

Circuit Court for Baltimore County
Case No. 03-K-00-2265

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 417

September Term, 2018

ROBERT JUNIUS PITTMAN

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: April 3, 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.

In 2001, Robert Junius Pittman, appellant, was convicted by a jury sitting in the Circuit Court for Baltimore County of felony murder, attempted robbery with a dangerous weapon, and use of handgun in the commission of a felony. The court sentenced Mr. Pittman to life imprisonment for felony murder, and a consecutive 15-year sentence for the handgun conviction.¹

In February 2018, Mr. Pittman filed a motion to correct an illegal sentence, claiming that, although the commitment record indicates that he was awarded credit for 167 days spent in custody prior to sentencing, his sentence was nonetheless illegal because the court did not announce, on the record, the credit for time served, as required by § 6-218(e)(2) of the Criminal Procedure Article. The court denied the motion.

The State does not dispute Mr. Pittman’s claim that he is entitled to credit, and it assumes, for the purposes of appeal, that, as Mr. Pittman asserts, the commitment record is incorrect because the date of arrest the credit is based on is inaccurate. It appearing to the Court that Mr. Pittman is entitled to credit against his sentence, and that the failure of the court to state the amount of credit and the basis for the credit on the record, as required by § 6-218(e), was merely a procedural irregularity that does not make Mr. Pittman’s sentence inherently illegal,² we remand the case to the circuit court for the limited purpose of

¹ The attempted armed robbery conviction was merged with felony murder for purposes of sentencing.

² See *Tshiwala v. State*, 424 Md. 612, 619 (2012) (“where the sentence imposed is not inherently illegal, and where the matter complained of is a procedural error, the complaint does not concern an illegal sentence for purposes of Rule 4-345(a).”)

clarifying the amount of credit for time served, and, if necessary, to correct the commitment record.³

CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE COUNTY FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY BALTIMORE COUNTY.

³ Given our conclusion that the failure of the court to announce the credit for time served was a procedural irregularity, we need not address Mr. Pittman’s contention that his sentence is illegal under *Lawson v. State*, 187 Md. App. 101 (2009).