

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 174

September Term, 2016

RAMON JESUS DORADO

v.

STATE OF MARYLAND

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 6, 2017

*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 1984, Ramon Jesus Dorado, appellant, pleaded guilty, in the Circuit Court for Montgomery County, to two counts of first-degree felony murder and was later sentenced to two terms of life imprisonment, to run concurrently. In 2015, he filed a motion to correct an illegal sentence in which he claimed that his convictions were illegal because he was charged with “common law murder,” which he asserted was “second degree murder,” and hence his sentence should not have exceeded thirty years’ imprisonment. After the circuit court denied the motion, Dorado noted this appeal. We affirm.

In essence, Dorado asserts that his life sentences are illegal because he was never charged with first-degree murder. He is incorrect.

Dorado acknowledges that he was charged with murder using the statutory “short form” of indictment. At that time, Article 27, § 616 provided:

In any indictment for murder or manslaughter, or being an accessory thereto, it shall not be necessary to set forth the manner or means of death. It shall be sufficient to use a formula substantially to the following effect: “That A.B., on the day of . . . nineteen hundred and . . . , at the county aforesaid, feloniously (willfully and of deliberately premeditated malice aforethought) did kill (and murder) C.D. against the peace, government and dignity of the State.”

Article 27, § 616 (Md. Code, 1982 Repl. Vol.) ¹

Dorado was charged with two counts of murder. The indictment stated:

First Count: Murder

The Grand Jurors of the State of Maryland, for the body of Montgomery County, upon their oaths and affirmations, present that RAMON JESUS DORADO, on or about June 20, 1983, in Montgomery County, Maryland, unlawfully, willfully

¹ This statute, in substantially the same form, is presently codified as Section 2-208 of the Criminal Law Article of the Maryland Code (2012 Repl. Vol.).

and of deliberately premeditated malice aforethought, did kill and murder John Lynn Offut, in violation of the Common Law and against the peace, government and dignity of the State. (Murder, Common Law)

Count three was identical to count one, except that it charged Dorado with murdering another person, Michael Royce Cashion.

Dorado points out that his indictment refers to “common law” murder, language not included in the statutory short form indictment set forth in Article 27, § 616 and, moreover, that it did not cite the felony murder statute (Art. 27, § 410). He then asserts that his indictment was “unconstitutionally invalid on its face and lacks substantive reference and citation to any statute and does not comply with Article 27, 616.” He therefore maintains that he was simply charged “with common law murder,” which he contends “legally represents second degree murder.”

In *Ross v. State*, 308 Md. 337 (1987), the Court of Appeals held that the statutory short form indictment for murder is sufficient to charge a defendant with first-degree premeditated murder and felony murder (as well as second-degree murder and manslaughter). *Id.* at 341-342 (1987). The Court noted that “a conviction of first degree murder may be proved *either* by showing deliberation, willfulness and premeditation (premeditated murder), or by showing a homicide committed in the perpetration, or attempted perpetration, of one of the enumerated felonies (felony murder).”² Although first-degree murder “may be proved” by either modality, the *Ross* Court stated that “[t]here

² A murder committed in the course of committing (or attempting to commit) certain enumerated felonies is a “felony murder,” that is, murder in the first degree. *See* Crim. Law, § 2-201(a) and former Art. 27, § 410.

is no requirement [] that a charging document must inform the accused of the specific theory on which the State will rely.” *Id.* at 344. Thus, the fact that Dorado’s indictment did not explicitly refer to first-degree murder, felony murder, or the felony murder statute is not relevant. Nor is the fact that Dorado’s indictment referred to “common law murder” relevant because, under the common law, “murder” includes both first-degree murder of the premeditated type and felony murder. *Jackson v. State*, 286 Md. 430, 435 (1979) (“[A]t common law, homicide arising in the perpetration of, or in the attempt to perpetrate, a felony is murder whether death was intended or not[.]”); *Hardy v. State*, 301 Md. 124, 137-138 (1984) (“Equally well-settled is that one may be convicted of first-degree murder under an indictment charging common law murder.”).

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