

Circuit Court for Baltimore County
Case No.: C-03-CR-19-000215

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 787

September Term, 2024

TONY ROBERTS

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 4, 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.

In 2019, Tony Roberts, appellant, appeared with counsel in the Circuit Court for Baltimore County and entered an *Alford* plea to sexual abuse of a minor and second-degree rape. The court sentenced him to twenty-five years’ imprisonment for sexual abuse of a minor and to a consecutively run term of five years for second-degree rape.

In 2024, Roberts, representing himself, filed a Rule 4-345(a) motion to correct an illegal sentence in which he alleged that his sentence is illegal because the indictment alleged that the second-degree rape took place on a date that the victim was in New York. The circuit court summarily denied the motion, prompting an appeal by Roberts. We shall affirm the judgment.

Rule 4-345(a) provides that a court “may correct an illegal sentence at any time[.]” but the Rule is very narrow in scope and is “limited to those situations in which the illegality inheres in the sentence itself[.]” *Chaney v. State*, 397 Md. 460, 466 (2007). An inherently illegal sentence is one in which there “has been no conviction warranting any sentence for the particular offense[.]” *id.*; where “the sentence is not a permitted one for the conviction upon which it was imposed[.]” *id.*; where the sentence exceeded the sentencing terms of a binding plea agreement, *Matthews v. State*, 424 Md. 503, 519 (2012); or where the court “lacked the power or authority” to impose the sentence. *Johnson v. State*, 427 Md. 356, 370 (2012). Notably, however, a “motion to correct an illegal sentence is not an alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case.” *Colvin v. State*, 450 Md. 718, 725 (2016) (quoting *State v. Wilkins*, 393 Md. 269, 273 (2006)). In other words, “only claims sounding in substantive law, not procedural law,

may be raised through a Rule 4-345(a) motion.” *Id.* at 728. Appellate court review of the circuit court’s ruling on a motion to correct an illegal sentence is *de novo*. *Bratt v. State*, 468 Md. 481, 494 (2020).

By indictment, Roberts was charged with fifteen sexually related offenses. The victim was Roberts’ stepdaughter. Pursuant to a plea agreement, Roberts entered an *Alford* plea to sexual abuse of a minor (Count 1), which alleged that the offense took place in Baltimore County “on or about October 31, 2016 through and including October 30, 2017[.]” He also entered an *Alford* plea to second-degree rape (Count 9), which alleged that the offense took place “on or about August 1, 2018 through and including August 6, 2018, in Baltimore County[.]”

The statement of facts proffered by the State in support of the plea related that, in “August of 2018,” the thirteen-year-old victim was sent to New York to stay with friends while her mother underwent chemotherapy. While in New York, she revealed that Roberts “had sexually abused her or was sexually abusing her.” The victim was urged to tell her mother, which she then did. The proffer further related that, upon subsequent interview with the police, the victim recounted, among other things, that “[t]he last time it happened was before she left for New York in August 2018.” The State proffered that all the criminal “events did occur in Baltimore County.” When the court then inquired whether the defense agreed that, if the matter had gone to trial, “witnesses for the State would testify consistent with” the proffer of facts, defense counsel replied: “We do, Your Honor. No additions or corrections, deletions.”

On appeal, Roberts states that in a post-conviction proceeding he “presented and asserted facts that the victim of the crime was located in New York City prior to the date asserted by the State” in the proffer of facts presented at the plea hearing. Specifically, he claims that the victim was in New York for three weeks beginning July 24, 2018 and this “creates a reasonable doubt to the facts offered by the State.” In short, his position seems to be that his sentence for second-degree rape is illegal because the indictment alleged, and the proffer of facts in support of the *Alford* plea to that offense, indicated that the crime occurred on a date when the victim was in New York, not Maryland.

Roberts is attacking the sufficiency of the evidence as it relates to the second-degree rape conviction, which he failed to challenge when he entered the *Alford* plea. In fact, at the plea hearing he expressly agreed with the State’s proffer that the crimes took place in Baltimore County and that he had no corrections to the State’s rendition of the facts.

A Rule 4-345(a) motion to correct an illegal sentence is “not an alternative method alternative method of obtaining belated appellate review of the proceedings that led to the imposition of judgment and sentence in a criminal case.” *Colvin*, 450 Md. 725. Roberts’ sentence to five-years’ imprisonment for second-degree rape is legal.¹

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

¹ Roberts does not challenge the 25-year sentence for sexual abuse of a minor.