

Circuit Court for Harford County
Case No. 12-K-17-001675

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 364

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-17-001675 of possession with intent to distribute cocaine, possession with intent to distribute marijuana, possession of cocaine, and possession of drug paraphernalia. The court imposed a sentence of 20 years' imprisonment on the possession with intent to distribute cocaine count, a concurrent sentence of 5 years' imprisonment on the possession with intent to distribute marijuana count, and a fine of \$500 on the possession of paraphernalia count. That sentence was ordered to run consecutive to the sentence imposed in Case. No. 12-K-18-000212.

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 that the “state attorney changed the guideline range from 4 to 8 years to 12 to 20 years” which was “based off of another case guideline range.” He therefore contended that he was sentenced based on “fraudulent and prejudicial guidelines” which were “used to severely punish” him. 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 incorrect sentencing guidelines.¹ For the reasons that follow, we shall affirm.²

¹ Appellant does not contend that his sentences were inherently illegal. In any event, we perceive no illegality in his sentences as they 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).

² The State has filed a motion to dismiss the appeal as untimely filed. Because appellant is incarcerated and his notice of appeal included a certification indicating that it

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.

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 the 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

had been mailed within 30 days of the court’s order denying his petition, we shall deny the motion to dismiss.

and citation omitted). No jurisdictional mistake was remotely involved. The court clearly had jurisdiction to sentence the 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 could have been raised at sentencing or on direct appeal. Accordingly, we hold that the circuit court properly denied his petition.

**STATE’S MOTION TO DISMISS
APPEAL DENIED. JUDGMENT
OF THE CIRCUIT COURT FOR
HARFORD COUNTY AFFIRMED.
COSTS TO BE PAID BY
APPELLANT.**