

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

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 788

September Term, 2024

BRANDON HARRINGTON WARFIELD

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: March 6, 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.

Brandon Warfield, appellant, appeals from an order issued by the Circuit Court for Harford County denying his motion to correct illegal sentence. For the reasons that follow, we shall affirm.

Following an April 2019 jury trial, appellant was convicted in Case No. 12-K-18-000212 of possession of cocaine and possession with intent to distribute cocaine. Those convictions stemmed from a traffic stop that occurred in October 2017. The court imposed a sentence of 15 years' imprisonment on the possession with intent to distribute count and merged the possession count for sentencing.

Following a May 2019 jury trial, 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. Those convictions stemmed from a drug transaction that occurred in November 2017. 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.

On March 27, 2024, appellant filed a motion to correct illegal sentence. In that motion, he claimed that the court should have merged the “two counts of CDS Poss w/intent to Dist. Cocaine, because they share the exact elements and to separate them would be unreasonable and contrary to the law.” He further asserted that, “[e]ven though they are separate cases[,] they require merging under the law, as the blockberger [sic] test

has been mandated by the United States Supreme Court.” The circuit court denied the motion without a hearing. This appeal followed.

On appeal, appellant contends that the court erred in denying his motion to correct illegal sentence because his convictions for possession with intent to distribute cocaine merge under the required evidence test. We disagree. “The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution, applicable to the states through the Fourteenth Amendment, protects a defendant from multiple punishments for the same offense.” *Morgan v. State*, 252 Md. App. 439, 459 (2021). “Although the Constitution of Maryland does not contain a counterpart to the Double Jeopardy Clause, the common law of Maryland provides for a prohibition on double jeopardy.” *Scott v. State*, 454 Md. 146, 167 (2017).

“Merger is the common law principle that derives from the protections afforded by the Double Jeopardy Clause.” *State v. Frazier*, 469 Md. 627, 641 (2020). In other words, merger “is the mechanism used to ‘protect[] a convicted defendant from multiple punishments for the same offense.’” *Id.* (quoting *Brooks v. State*, 439 Md. 698, 737 (2014)). Maryland courts require merger “‘when: (1) the convictions are based on the same act or acts, and (2) under the required evidence test, the two offenses are deemed to be the same, or one offense is deemed to be the lesser included offense of the other.’” *Id.* (quoting *Brooks v. State*, 439 Md. at 737).

Here, appellant’s first conviction for possession with intent to distribute cocaine was based on his possession of cocaine during an October 2017 traffic stop. On the other hand, his second conviction for possession with intent to distribute cocaine was based on his

possession of cocaine during a drug transaction one month later. These acts of possession constituted separate and distinct criminal acts and were not, as appellant claims in his reply brief, part of a single continuous transaction. It is, therefore, irrelevant for merger purposes that the two offenses have the same elements. Consequently, the circuit court did not err in denying appellant's motion to correct illegal sentence.

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