

Circuit Court for Baltimore County
Case No: 03-K-95-003207

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2248

September Term, 2019

ANTHONY LEE DAVENPORT

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: February 1, 2021

*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 1996, a jury in the Circuit Court for Baltimore County found Anthony Lee Davenport, appellant, guilty of first-degree murder. On June 24, 1996, the court sentenced him to life without the possibility of parole. In 2019, Mr. Davenport, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he asserted that his sentence was illegal because the credit he was due for pre-trial detention was applied by back-dating the start of his sentence to July 29, 1995, the date he was arrested and apparently held without bail. He asserted that this was a misapplication of his “earned credit” and because it was “ADDED” to his sentence he is “serving more time than what is required by law.” The circuit court summarily denied the motion.

In his timely appeal, Mr. Davenport reiterates the contentions made in his motion. He also asserts, for the first time on appeal, that his sentence is illegal because of alleged defects in the sentencing hearing, including allegations that he was “deprived [of] presentence information”; the court failed to “state on the record the amount of time to be credited and the facts upon which the provision for credit [was] based”; the sentencing judge “voice[d] her personal feelings contrary to the rule of law, inferred ill will and prejudice”; his attorney proceeded with the sentencing hearing and did not confer with him regarding the absence of his “primary counsel” who, after the trial, had “transferred” to another position; and he has “been denied the knowledge of the number of diminution credits earned to date.”

The State responds that Mr. Davenport’s sentence to life without parole is legal, the court properly applied the pre-trial credit to his sentence, and his remaining allegations are

not the proper subject of a motion to correct an illegal sentence. We agree with the State and shall affirm the judgment.

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, 368 (2012). Notably, 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)).

A sentence to life without parole for first-degree murder is lawful. Md. Code Ann., Criminal Law § 2-201(b) (previously codified as Article 27 § 412(b)). An allegation regarding credit to be applied to a sentence is not the proper subject of a Rule 4-345(a) motion to correct an illegal sentence. *Bratt v. State*, 468 Md. 481, 499-500 (2020). As for Mr. Davenport’s remaining allegations, none speak to the inherent illegality of the sentence but instead are, at best, procedural issues which could have been raised on direct appeal, if

they had been preserved. Accordingly, we hold that the circuit court did not err in denying Mr. Davenport’s Rule 4-345(a) motion.

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