

Circuit Court for Montgomery County  
Case No. 124345C

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 134

September Term, 2024

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KENNETH ADOLPHUS HINTON

v.

STATE OF MARYLAND

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Wells, C.J.,  
Graeff,  
Kehoe, Christopher B.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: January 14, 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.

Kenneth Adolphus Hinton, appellant, appeals from the denials, by the Circuit Court for Montgomery County, of a motion to compel “‘State’s Witnesses’ for the . . . State’s Attorney’s Office in the Case at Bar to Promptly Destroy, Cease[,] & Desist Their Custody, Control[,] and Retention of Subpoena[.]s” (hereinafter “motion to compel”), a motion for appropriate relief, a motion for reduction of sentence, and a motion to correct illegal sentence. For the reasons that follow, we shall dismiss the appeal with respect to the denials of the motions to compel, for appropriate relief, and for reduction of sentence. With respect to the denial of the motion to correct illegal sentence, we shall affirm the judgment of the circuit court.

“Following [an August 2015] jury trial in the [circuit court, Mr.] Hinton, . . . representing himself, was convicted of theft scheme of at least \$1,000 but less than \$10,000 and 26 counts of perjury by affidavit.” *Hinton v. State*, No. 661, Sept. Term 2019 (filed June 12, 2020), slip op. at 1. On November 12, 2015, the court sentenced Mr. Hinton to a total term of imprisonment of sixty years for the convictions of perjury, and a consecutive term of imprisonment of ten years for the conviction of theft scheme, for a total term of imprisonment of seventy years.

In February 2022, Mr. Hinton sent to the court a letter in which he requested “prompt indulgence and action to help [him] and [his] family ascertain the unjust, unreasonable[,] and egregious unwarranted delay(s) for ‘just and proper’ disposition of [an] appeal and long-pending writ of actual innocence petition.” On June 13, 2023, the court, treating the letter as a motion for appropriate relief, entered an order in which it denied the motion. On January 8, 2024, Mr. Hinton filed the motion to compel. On January 24, 2024,

the court entered an order in which it denied the motion to compel. On February 8, 2024, Mr. Hinton filed a notice of appeal from the denial of the motion to compel.

On February 9, 2024, Mr. Hinton filed a motion to correct illegal sentence. In the motion, Mr. Hinton alleged numerous errors by the trial court, State, and trial counsel, before discharge, during pre-trial proceedings, trial, pre-sentencing, and sentencing. Mr. Hinton also contended that the sentencing court abused its discretion in failing to “merge the offense of . . . perjury with the offense of . . . theft scheme,” and that the total term of imprisonment of seventy years is “grossly cruel, unusual, and outrageously disproportionate.” Mr. Hinton included in the motion a request for a hearing on the motion. That same date, Mr. Hinton filed a “motion for reduction of sentence.”

On March 4, 2024, Mr. Hinton filed a notice of appeal from the denial of the motion for appropriate relief. On March 8, 2024, the court entered an order in which it denied the request for a hearing on the motion to correct illegal sentence, Mr. Hinton “having failed to allege any illegality, fraud, mistake, or irregularity in his sentence, and the [c]ourt having determined that a hearing was unnecessary for the adjudication of [the motion], which the [c]ourt has denied.” On March 12, 2024, the court entered an order in which it denied the motion for reduction of sentence. On March 15, 2024, Mr. Hinton filed a notice of appeal from “the court’s denial of [the] motion to correct illegal sentence.” On March 18, 2024, the court entered an order in which it denied the motion to correct illegal sentence. On April 5, 2024, Mr. Hinton filed a notice of appeal from the denial of the motion for reduction of sentence.

Mr. Hinton contends that for numerous reasons, the court erred in denying the motions. The State moves to dismiss the appeal on the grounds that it is “not allowed by law or . . . untimely.” Alternatively, the State requests that we affirm the judgments of the circuit court.

