

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 418

September Term, 2016

BRANDON JUSTIN FLETCHER

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: May 3, 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 2010, appellant Brandon Justin Fletcher pleaded guilty, in the Circuit Court for Wicomico County, to first-degree burglary and illegal possession of a regulated firearm. The circuit court subsequently sentenced him to a term of twenty years' imprisonment, with all but eight years suspended, for the burglary offense; to a consecutive term of five years' imprisonment, without the possibility of parole, for the firearm offense; and to a period of three years' supervised probation upon release.

In 2016, Fletcher filed a motion to correct an illegal sentence in which he claimed that his sentence exceeded the terms of his plea agreement. The circuit court denied the motion. Fletcher appeals that decision. For the reasons discussed below, we affirm.

As placed on the record of the plea hearing, the State agreed to *recommend* a sentence of “five years active incarceration” for first-degree burglary and a consecutive term of “five years active incarceration” for the firearm offense, with these sentences to run consecutively to the sentence he was then serving.¹ Prior to accepting the plea, the court ensured that Fletcher (who was then 23 years old and had completed three years of a college education), understood that the maximum penalty for first-degree burglary was twenty years' imprisonment and that the firearm offense carried a minimum mandatory penalty of five years' imprisonment, without the possibility of parole. Fletcher informed the court that he understood the penalties he was facing. The court also informed Fletcher that “the State, as a part of the plea agreement,” would be recommending a sentence “but

¹ In its brief, the State asserts that Fletcher “failed to produce the transcripts of the plea hearing.” The transcript of the plea and sentencing hearing, however, is in the record before us at pages 343 - 353.

that [the court was] not bound by the State’s recommendation” and the court could “impose any sentence that [it] thinks is appropriate after hearing the facts of the case” and allocution by the defense. The court further advised Fletcher that “the only limit is that [it] could not sentence [him] to more than the statutory maximums on each of these cases[.]” Fletcher replied that he understood those facts.

In this appeal, Fletcher contends that a reasonable person in his position would have understood that he would be sentenced to a flat term of five years’ imprisonment. His position is not supported by the record. In sum, because the record of the plea proceeding clearly establishes that the court had not agreed to impose any particular sentence and that it was free to impose any sentence permitted by statute, Fletcher’s sentence was lawful.

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