

Circuit Court for Wicomico County
Case No. C-22-CR-23-000125

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 102

September Term, 2024

JAPREE AHMEIR AYERS

v.

STATE OF MARYLAND

Leahy,
Zic,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 7, 2025

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

Convicted by a jury in the Circuit Court for Wicomico County of possession of large amounts of heroin and fentanyl, nine counts of conspiracy to commit offenses, and related offenses, Japree Ahmeir Ayers, appellant, presents for our review a single issue: whether eight of “the conspiracy convictions . . . violate [his] constitutional right to be free from Double Jeopardy.” For the reasons that follow, we shall vacate all but one of the convictions for conspiracy. We shall otherwise affirm the judgments of the circuit court.

At trial, the State produced evidence that Mr. Ayers and one or more accomplices committed the following offenses:

- Possession of, and conspiracy to possess, a large amount of heroin;
- Possession of, and conspiracy to possess, a heroin mixture;
- Possession of, and conspiracy to possess, a large amount of fentanyl;
- Possession of, and conspiracy to possess, heroin with intent to distribute;
- Possession of, and conspiracy to possess, fentanyl with intent to distribute;
- Possession of, and conspiracy to possess, a controlled dangerous substance other than cannabis, specifically heroin;
- Possession of, and conspiracy to possess, a controlled dangerous substance other than cannabis, specifically fentanyl;
- Keeping, and conspiracy to keep, a common nuisance for distribution of heroin; and
- Keeping, and conspiracy to keep, a common nuisance for distribution of fentanyl.

Following the close of the evidence, the jury convicted Mr. Ayers of the offenses.

At sentencing, the court imposed the following terms of imprisonment:

- For the possession of a large amount of heroin, a term of imprisonment of twenty years;
- For the possession of a large amount of fentanyl, a consecutive term of imprisonment of twenty years;
- For the conspiracy to possess a large amount of heroin, a consecutive term of imprisonment of twenty years, all suspended; and
- For the conspiracy to possess a large amount of fentanyl, a consecutive term of imprisonment of twenty years, all suspended.

The court merged the remaining convictions.

Mr. Ayers contends that “because the agreements” between him and his accomplice or accomplices “were not distinct and independent of each other with different ends in mind, they are all part of one conspiracy,” and all of the convictions of conspiracy except the conviction for conspiracy to possess a large amount of heroin “must be vacated on Double Jeopardy grounds.” (Quotations omitted.) The State concurs, noting that the court “did not instruct the jury about a single conspiracy or the possibility of multiple conspiracies,” and the “prosecutor, in closing argument, did not distinguish between criminal agreements.” We concur as well. *See Savage v. State*, 212 Md. App. 1, 26 (2013) (“[i]f a defendant is convicted of and sentenced for multiple conspiracies when, in fact, only one conspiracy was proven, the Double Jeopardy Clause has been violated”). Accordingly, we vacate all of the convictions of conspiracy except the conviction of conspiracy to possess a large amount of heroin. *See McClurkin & Jackson v. State*, 222 Md. App. 461, 491 (2015) (“we shall leave standing the conviction and sentence for conspiracy to commit the crime with the greatest maximum penalty”).

**ALL CONVICTIONS OF CONSPIRACY
EXCEPT CONVICTION OF CONSPIRACY
TO POSSESS A LARGE AMOUNT OF
HEROIN VACATED. JUDGMENTS OF
THE CIRCUIT COURT FOR WICOMICO
COUNTY OTHERWISE AFFIRMED.
COSTS TO BE PAID BY WICOMICO
COUNTY.**