With respect to the motion to compel, motion for appropriate relief, and motion for reduction of sentence, we agree with the State that dismissal is required. With respect to the motion to compel, we previously dismissed Mr. Hinton’s appeal from the denial of the motion on the ground that it “does not constitute a final judgment, and is not, therefore, appealable.” *Hinton v. State*, No. 1760, Sept. Term, 2023 (filed November 1, 2024), slip op. at 3. With respect to the motion for appropriate relief, the denial of this motion, like the denial of the motion to compel, does not constitute a final judgment, and hence, is not appealable. With respect to the motion for reduction of sentence, the Supreme Court of Maryland has stated “that the denial of a motion to modify a sentence, unless tainted by illegality, fraud, or duress, is not appealable.” *Hoile v. State*, 404 Md. 591, 615 (2008) (citations omitted). Also, Rule 4-345(e) requires that a motion for modification of sentence be “filed within 90 days after imposition of a sentence.” Mr. Hinton filed his motion more than ninety days after the court imposed sentence in his case, and hence, the motion was filed untimely. Accordingly, we grant the State’s motion in part and dismiss the appeal from the denials of these motions.

With respect to the motion to correct illegal sentence, we shall deny the State’s motion. Rule 8-602(f) states that a “notice of appeal filed after the announcement or signing by the trial court of a ruling, decision, order, or judgment but before entry of the

ruling, decision, order, or judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.” Here, the court, in denying Mr. Hinton’s request for a hearing on the motion to correct illegal sentence, announced that the court had already denied the motion. Hence, we shall treat Mr. Hinton’s notice of appeal from the denial of the motion as filed on the same day as, but after, the court’s denial of the motion, and accordingly, we deny the State’s motion with respect to this judgment.

Nevertheless, we shall affirm the denial of the motion to correct illegal sentence. Mr. Hinton first contends that his total term of imprisonment is “grossly disproportionate.” But, we addressed this contention in one of our previous opinions in Mr. Hinton’s case, stating: “Acknowledging the great deference we afford to the sentencing court, and given that court’s careful consideration of [Mr. Hinton’s] extensive past criminal record dating from the 1980s, his overwhelming and continuing schemes to defraud, his utter lack of remorse for his crimes, his lack of rehabilitation from past incarceration, and the need to deter him by removing from him the possibility of committing further harm to the community, we cannot say the sentence imposed, while substantial, was grossly disproportionate.” *Hinton v. State*, No. 2119, Sept. Term 2015 (filed March 15, 2017), slip op. at 22. Mr. Hinton next contends that a hearing on the motion was improperly denied “by a judge . . . who never sentenced [Mr. Hinton] or presided over [his] cases.” But, Mr. Hinton does not cite any authority that required that Mr. Hinton’s request for a hearing on the motion be resolved by his trial or sentencing judge. Finally, Mr. Hinton contends that the term of imprisonment for the conviction of theft scheme must be “revised” or “modified,” because “[o]n October 1, 2017[,] the Maryland General Assembly . . . revised

the theft statute . . . whereby theft scheme under \$1,500 is now a misdemeanor offense.” (Capitalization and quotations omitted.) But, Mr. Hinton does not cite any authority that requires the court to apply the 2017 amendment retroactively to reduce a term of imprisonment, and hence, the court did not err in denying the motion to correct illegal sentence.<sup>1</sup>

**APPEAL DISMISSED IN PART.  
JUDGMENT OF THE CIRCUIT COURT  
FOR MONTGOMERY COUNTY  
DENYING MOTION TO CORRECT  
ILLEGAL SENTENCE AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**

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<sup>1</sup>In his brief, Mr. Hinton states that he filed an additional notice of appeal on March 8, 2024. There is no such notice in the record. Mr. Hinton further states that he appeals from the denials, dated March 8, 2024, of a “Motion for Order Requiring State’s Attorney to Deliver to Defendant All Discovery Evidence and Materials,” and a “Motion for Show Cause Hearing for Contempt.” But, Mr. Hinton did not file notices of appeal from the denials of the motions, and does not address the denials in his brief. Finally, Mr. Hinton states that he appeals from an order dated March 17, 2024. There is no such order in the record.