Circuit Court for Charles County
Case No. 08-K-09-000466

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2418

September Term, 2018

TIMOTHY DARRELL WOODLAND

v.

STATE OF MARYLAND

Wells,
Zic,
Wright, Alexander
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: December 23, 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.

This appeal arises from the Circuit Court for Charles County's denial of a motion for modification of a mandatory minimum sentence filed pursuant to the Justice Reinvestment Act ("JRA"). *See* 2016 Md. Laws, ch. 515. Among other things, the JRA permits a person serving a mandatory minimum sentence for certain drug offenses, imposed prior to the effective date of the Act, to file a motion for modification of the sentence even where he or she would otherwise be ineligible to do so. *See* Md. Code Ann., Crim. Law § 5-609.1.

In 2009, Timothy Darrell Woodland, appellant, pleaded guilty, under a binding plea agreement, to two separate drug distribution offenses and received, as a second-time offender, consecutive ten-year, mandatory minimum sentences without the possibility of parole. Subsequently, the no-parole provision was stricken from the latter of the two sentences.[1] While still serving the first sentence, with the mandatory no-parole condition, Mr. Woodland filed a motion for modification. The circuit court denied that motion, apparently expressing doubt that it had the authority to grant it because Mr. Woodland's sentence had been imposed under a binding plea agreement and the State did not consent to any modification.

Mr. Woodland now appeals from the denial of his motion for modification, contending that the court erred in its belief that the State's consent was required for a downward modification of his sentence. We stayed the appeal pending a decision by the

[1] In an unreported opinion, we held that the mandatory no-parole condition could not be imposed on both sentences. *Woodland v. State*, No. 636, Sept. Term 2013, slip op. at 10-11 (Md. App. Aug. 12, 2014).

Court of Appeals in *Brown v. State*, 470 Md. 503 (2020), reasoning that the Court's decision could determine the outcome of this case. While this appeal was pending, Mr. Woodland finished serving the mandatory sentence and is now serving the second, non-mandatory sentence. The State then moved to dismiss on the ground of mootness.

For the reasons that follow, we shall deny the State's motion to dismiss and vacate and remand so that the circuit court may reconsider the motion for modification in light of *Brown*.

BACKGROUND

On November 17, 2009, in the Circuit Court for Charles County, Mr. Woodland pleaded guilty, in Case Number 08-K-09-000466 ("Case No. 466"), to possession of cocaine with intent to distribute and, in Case Number 08-K-09-000825 ("Case No. 825"), to distribution of cocaine. Under that binding plea agreement, the State agreed to dismiss other pending charges, and the court agreed to impose two consecutive ten-year sentences without the possibility of parole, befitting Mr. Woodland's status as a repeat offender.

Three years later, Mr. Woodland filed a motion to correct an illegal sentence, contending that he could be given only one sentencing enhancement as a second-time offender. The court denied his motion, but on appeal, we reversed in an unreported opinion. *Woodland*, slip op. at 10-11. Thereafter, on April 15, 2015, the court re-imposed a ten-year, no-parole sentence in Case No. 466, with a start date of October 12, 2009, and a consecutive ten-year sentence with the possibility of parole in Case No. 825.

Following the enactment of the JRA, on April 19, 2018, Mr. Woodland filed a motion for modification of his sentence in Case No. 466. On September 11, 2018, a hearing was held on that motion. During that hearing, Mr. Woodland's counsel maintained that the court had authority to reduce the sentence or eliminate the mandatory no-parole condition under Criminal Law § 5-609.1, which, by its terms, applies "[n]otwithstanding any other provision of law."[2] Crim. Law § 5-609.1(a). The State

[2] Section 5-609.1 of the Criminal Law Article provides:

