Circuit Court for Wicomico County
Case No.: 22-K-16-000124

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2149

September Term, 2024

RICHARD NATHANIEL JONES

v.

STATE OF MARYLAND

Wells, C.J.,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 15, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

In 2017, a jury in the Circuit Court for Wicomico County found appellant, Richard Nathaniel Jones, guilty of child sexual abuse, fourth-degree sex offense, and two counts of second-degree assault. For child sexual abuse, the court sentenced him to 25 years' incarceration, suspending all but 12 years, and to a five-year term of supervised probation upon release. The court imposed a term of five years' imprisonment for one count of second-degree assault, to run consecutively to the child sexual abuse sentence. The court merged the remaining offenses for sentencing purposes. On direct appeal, this Court rejected Jones' contention that the evidence was insufficient to support the child sexual abuse conviction and affirmed the judgments. *Jones v. State*, No. 556, September Term, 2018 (filed unreported September 6, 2019).

In November 2024, Jones, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he asserted that his sentences are illegal because of "statutory misapplication" of the law. Specifically, he claimed that because he was not the biological or adoptive parent of the child victim, he was improperly charged under Crim. Law § 3-602(b)(1), hence rendering his conviction for child sexual abuse illegal. He also asserted that his conviction for fourth-degree sexual offense was "based on improper categorization and application of the statutory definition." The circuit court denied relief. For the reasons to be discussed, we shall affirm the judgment.

DISCUSSION

Rule 4-345(a) provides that a court may "correct an illegal sentence at any time[,]" but the Rule is very narrow in scope and is "limited to those situations in which the illegality inheres in the sentence itself[.]" *Chaney v. State*, 397 Md. 460, 466 (2007). An

inherently illegal sentence is one in which there "has been no conviction warranting any sentence for the particular offense[,]" *id.*; where "the sentence is not a permitted one for the conviction upon which it was imposed[,]" *id.*; where the sentence exceeded the sentencing terms of a binding plea agreement, *Matthews v. State*, 424 Md. 503, 519 (2012); or where the court "lacked the power or authority" to impose the sentence. *Johnson v. State*, 427 Md. 356, 370 (2012). However, a "'motion to correct an illegal sentence is 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) (quoting *State v. Wilkins*, 393 Md. 269, 273 (2006)). In other words, "only claims sounding in substantive law, not procedural law, may be raised through a Rule 4-345(a) motion." *Id*. at 728. Appellate court review of the circuit court's ruling on a motion to correct an illegal sentence is *de novo*. *Bratt v. State*, 468 Md. 481, 494 (2020).

Among other offenses, Jones was charged with child sexual abuse pursuant to § 3-602 of the Criminal Law Article. Specifically, he was charged with violating subsection (b)(1), which provides:

> A parent *or other person* who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor.

(Emphasis added.)

Count 4 of the indictment in this case charged the following:

> THAT RICHARD NATHANIEL JONES, on or about the 8th day of February, 2016, in Wicomico County, State of Maryland, did cause sexual abuse to [name redacted] the defendant being *other person*, to wit: mother's live-in boyfriend, *who has temporary care/responsibility for supervision of*

> [name redacted] contrary to the form of the Act of Assembly in such cases made and provided, against the peace, government and dignity of the State. Art. CR Sec. 3.602 (b) (1)

(Emphasis added.)

On direct appeal, Jones argued that the evidence was insufficient to establish guilt under the "caretaker" (i.e. "other person") provision of Crim. Law § 3-602(b)(1) because he claimed that he had neither "temporary care or custody" of the child victim nor "responsibility for [her] supervision." This Court disagreed and affirmed the judgment.

In his motion to correct an illegal sentence and in this appeal from the denial of that motion, Jones, relying on *Mohan v. State*, 257 Md. App. 65 (2023), maintains that the charges against him were "improperly levied" because he did not "qualify as a 'parent' under" the statute. What Jones disregards, however, is that he was not charged as a "parent" in this case, but rather as an "other person who has permanent or temporary care or custody or responsibility for the supervision of a minor." Consequently, Jones' reliance on *Mohan* is misplaced.

In *Mohan*, we held that the defendant, who was the stepfather of the child he was convicted of sexually abusing, did not qualify as a "parent" under Crim. Law § 3-602(b)(1). *Id*. at 72. We concluded that the "meaning of 'parent' under [Crim. Law] § 3-602(b)(1) is limited to biological or adoptive parent only" and because Mohan was neither, we reversed his conviction for child sexual abuse. *Id*. at 83-84. However, Mohan, unlike Jones, was charged with causing sexual abuse to a minor, "the defendant being said child's parent[.]" *Id*. at 73. Mohan, unlike Jones, was not charged as an "other person" with care, custody, or responsibility for the child's supervision. Our decision in *Mohan* only focused on the

meaning of "parent" as used in the statute because Mohan was charged "specifically and only as a 'parent[.]'" *Id*. at 76. In short, *Mohan* does not support Jones' position that, because he is not the victim's biological or adoptive parent, he was improperly charged and convicted in this case of child sexual abuse.

We reiterate that Crim. Law § 3-602(b)(1) provides that "[a] parent *or* other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor." (Emphasis added.) When the legislature uses the word "or" in a statute, it "generally has a disjunctive meaning, that is, the word is used to indicate an alternative between unlike things, states, or actions." *State v. Williams*, 255 Md. App. 420, 445 (2022) (cleaned up). Thus, "parent" has a different meaning than "other person" under the statute at issue here. This Court in *Mohan* did not address the meaning of "other person" and we certainly did not hold that it means a biological or adoptive parent. Moreover, in his direct appeal this Court fully addressed and found meritless Jones' contention that he was not an "other person" who had the temporary care, custody, or responsibility for the supervision of the minor child in this case. Thus, his sentence for child sexual abuse is legal.

Finally, Jones asserts that his "conviction" for fourth-degree sexual offense, a violation of Crim. Law § 3-308(b)(1), "is also legally deficient." As the State points out, however, this conviction was merged with the child sexual abuse offense for sentencing purposes and, consequently, no sentence was imposed for this crime. A Rule 4-345(a) motion to correct an illegal sentence is focused on inherently illegal *sentences* and "is 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*, 450 Md. at 725 (quotation marks and citation omitted). Any argument Jones may have about the fourth-degree sexual offense conviction, therefore, is not properly before this Court and we shall not address it.

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