

Circuit Court for Baltimore County  
Case No: 03-K-80-068408

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 3275

September Term, 2018

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ANTHONY J. PRESBERRY

v.

STATE OF MARYLAND

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Nazarian,  
Leahy,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: November 8, 2019

\*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.

Following a bench trial in 1980 in the Circuit Court for Baltimore County, Anthony J. Presberry, appellant, was convicted of first-degree rape, assault with intent to murder, kidnapping, robbery with a dangerous weapon, common law assault, and use of a handgun in the commission of a felony. The court sentenced Mr. Presberry to imprisonment “for no less than the period of his natural life” for the rape offense and to a consecutive term of 30 years for the assault with intent to murder. Other sentences imposed were ordered to run concurrently with the life sentence. This Court affirmed the judgments. *Presberry v. State*, No. 1062, September Term, 1980 (filed March 27, 1981).

In 2018, Mr. Presberry filed a motion to correct an illegal sentence in which he maintained that his sentence to “no less than the period of his natural life” for first-degree rape was illegal because the statute at the time provided for a sentence of “imprisonment for no more than the period of his natural life.” *See* Article 27, § 462(b). He argued that the phrase “no less than” essentially constituted a mandatory minimum sentence and the trial court had no discretion to impose a mandatory minimum sentence. The circuit court rejected Mr. Presberry’s argument, concluding that the “sentencing judge’s characterization of [Mr. Presberry’s] imprisonment as ‘no less than the period of his natural life’ is simply another way of saying [he] received a life sentence.” And because a life sentence is a permitted penalty for first-degree rape, the court denied his motion.

On appeal, Mr. Presberry makes the same arguments he made in the circuit court. He asserts that “a sentence of no less than [his] natural life is different in significant respects from a life sentence,” maintaining that the former “has an effect of mandating a minimum sentence and converts a discretionary life sentence into a mandatory one.” We disagree.

The trial court imposed a life sentence, plus a consecutive 30-year term, at the urging of the prosecutor who reminded the court of the “brutal rape” and “brutal attack” on the victim. There is nothing in the record before us to suggest that the sentencing court misunderstood the penalty for first-degree rape or failed to exercise its discretion when imposing the sentence. And because the sentence is legal, the circuit court did not err in denying Mr. Presberry’s motion to correct it.

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