

Circuit Court for Harford County
Case No. 12-K-18-000212

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 363

September Term, 2024

BRANDON HARRINGTON WARFIELD

v.

STATE OF MARYLAND

Nazarian,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 4, 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.

Following a 2019 jury trial in the Circuit Court for Harford County, Brandon Warfield, appellant, was convicted in Case No. 12-K-18-000212 of possession of cocaine and possession with intent to distribute cocaine. The court imposed a sentence of 15 years’ imprisonment on the possession with intent to distribute count and merged the possession count for sentencing.

In 2023, appellant filed a “Petition for Appropriate Relief Under MD Rule 4-345(b) Fraud, Mistake, or Irregularity in Sentence and Criminal Procedure § 6-208(a)(2)” (petition) wherein he claimed that his sentencing guidelines were incorrectly calculated and, therefore, that he was sentenced “based on these fraudulent guidelines[.]” He also claimed that the PSI/guidelines did not include “correction options,” “despite [his] clear drug abuse history.” The court denied the petition without a hearing. On appeal, appellant claims that the court erred in denying the petition because the court relied on “fraudulent sentencing guidelines to enhance [his] sentence.”¹ For the reasons that follow, we shall affirm.

Maryland Rule 4-345(b) provides that the court may exercise revisory power over a sentence if the original sentence was the product of “fraud, mistake, or irregularity.” This sentence was none of those.

¹ Appellant does not contend that his sentence was inherently illegal. In any event, we perceive no illegality in his sentence as it did not exceed the statutory maximum. Moreover, it is not an impermissible consideration for a “trial judge not to apply the Guidelines, or to apply them improperly.” *Teasley v. State*, 298 Md. 364, 370-71 (1984).

Appellant primarily contends that the court relied on “fraudulent” sentencing guidelines. But the “type of fraud necessary to vacate an enrolled judgment is extrinsic fraud, not fraud which is intrinsic to the trial of the case itself.” *State v. Rodriguez*, 125 Md. App. 428, 448-49 (1999) (quotation marks and citation omitted). And appellant’s allegations, even if true, do not demonstrate the existence of extrinsic fraud.

Nor did appellant’s petition allege an irregularity. The term “irregularity” as it is used in Rule 4-345(b) has been defined as an “irregularity of process or procedure . . . and not an error, which in legal parlance, generally connotes a departure from truth or accuracy of which a defendant had notice and could have challenged.” *Hoile v. State*, 404 Md. 591, 624 (2008) (quotation marks and citation omitted). Absent such a narrow interpretation, “almost no criminal conviction would be safe from belated attack.” *Minger v. State*, 157 Md. App. 157, 172 (2004). Appellant’s sentencing did not involve an irregularity as appellant had knowledge of the Sentencing Guidelines Worksheet and could have challenged the accuracy at sentencing.

Finally, a “mistake,” within the contemplation of Rule 4-345, means “a jurisdictional mistake.” *Hamilos v. Hamilos*, 52 Md. App. 488 (1982) (quotation marks and citation omitted). And no jurisdictional mistake was involved as the court clearly had jurisdiction to sentence appellant following his conviction.

In short, the allegations appellant raises in support of his petition cannot be characterized as “fraud, mistake, or irregularity” for purposes of Rule 4-345(b). Rather, any issues with appellant’s Sentencing Guidelines Worksheet should have been raised at

his sentencing hearing or on direct appeal. Accordingly, we hold that the circuit court properly denied his petition.

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