> (a) Notwithstanding any other provision of law and subject to subsection (c) of this section, a person who is serving a term of confinement that includes a mandatory minimum sentence imposed on or before September 30, 2017, for a violation of §§ 5-602 through 5-606 of this subtitle may apply to the court to modify or reduce the mandatory minimum sentence as provided in Maryland Rule 4-345, regardless of whether the defendant filed a timely motion for reconsideration or a motion for reconsideration was denied by the court.
>
> (b) The court may modify the sentence and depart from the mandatory minimum sentence unless the State shows that, giving due regard to the nature of the crime, the history and character of the defendant, and the defendant's chances of successful rehabilitation:
>
> > (1) retention of the mandatory minimum sentence would not result in substantial injustice to the defendant; and
> >
> > (2) the mandatory minimum sentence is necessary for the protection of the public.
>
> (c)(1) Except as provided in paragraph (2) of this subsection, an application for a hearing under subsection (a) of this section shall be submitted to the court or review panel on or before September 30, 2018.

(continued)

countered that § 5-609.1 "does not override the provisions of Maryland Rule 4-243[(c)(3)],"[3] which require the State's consent to a modification of a sentence below the floor established by a binding plea agreement, and that the State did not consent to such a downward revision in this case. The court denied the motion for modification "at [that] time" but stated that "should circumstances change" and "should the State change their mind," it would revisit the matter "immediately."

This timely appeal followed. During the pendency of this appeal, we certified four questions to the Court of Appeals in *Brown v. State*, No. 328, September Term, 2018, *Bottini v. State*, No. 61, September Term, 2017, and *Wilson v. State*, No. 1918, September Term, 2017. Because those issues could be outcome determinative here,[4] we stayed the

---

> (2) The court may consider an application after September 30, 2018, only for good cause shown.
>
> (3) The court shall notify the State's Attorney of a request for a hearing.
>
> (4) A person may not file more than one application for a hearing under subsection (a) of this section for a mandatory minimum sentence for a violation of §§ 5-602 through 5-606 of this subtitle.

[3] Rule 4-243(c)(3) states that "[i]f the plea agreement is approved, the judge shall embody in the judgment the agreed sentence, disposition, or other judicial action encompassed in the agreement or, with the consent of the parties, a disposition more favorable to the defendant than that provided for in the agreement."

[4] The certified issues were:

> (1) whether the circuit courts can modify minimum mandatory sentences when they were imposed pursuant to binding plea agreements; (2) whether the circuit courts can modify minimum mandatory sentences when they were

(continued)

instant appeal pending the Court's decision. The Court has since rendered a decision in those cases, *see Brown*, 470 Md. 503, and we lifted the stay in the instant appeal. The State then moved to dismiss the case as Mr. Woodland had finished serving the mandatory sentence.

DISCUSSION

I. PARTIES' CONTENTIONS

Mr. Woodland asks that we remand to provide the circuit court an opportunity to reconsider his motion for modification in light of *Brown*. According to Mr. Woodland, we can infer that the court believed that it lacked the authority to modify his sentence because it had been imposed pursuant to a binding plea agreement and the State did not consent to a modification. Given that *Brown* has clarified that the court did have the authority to modify his sentence, we should hold, Mr. Woodland avers, that the court abused its discretion in denying the motion.

Furthermore, anticipating that the State would argue that his motion for modification has been mooted because, during the pendency of this appeal, he has completed serving the mandatory sentence in Case No. 466, Mr. Woodland directs us to *Kranz v. State*, 459 Md. 456 (2018), where the Court of Appeals rejected a similar

---

imposed pursuant to binding plea agreements in which the defendant waived his or her right to seek a modification of sentence; (3) whether the circuit court can deny motions filed pursuant to Criminal Law Article § 5-609.1 without holding a hearing; and (4) whether the Court of Special Appeals has jurisdiction to consider an appeal from an order denying a motion filed pursuant to Criminal Law Article § 5-609.1.

argument in the context of the Uniform Postconviction Procedure Act.[5] According to Mr. Woodland, the court could, on remand, reduce the already-served sentence in Case No. 466 and if it did so, the end date for the sentence he is currently serving in Case No. 825 would be earlier than it now stands.

