

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2807

September Term, 2015

DEANDRE LAMONT WILLIAMS

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: February 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.

Pursuant to an indictment filed in the Circuit Court for Baltimore County in 2006, Deandre Lamont Williams, appellant, was charged with murder, attempted murder, first-degree assault, three counts of use of a handgun in the commission of a crime of violence, and related offenses, but not with, as Williams notes, wearing, carrying, or transporting a handgun. After a jury convicted Williams of second-degree murder, first-degree assault, and two counts of use of a handgun in the commission of a crime of violence, he was sentenced to thirty years' imprisonment for second-degree murder and to a consecutive term of twenty years' imprisonment for one of the handgun offenses. (He was also sentenced to concurrent terms of ten years' on the assault conviction and the remaining handgun offense.) This Court affirmed. *Williams v. State*, No. 99, Sept. Term, 2007 (filed March 17, 2009).

In 2015, Williams filed a motion to correct an illegal sentence under Md. Rule 4-345(a). He claimed that, by presenting evidence and arguing to the jury that he had a handgun which he used to kill one victim and assault another, the State had improperly “constructively amended” the indictment to include wearing, carrying, or transporting a handgun -- an offense not included in the indictment. He also argued that, because he was not formally charged with wearing, carrying, or transporting a handgun (or any other “possession of a handgun” offense), his “indictment for use of a handgun, second-degree murder, and first-degree assault do not charge an offense for which he could be convicted.” In other words, his position was that possession of a handgun is a “necessary or essential element” of the use of a handgun offense and the State’s failure to charge him with possession of a handgun precluded a conviction for use of handgun in the commission of a

crime of violence and precluded convictions for the crimes committed using a handgun (murder and first-degree assault). The circuit court denied the motion, prompting this appeal.

Williams makes the same arguments on appeal that he did in the circuit court. He relies on *Johnson v. State*, 427 Md. 356 (2012) to support his position. *Johnson*, however, is clearly distinguishable. Johnson had been charged with attempted murder and other offenses. *Id.* at 362. He was acquitted of attempted murder, but convicted of “assault with intent to murder.” *Id.* at 363. Sixteen years later, Johnson filed a motion to correct his sentence claiming, for the first time, that, because he had never been charged with “assault with intent to murder,” the trial court had lacked the power to convict and sentence him for that crime. *Id.* The circuit court denied the motion, but, ultimately, the Court of Appeals reversed, holding that, because the indictment was never properly amended to include the charge of assault with intent to murder, Johnson could not have been found guilty of that offense and, hence, his sentence for that crime was illegal. *Id.* at 376.

Williams, however, was not sentenced for a crime not contained in the indictment, as was Johnson. Nor does Williams cite any authority to support his position that, in order to convict him of use of a handgun in the commission of a crime of violence and of the crimes (murder and first-degree assault) that he committed with the handgun, the State had to also charge him with wearing, carrying, or transporting that handgun. His sentences are thus legal.

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