

Circuit Court for Baltimore County
Case No. 03-K-12-006803

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 639

September Term, 2024

ERIC LAMONT BROADWAY

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: March 10, 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.

Eric Lamont Broadway, appellant, appeals from the denial, by the Circuit Court for Baltimore County, of a motion to correct illegal sentence. For the reasons that follow, we shall affirm the judgment of the circuit court.

In December 2012, Mr. Broadway was charged by indictment with first degree murder and related offenses. Mr. Broadway was subsequently convicted by a jury of second degree murder, use of a handgun in the commission of a felony or crime of violence, and illegal possession of a regulated firearm following a felony conviction. *Broadway v. State*, No. 800, Sept. Term, 2014 (filed December 22, 2015), slip op. at 1. The court sentenced Mr. Broadway to a term of imprisonment of 25 years for the second degree murder, a consecutive term of imprisonment of ten years for the use of a handgun, and a concurrent term of imprisonment of six years for the illegal possession of a firearm. *Id.*

In March 2024, Mr. Broadway filed the motion to correct illegal sentence, in which he contended that the trial court failed to give him “advance[] notice” that he was charged with second degree murder, resulting in “unfair surprise” and an “irregularity, ambiguity, fraud, mistake, or . . . inherent discrepancy [in] the sentence.” *See* Rule 4-345(b) (“[t]he court has revisory power over a sentence in case of fraud, mistake, or irregularity”). The court denied the motion.

Mr. Broadway contends that, for numerous reasons, the court erred in denying the motion. We disagree. The Supreme Court of Maryland has long held that “an indictment . . . alleging first degree murder also charges second degree murder[.]” *Dishman v. State*, 352 Md. 279, 289-90 (1998) (emphasis omitted). Also, we have stated that “irregularity as a ground for revising an enrolled judgment usually contemplates an irregularity of

process or procedure but 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.” *Gantt v. State*, 99 Md. App. 100, 105 (2004) (internal citation and quotations omitted). Here, Mr. Broadway received notice at trial that he was charged with second degree murder, and could have challenged at that time the alleged failure to notify him of this charge prior to trial. What Mr. Broadway alleged in the motion to correct illegal sentence was not an irregularity of process or procedure, but an error, and hence, the court did not err in denying the motion.

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