As Mr. Woodland anticipated, the State moved to dismiss on the ground that he has fully served the mandatory sentence in Case No. 466, leaving the court with no sentence to modify. It directs us to *Barnes v. State*, 423 Md. 75 (2011), a plurality decision that concluded that a purportedly illegal sentence that had already been served could no longer be corrected "unless special circumstances demand" the court's attention. *Id.* at 86. In the alternative, the State suggests that, if we reach the merits of this appeal, we order a limited remand so that the court may clarify whether it denied Mr. Woodland's motion because of a perceived conflict with Rule 4-243(c)(3) or because it found that modification was not warranted.

---

[5] Mr. Kranz filed a postconviction petition while serving a sentence and he subsequently completed that sentence, including its term of probation, while his appeal was pending. *Kranz*, 459 Md. at 460-61. The State contended that completion of the sentence rendered Mr. Kranz's claim moot and, furthermore, divested us of appellate jurisdiction. *Id.* at 461. We agreed as to the latter contention, *see Kranz v. State*, 233 Md. App. 600, 609-10 (2017), but the Court of Appeals reversed and held that the jurisdictional requirement is "determined upon the filing of a petition for postconviction relief" and, "absent the petitioner's procedural default at any point in the process, Maryland courts retain jurisdiction throughout consideration of the petition." 459 Md. at 473-79. It also rejected the State's mootness argument, reasoning that Mr. Kranz still faced significant collateral consequences from his conviction despite his release from custody. *Id.* at 472-73.

II. ANALYSIS

As a threshold matter, we note that in *Brown* the Court of Appeals held that the denial of a motion for modification under Criminal Law § 5-609.1 is appealable and that the standard of review is abuse of discretion. 470 Md. at 552-53. The Court elaborated on that standard as follows:

> [A]n abuse of discretion occurs "when the court acts without reference to any guiding rules or principles," "where no reasonable person would take the view adopted by the court," or where the "ruling is clearly against the logic and effect of facts and inferences before the court." Failure of a court to recognize or exercise its discretion "for whatever reason – is by definition not a proper exercise of discretion."

Id. at 553 (citation omitted) (first quoting *Alexis v. State*, 437 Md. 457, 478 (2014); and then quoting *State v. Alexander*, 467 Md. 600, 620 (2020)).

Rule 4-243(c)(3) provides that, under a binding plea agreement, "the judge shall embody in the judgment the agreed sentence, disposition, or other judicial action encompassed in the agreement or, with the consent of the parties, a disposition more favorable to the defendant than that provided for in the agreement." The Court of Appeals has held that, under this provision, the State's consent is required before a court may modify a defendant's sentence below the sentence agreed to in a binding plea agreement. *See Bonilla v. State*, 443 Md. 1, 7-12, 15 (2015).

The JRA, however, on its face permits a defendant given a mandatory minimum sentence on or before September 30, 2017 for certain drug offenses, including those at issue here, to file a belated motion for modification without qualification as to whether the sentence was imposed under a binding plea agreement. *See* Crim. Law § 5-609.1. In

Brown, the Court of Appeals held that the "retroactive safety valve provision" in § 5-609.1 "supersedes other law, including the law that enforces provisions of binding plea agreements made prior to the JRA that resulted in mandatory minimum sentences." 470 Md. at 534-35, 553.

With the added hindsight of *Brown*, it is clear that the circuit court erred to the extent that it believed that it lacked the authority to modify Mr. Woodland's sentence because it had been imposed pursuant to a binding plea agreement and the State did not consent to a modification. Because a court's "[f]ailure . . . to recognize or exercise its discretion 'for whatever reason – is by definition not a proper exercise of discretion,'" remand is seemingly required in this case.[6] *Brown*, 470 Md. at 553 (quoting *Alexander*, 467 Md. at 620). There is, however, an additional complication we must address—whether the court, on remand, can afford Mr. Woodland a remedy given that, during the pendency of this appeal, he completed serving his mandatory sentence.

