Circuit Court for Baltimore City
Case Nos: 19065020, 21

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2261

September Term, 2019

VON HAMMOND

v.

STATE OF MARYLAND

Beachley,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 22, 2020

In 2014, a jury sitting in the Circuit Court for Baltimore City found Von Hammond, appellant, guilty of first-degree rape, second-degree rape, third-degree sex offense, fourth-degree sex offense, second-degree assault, and kidnapping. The court sentenced Mr. Hammond to life imprisonment for first-degree rape, to a consecutively run term of 10 years for kidnapping, and merged the remaining offenses for sentencing purposes. On direct appeal, Mr. Hammond argued, among other things, that the trial court abused its discretion when it granted the State's request to reopen the case, after it had been on the stet docket for four years. We concluded that the trial court did not abuse its discretion in moving the case from the stet docket, and we affirmed the judgments. *Hammond v. State*, No. 929, Sept. Term, 2015 (filed July 12, 2016), *cert. denied*, 450 Md. 227 (2016).

In 2019, Mr. Hammond, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he asserted that the State had breached a plea agreement when the State moved to reopen his case without showing good cause. The circuit court denied the motion, noting that the "same allegation" was addressed on direct appeal and found to be without merit. Mr. Hammond appeals that ruling. For the reasons to be discussed, we shall affirm the judgment denying the Rule 4-345(a) motion.

BACKGROUND

On February 13, 2009, a woman was brutally attacked and raped. Two days later, the victim identified Mr. Hammond as her assailant. The State charged Mr. Hammond with first-degree rape and other offenses. Trial was set for June 18, 2009, but on that date

the State, with the defense's consent, placed the case on the stet docket.[1] Four years later, the State requested that the court re-open the case and, over Mr. Hammond's objection, the court granted the request. Mr. Hammond was tried in August 2014. As noted above, on direct appeal this Court held that the court did not abuse its discretion in granting the State's request to reopen the case. No. 929, Sept. Term, 2015, slip *op.* at 8.

In his Rule 4-345(a) motion, Mr. Hammond claimed that the re-opening of his case violated a plea agreement, but he did not produce any evidence to reflect that there was, in fact, a plea agreement between him and the State. He did attach to his motion the transcript from the June 18, 2009 proceeding in which the State requested that the case be placed on the stet docket. That transcript reflects that the State proposed the stet on the "condition" that Mr. Hammond have no "unlawful contact" with the victim. Defense counsel, on the record, explained to Mr. Hammond what this meant.

> [DEFENSE COUNSEL]: Okay, the State is now going to place this case on the Stet docket. That means they're not dismissing it. However, they aren't prosecuting the case either. Either you or the State can reopen the case for a year thereafter. The State would have to show good cause. You have to accept the Stet on the record because you're waiving your right to a speedy trial should the case be reopened. Do you accept the Stet in regard to a speedy trial at this time?
>
> MR. HAMMOND: Yes.
>
> [DEFENSE COUNSEL]: And also, do you understand a special condition is that you have no unlawful contact with the victim in this case, [name omitted]?

[1] Rule 4-248(a) provides that on motion by the State and with no objection from the accused, "the court may indefinitely postpone trial of a charge by marking the charge 'stet' on the docket." "A stetted charge may be rescheduled for trial at the request of either party within one year and thereafter only by order of court for good cause shown." *Id.*

MR. HAMMOND: Yes.

The court then entered the stet. Four years later, on July 30, 2013, the court convened a hearing on the State's motion to reopen the case. The defense opposed the reopening, arguing a lack of good cause to do so and a violation of Mr. Hammond's right to a speedy trial. Notably, the defense did not mention any "plea agreement." The court found good cause to reopen the case and, as noted, on appeal this Court affirmed that ruling.

DISCUSSION

In the appeal presently before us, Mr. Hammond continues to maintain that the State breached a "plea agreement" by moving to reopen the case. The State responds that this Court determined on direct appeal that the trial court properly exercised its discretion in reopening the case; there was no plea agreement between the State and Mr. Hammond; and his sentence is not illegal. In reply, Mr. Hammond asserts that a stet "falls under plea agreements" and that there was "a binding plea agreement" in this case and, therefore, his conviction and sentence are illegal because the case was reopened "without good cause." He also offers a host of reasons as to why he believes that there was not good cause to reopen his case.

First, on direct appeal we addressed the trial court's finding that there was good cause to reopen the case and, accordingly, we will not revisit that issue in this appeal. *State v. Holloway*, 232 Md. App. 272, 285 (2017) (Under the law of the case doctrine, "[n]either questions that were decided nor questions that could have been raised and decided on appeal can be relitigated." (quotation omitted)). Second, we agree with the State that there is nothing in the record before us to reflect that the State and Mr. Hammond entered into a

binding agreement that would have prevented the State from moving to reopen the case. And third, because Mr. Hammond's sentence is within the statutory limits – a fact he does not dispute – it is legal. We hold, therefore, that the circuit court did not err in denying Mr. Hammond's motion to correct an illegal sentence.

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