

Circuit Court for Charles
County Case Nos.:

08-K-12-000739
08-K-13-001267
08-K-13-000738
08-K-14-001214

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 328
September Term, 2018
RANDY MORQUELL BROWN
v.
STATE OF MARYLAND

No. 2074
September Term, 2018
CHARLES LIN THOMPSON
v.
STATE OF MARYLAND

No. 2075
September Term, 2018
ELROY JAMES HAWKINS
v.
STATE OF MARYLAND

No. 2086
September Term, 2018
TIMOTHY BROWN
v.
STATE OF MARYLAND

Kehoe,
Shaw Geter,
Wilner, Alan M.,
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: September 22, 2020

*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. See Md. Rule 1-104.

— Unreported Opinion —

At separate times in 2013 through 2015, appellants Randy Morquell Brown, Timothy Larry Brown, Charles Lin Thompson and Elroy James Hawkins were sentenced by the Circuit Court for Charles County to serve mandatory minimum sentences without the possibility of parole for drug-related offenses. The sentences were imposed as part of binding plea agreements between the defendants and the State.¹

¹ On April 4, 2013, Randy Morquell Brown pled guilty to a charge of possession of phencyclidine with intent to distribute. In exchange for his plea, the State agreed to nolle pross the remaining twelve counts of a pending indictment and to forgo the prosecution of a second incident that had not yet been charged but was under investigation. The court accepted the plea and sentenced Mr. Brown to a term of incarceration of 10 years without the possibility of parole. *See* Circuit Court for Charles County case no. 08-K-12-000739.

On November 14, 2013, Timothy Larry Brown entered guilty pleas to charges of possession of cocaine with intent to distribute and use of a firearm related to drug trafficking. In exchange for his pleas, the State agreed to nolle pros the remaining nine counts of a pending indictment. The court accepted the plea and sentenced Mr. Brown to a 10-year sentence without the possibility of parole. *See* Circuit Court for Charles County case no. 08-K-13-000738.

On June 16, 2014, Elroy James Hawkins entered guilty pleas to charges of conspiracy to distribute cocaine, possession of cocaine with intent to distribute, one count of distribution of cocaine, and violation of probation. In return, the State agreed to nolle pros other pending charges and to forgo prosecution in other matters under investigation. After accepting the plea, the court sentenced Mr. Hawkins to a term of incarceration of 10 years without the possibility of parole on the possession of cocaine with intent to distribute charge and concurrent 10-year sentences without the possibility of parole on each of the previously-identified charges. *See* Circuit Court for Charles County case no.: 08-K-13-001267.

On March 9, 2015, Charles Lin Thompson entered guilty pleas to one count of distribution of cocaine as well as other pending charges. In return, the State agreed to nolle pros the remaining five counts in a pending indictment as well as additional pending charges. The court sentenced Mr. Thompson to serve a 10-year sentence without the possibility of parole on the distribution charge as well as concurrent terms of 18 months

— Unreported Opinion —

After the effective date of the Justice Reinvestment Act (“JRA”), Chapter 515 Laws of Maryland 2016, each appellant filed a motion to modify his sentence (or sentences as the case may be) on the drug-related charge or charges pursuant to Crim. Law § 5-609.1. In each case, the State’s Attorney opposed the motion, asserting that the court lacked the authority to modify the sentence without the State’s approval because the sentence had been imposed pursuant to a binding plea agreement. And in each case, the court denied the motion on that basis.

Each appellant appealed the court’s denial of his motion.² Appellants then filed an unopposed motion to consolidate the appeals for purposes of briefing and argument, which was granted on December 4, 2018. Oral argument was held on March 7, 2019. On March 29, 2019, this Court certified questions relating to the proper interpretation of Crim. Law § 5-609.1 to the Court of Appeals pursuant to Md. Rule 8-304(a). After the certification was filed, further proceedings in these cases were stayed on April 8, 2019. On April 10, 2019, the Court of Appeals granted the certification as to four questions, one of which it rephrased as:

Does CR § 5-609.1 authorize a court to modify a mandatory minimum sentence imposed pursuant to a binding plea agreement when the State does not consent to a modification?

(theft), 90 days (trespassing), and 60 days (violation of probation). *See* Circuit Court for Charles County case no. 08-K-14-001214.

² Mr. Randy Brown’s appeal was docketed as No. 328 of the 2018 Term, Mr. Thompson’s as No. 2074 of the 2018 Term, Mr. Hawkins’s as No. 2075 of the 2018 Term, and Mr. Timothy Brown’s as No. 2086 of the 2018 Term.

— Unreported Opinion —

Randy Morquell Brown v. State, ___ Md. ___, Misc. No. 30, Sept. Term, 2018, slip op. at 18, 2020 WL 4931567 at *8 (filed August 24, 2020). The Court of Appeals answered the certified questions in *Brown*.

Pertinent to the issue raised in the present cases, the Court instructed that:

Under CR § 5-609.1, a court may modify a mandatory minimum sentence that was imposed prior to the effective date of the JRA following a guilty plea pursuant to a binding plea agreement, even if the State does not consent to the modification. The decision whether to modify a mandatory minimum sentence is a matter within the sentencing court's discretion, upon consideration of the factors in CR § 5-609.1(b).

Id. slip op. at 2, 2020 WL 4931567 at *1.

We lift the stays of proceedings in these four cases and consolidate them for purposes of disposition. We vacate the orders entered by the circuit court denying the motions for modification of sentence and remand each case for further proceedings consistent with the opinion of the Court of Appeals in *Brown*.

THE JUDGMENTS OF THE CIRCUIT COURT FOR CHARLES COUNTY ARE VACATED AND THESE CASES ARE REMANDED TO IT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY CHARLES COUNTY.