

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 806

September Term, 2016

WILLIE L. BARTON

v.

RICKY FOXWELL, WARDEN

Woodward, C.J.,
Kehoe,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 1, 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 1975, Willie L. Barton, appellant, was convicted of first-degree murder following a jury trial in the Circuit Court for Wicomico County, and was sentenced to life imprisonment.¹ In 2015, Barton filed a petition for writ of habeas corpus, claiming that the Division of Correction (DOC) was violating his due process rights by refusing to reduce the length of his life sentence by awarding him diminution of confinement credits. After the circuit court denied his petition, Barton filed this appeal raising a single issue: whether the circuit court erred in ruling that he was not entitled to use diminution credits to earn a release to mandatory supervision. For the reasons that follow, we affirm.

Barton’s claim is foreclosed by *Witherspoon v. Maryland Parole Comm’n*, 149 Md. App. 101 (2002). In *Witherspoon*, this Court held that, although diminution credits may be used to reduce the parole eligibility date of an inmate serving a life sentence, “an inmate serving a parolable life sentence cannot obtain an early release to mandatory supervision based on diminution of confinement credits . . . because there is no maximum expiration date on such an inmate’s sentence from which the diminution credits could be subtracted.” *Id.* at 106. In so holding, we adopted the Attorney General’s explanation of this distinction, noting that, although it was “apparent . . . the Legislature intended to incorporate . . . incentives for good behavior and participation in education and work programs,” for “an inmate serving a life sentence[,] . . . [those] credits . . . result, not in automatic release from custody, but only in earlier eligibility for parole.” *Id.* (quoting 86 Ops. Att’y Gen. 01-002, at 5 (Jan. 25, 2001)). Because no statute required the DOC to award Barton diminution

¹ The court also imposed a consecutive three-year sentence for openly carrying a weapon with intent to injure.

credits that would reduce the length his indeterminate life sentence, his due process rights were not violated. *See Wolff v. McDonnell*, 418 U.S. 539, 557 (1974) (holding that absent a legislative directive there is no constitutional right to reduce one’s sentence through diminution credits). Consequently, the circuit court did not err in denying Barton’s habeas petition.

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