

Circuit Court for Montgomery County  
Case No.: 125462C

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 2009

September Term, 2023

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NDOKELY PETER ENOW

v.

STATE OF MARYLAND

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Graeff,  
Arthur,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: May 10, 2024

\*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Ndokely Peter Enow filed a motion to correct an illegal sentence in the Circuit Court for Montgomery County in which he asserted that his conviction for solicitation to commit murder was illegal, thereby rendering his sentence illegal. The circuit court denied relief, a ruling he appeals. Because his conviction and sentence are legal, we shall affirm the judgment.

In 2014, Mr. Enow sought to hire someone to kill or maim his ex-wife and the mother of his child. His solicitation was recorded by an undercover police officer posing as a hitman, whom he had given a deposit for the job. A grand jury returned an indictment charging him with solicitation to commit first-degree murder and solicitation to commit first-degree assault.

In 2015, Mr. Enow appeared with counsel in court and pursuant to a plea agreement with the State entered a plea of guilty to solicitation to commit first-degree murder. The court sentenced him in accordance with the plea agreement to 40 years' imprisonment, all but 20 years suspended, to be followed by a 5-year term of supervised probation. Mr. Enow, representing himself, filed an application for leave to appeal, which this Court denied. Subsequent petitions he filed *pro se*, including a petition for post-conviction relief, three petitions for a writ of actual innocence, and a petition for habeas relief have all been denied.

In 2023, Mr. Enow filed a motion to correct an illegal sentence in which he challenged the legality of his conviction and argued that because his conviction is illegal, his sentence is also illegal. As grounds, he asserted he was illegally arrested without probable cause; he was not afforded a preliminary hearing in the District Court of

Maryland; he was illegally indicted; the indictment “failed to charge a cognizable offense” and there was no “evidence” that he had actually paid money to the undercover officer; his trial counsel “colluded with the State’s Attorney” in crafting the plea agreement; the plea agreement was presented to the court without his consent; he was “coerced and induced under duress” to plead guilty; the State’s proffer of facts in support of the plea was not “substantiate[d]” with any physical evidence; the State’s proffer of facts included “a modified and edited audio/video disk” of the solicitation “illegally obtained” by “wiretapped recorded tape conversations” between him and the undercover officer; and the court did not have “subject matter jurisdiction and power” to sentence him. The circuit court denied relief, noting that Mr. Enow had failed to state a cause of action upon which relief could be granted.

Rule 4-345(a) provides that a court “may correct an illegal sentence at any time[.]” but the Rule is very narrow in scope and is “limited to those situations in which the illegality inheres in the sentence itself[.]” *Chaney v. State*, 397 Md. 460, 466 (2007). An inherently illegal sentence is one in which there “has been no conviction warranting any sentence for the particular offense[.]” *id.*; where “the sentence is not a permitted one for the conviction upon which it was imposed[.]” *id.*; where the sentence exceeded the sentencing terms of a binding plea agreement, *Matthews v. State*, 424 Md. 503, 519 (2012); or where the court “lacked the power or authority” to impose the sentence. *Johnson v. State*, 427 Md. 356, 370 (2012). Notably, however, a “motion to correct an illegal sentence is not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case.”

*Colvin v. State*, 450 Md. 718, 725 (2016) (quoting *State v. Wilkins*, 393 Md. 269, 273 (2006)). In other words, “only claims sounding in substantive law, not procedural law, may be raised through a Rule 4-345(a) motion.” *Id.* at 728. Appellate court review of the circuit court’s ruling on a motion to correct an illegal sentence is *de novo*. *Bratt v. State*, 468 Md. 481, 494 (2020).

On appeal, Mr. Enow first maintains that the circuit court erred in denying his motion without a hearing. The circuit court, however, was not required to hold a hearing prior to denying his motion. *See Scott v. State*, 379 Md. 170, 190 (2004) (noting that the “open hearing requirement found in Rule 4-345 ordinarily applies only when the court intends to ‘modify, reduce, correct, or vacate a sentence[,]’” and, by implication, not when denying a Rule 4-345(a) motion to correct an illegal sentence).

Mr. Enow also asserts that his conviction and sentence are illegal for essentially the same reasons he raised in his motion. But his allegations regarding his arrest and the plea proceedings resulting in his conviction cannot be raised in a Rule 4-345(a) motion, and many of those same assertions have been deemed meritless in prior proceedings. He was sentenced in accordance with the plea agreement and, therefore, he cannot (and does not) claim that the sentence imposed violated the terms of that agreement. In essence, the only viable claim he may have is that the trial court lacked the power or authority to impose a sentence for solicitation to commit murder because, in his view, there is no such offense in Maryland. That argument too is meritless. *Brice v. State*, 256 Md. App. 470 (2022)

(affirming a conviction for common law solicitation to commit first-degree murder); *Allen v. State*, 91 Md. App. 705 (1992) (same).

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