

Circuit Court for Montgomery County
Case No.: 117811C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1401

September Term, 2020

JAMES HOUCK

v.

STATE OF MARYLAND

Fader, C.J.,
Ripken,
Kenney, James A., III
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: September 16, 2021

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

On August 24, 2011, James Houck, appellant, pleaded guilty in the Circuit Court for Montgomery County to first-degree sexual offense.¹ On November 20, 2013, the court sentenced him to life imprisonment. As part of his guilty plea agreement, appellant agreed to waive his right to file both a motion for modification or reduction of sentence, and an application for review of sentence by a three-judge panel. To say that appellant has filed numerous papers attacking his conviction and sentence in the decade since his guilty plea would be a massive understatement.

In January 2021, appellant filed various papers in the circuit court. It appears from the record that the circuit court treated those papers as correspondence and did not issue an order pertaining to them prior to January 28, 2021, when appellant filed his application for leave to appeal.² On July 1, 2021, we issued an Order for appellant to show cause why this Court should not dismiss his appeal given that it appeared to us that the circuit court had not issued an appealable order on his papers prior to when he filed his application for leave to appeal.

On July 13, 2021 and on July 15, 2021³ appellant responded to the show cause order. In appellant's July 13 response to the show cause order he identified (1) a February 26, 2021 order of the circuit court denying a motion for modification or reduction of sentence, and (2) a denial of a motion to correct an illegal sentence for which appellant provided no

¹ The sexual offenses suffered in 1995 by the victim in this case were solved by a cold-case DNA match.

² We treated appellant's application for leave to appeal as a notice of appeal.

³ On July 15, 2021, we received both a letter from appellant, and a response to the show cause order. Curiously, both of those handwritten documents are dated July 19, 2021.

date.⁴ The papers appellant filed on July 15 do not identify any orders of the court, appealable or otherwise.

Although appellant did not identify when the court passed an order denying a motion to correct an illegal sentence, we note from the docket entries that on or about February 26, 2021, the circuit court denied an application for review of sentence, a motion for alcohol/drug evaluation pursuant to section 8-505 of the Health – General Article of the Code, a motion for appropriate relief, and a motion for modification of sentence.⁵ Beyond those orders, we are at a loss to discern what appellant is appealing from. Moreover, we cannot be expected to hunt through the record to discover the matters that are the subject of an appellant’s claim. *See Van Meter v. State*, 30 Md. App. 406, 408 (1976) (an appellate court “cannot be expected to delve through the record to unearth factual support favorable to appellant and then seek out law to sustain his position.”)

⁴ The response then devolves into appellant’s various entreaties to this Court to, among other things, review the transcript of his guilty plea and sentencing (which he did not provide), vacate his sentence, contact the state’s attorney on his behalf, and order the Division of Correction to place him in protective custody.

In addition, in his Brief of Appellant he raises, among other things, a series of claims of ineffective assistance of counsel for not filing a motion for modification of sentence, for not obtaining a fingerprint expert, and for not challenging the DNA evidence. In addition, he raises a claim of prosecutorial misconduct, claims related to the victim’s identification of appellant, a claim about having the victim undergo a polygraph examination, and a request that this Court order the Division of Correction to place him in protective custody. None of the foregoing claims relates to a motion for modification or reduction of sentence. Lastly, he claims that his sentence is illegal because it was imposed in violation of the guilty plea agreement.

⁵ Although not mentioned by appellant, the docket entries also reflect that the circuit court denied a motion for modification or reduction of sentence on February 3, 2021.

Because, ordinarily, an order denying a motion for modification or reduction of sentence is not appealable, *Hoile v. State*, 404 Md. 591, 615 (2008), and because appellant filed his application for leave to appeal about a month before the court denied that motion plus others, we must dismiss this appeal.

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANT.**