

Circuit Court for Baltimore City
Case No. 110125010

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2461

September Term, 2023

MARVIN L. WARNER

v.

STATE OF MARYLAND

Nazarian,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 1, 2024

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

Marvin L. Warner, appellant, appeals from the denial, by the Circuit Court for Baltimore City, of a motion to amend commitment record. For the reasons that follow, we shall affirm the judgment of the circuit court.

On February 2, 2011, Mr. Warner was convicted by a jury of first degree murder, use of a handgun in the commission of a crime of violence, conspiracy to commit burglary, illegal possession of a handgun, and related offenses. On March 18, 2011, the court sentenced Mr. Warner as follows:

In case number 110125010, the jury having found you guilty of first degree murder, the sentence is life. Because the jury found you guilty of use of a handgun in commission of a crime of violence, the Court imposes a consecutive sentence of 20 years. [J]ury having found you guilty, conspiracy to commit burglary after you murdered [the victim], you conspired to commit burglary as to his paramour's property. . . . So the Court imposes a consecutive sentence of 20 years. As to the charge [of] felon in possession, the Court imposes a consecutive sentence of 5 years. (Inaudible) will be, they're going to merge.

The court's docket entries indicate that on March 24, 2011, the court issued an "[a]mended commitment" record. The commitment record is not in the record before us.

On December 1, 2023, Mr. Warner filed the motion to amend commitment record, in which he contended that Rule 4-351(a)(5) (requiring that a commitment record contain a "statement whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of the preceding term or to any other outstanding or unserved sentence") "was not adhered to during [the] sentencing procedure." The court denied the motion.

Mr. Warner now contends that the court abused its discretion in denying the motion, because it failed to "correct[] the non-compliance" with Rule 4-351(a)(5). We shall affirm

the judgment of the circuit court for two reasons. First, Mr. Warner, who as the appellant has the burden to ensure that the record contains the allegedly erroneous commitment record, failed to do so. Hence, we cannot review the commitment record for error. *See Denicolis v. State*, 378 Md. 646, 657 (2003) (“a trial court’s actions and decisions are generally presumed to be correct[,] and . . . it is the appellant’s burden to produce a record sufficient to show otherwise” (citation omitted)). Second, it is clear from the sentencing court’s pronouncement of sentence that it intended for the sentence for use of a handgun in the commission of a crime of violence to run consecutively to the sentence for first degree murder, for the sentence for conspiracy to commit burglary to run consecutively to the sentence for use of a handgun in the commission of a crime of violence, and for the sentence for illegal possession of a handgun to run consecutively to the sentence for conspiracy to commit burglary. There is no ambiguity in the sentencing court’s intent or pronouncement of sentence, and hence, the court did not abuse its discretion in denying the motion to amend commitment record.

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