According to the State, it cannot. The problem with that view is that, at the time Mr. Woodland sought modification of his mandatory sentence under § 5-609.1, the court had the authority to grant him a remedy but declined to do so seemingly on the ground of legal error.[7] *See Brown*, 470 Md. at 553 (concluding that, "[u]nder CR § 5-609.1, a court

[6] We see no reason to constrain the circuit court's scope of review on remand. If the court actually found, as the State suggests, that no modification was warranted, then the court may say so on remand. As the Court of Appeals observed, a court is not bound to grant or deny a motion for modification under § 5-609.1, though the State bears the burden of persuasion that modification is not warranted. *Brown*, 470 Md. at 539-40, 547.

[7] The circuit court did not have the benefit of *Brown* when it ruled on Mr. Woodland's motion for modification and thus its ruling is understandable.

may modify a mandatory minimum sentence imposed prior to the effective date of the JRA following a guilty plea pursuant to a binding plea agreement, even if the State does not consent to the modification"). Under the State's view, the court's legal error would, in effect, permanently deprive Mr. Woodland of the chance for relief under § 5-609.1. Given the clear legislative intent to afford persons in Mr. Woodland's position a one-time opportunity to seek an individualized sentence "based on the circumstances of [their] case" in lieu of the mandatory sentence actually received, *Brown*, 470 Md. at 552, we cannot countenance that result, which would thwart the legislative intent behind the JRA.[8]

The outcome of this case might be a different if Mr. Woodland had served both sentences. Because he is currently serving the sentence in Case No. 825, it is possible to afford him a remedy, but it requires the possibility of a retroactive modification of the completed sentence in Case No. 466 because that is the only sentence subject to modification under § 5-609.1(a).[9] We agree with Mr. Woodland that, on remand, the

[8] That is especially true because the "retroactive safety valve provision" in § 5-609.1 is, itself, of limited duration. *See* Crim. Law § 5-609.1(c)(1) (generally requiring that "an application for a hearing under subsection (a) of this section shall be submitted to the court or review panel on or before September 30, 2018"). That one-year window makes sense because other sections of the JRA prospectively eliminated mandatory sentences in cases such as this. *See Brown*, 470 Md. at 519 (citing 2016 Md. Laws, ch. 515, § 2). Given the prevalence of plea bargaining in resolving criminal cases, *see Brown*, 470 Md. at 515, and the uncertainty in the law prior to *Brown*, it is likely that a significant fraction of persons eligible for sentence modifications under § 5-609.1 would have no effective remedy if we adopted the State's position.

[9] Contrary to the State's assertion that the sentences in Case Nos. 466 and 825 are not a "sentencing package" as contemplated in *Twigg v. State*, 447 Md. 1, 27-29 (2016),

(continued)

court retains the authority to reduce the mandatory sentence in Case No. 466. If it chooses to do so, the end date for the sentence he is presently serving in Case No. 825 would be earlier than it is currently.[10] Accordingly, we deny the State's motion to dismiss, vacate the circuit court's order denying Mr. Woodland's motion for modification, and remand the case for reconsideration of his motion in light of *Brown*.

MOTION TO DISMISS DENIED. JUDGMENT OF THE CIRCUIT COURT FOR CHARLES COUNTY VACATED. CASE REMANDED TO THAT COURT FOR RECONSIDERATION OF APPELLANT'S MOTION FOR MODIFICATION IN ACCORDANCE WITH THIS OPINION. COSTS TO BE PAID BY CHARLES COUNTY.

---

they were enough of a "sentencing package" to fall within a single global plea agreement. Certainly a reasonable layperson in Mr. Woodland's position, not specially educated in the law, would have perceived the sentences in the two cases as a "package," given that he could not be released from incarceration until he finished serving both sentences. *See Cuffley v. State*, 416 Md. 568, 582 (2010) (interpreting the terms of a binding plea agreement through the lens of "what a reasonable lay person in the defendant's position and unaware of the niceties of sentencing law would have understood the agreement to mean").

[10] We hasten to add that, in the absence of a remedial statute such as the JRA, we do not hold that an already-served sentence is generally subject to retroactive modification. But to the extent that *Barnes* is persuasive authority in this case, we observe that the enactment of the JRA constitutes a "special circumstance[] demand[ing]" the court's consideration of Mr. Woodland's motion for modification. *Barnes*, 423 Md. at 86.