. The remaining counts merged. Mr. West’s convictions were affirmed on direct appeal. *See West v. State*, 124 Md. App. 147 (1998).

Mr. West asserts his sentence is illegal for four reasons, all which lack merit. First, relying upon § 3-8A-07(a) of the Courts and Judicial Proceedings Article, he asserts that because the juvenile court maintained jurisdiction over him in two unrelated juvenile delinquency proceedings predating the offense for which the challenged sentences were imposed, the circuit court never acquired jurisdiction over him in the instant case. Subsection (b) of that statute clarifies that it “does not affect the jurisdiction of other courts over a person who commits an offense after the person reaches the age of 18.” Because Mr. West was 20-years old when he committed the subject offense, the circuit court had jurisdiction over him.

Second, Mr. West contends that by sentencing him to be imprisoned for the remainder of his “natural life” for first-degree murder, the court imposed a sentence that only was statutorily authorized for the crime of first-degree rape. He is mistaken. At the

relevant time, Article 27, § 412(b) provided that “a person found guilty of murder in the first degree shall be sentenced to death, imprisonment for life, or imprisonment for life without the possibility of parole.” When sentencing Mr. West, the court used the terminology “natural life,” which, under prior iterations of the statute, meant life imprisonment. *See* Md. Code Ann., Art. 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.”). A life sentence was then and is now a lawful sentence for the crime of first-degree murder. *See* Md. Code Ann., Crim. Law § 2-201(b) (2012 Repl. Vol.) (prescribing a sentence of life imprisonment or life without the possibility of parole for the crime of first-degree murder).

Third, Mr. West contends his life sentence is illegal because he was not personally served with notice that the State intended to seek a sentence of life without the possibility of parole. The short answer to this is that the court sentenced Mr. West to life imprisonment, not life without the possibility of parole, making any procedural irregularity related to the sentence he did not receive immaterial.¹

Mr. West’s final contention is that, drawing upon the trilogy of Supreme Court cases restricting the sentences that may be imposed upon juvenile offenders under the

¹ In any event, the State did serve upon Mr. West’s counsel notice of its intent to seek a sentence of life without the possibility of parole, in full compliance with the notice requirements.

Eighth Amendment, *see Roper v. Simmons*, 543 U.S. 551 (2005) (juvenile death penalty); *Graham v. Florida*, 560 U.S. 48 (2010) (life imprisonment without the possibility of parole for non-homicide offense); *Miller v. Alabama*, 567 U.S. 460 (2012) (mandatory life imprisonment without the possibility of parole), the sentencing court should have considered his underdeveloped brain as a mitigating factor before sentencing him to life in prison. As already mentioned, Mr. West was an adult at the time of the subject offense, making those cases inapplicable to him. To the extent that he argues that his youth should have been given more weight by the sentencing court in fashioning an appropriate sentence, a motion to correct an illegal sentence is not the appropriate vehicle to address that contention. *See, e.g., Carlini v. State*, 215 Md. App. 415, 425-26 (2013) (“The illegality must actually inhere in the sentence itself and must not be a procedural illegality or trial error antecedent to the imposition of sentence.”).

For all these reasons, the circuit court did not err by denying Mr. West’s motion to correct an illegal sentence.

**ORDER OF THE CIRCUIT COURT FOR
PRINCE GEORGE’S COUNTY DENYING
MOTION TO CORRECT ILLEGAL
SENTENCE AFFIRMED. COSTS TO BE
PAID BY THE APPELLANT.**