Circuit Court for Baltimore County
Case No. 03-K-05-002493

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1631

September Term, 2023

JEFFREY RICARDO JONES, JR.

v.

STATE OF MARYLAND

Zic,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 6, 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.

Jeffrey Ricardo Jones, Jr., appellant, appeals from the denial, by the Circuit Court for Baltimore County, of a motion for appropriate relief. For the reasons that follow, we shall affirm the judgment of the circuit court.

> On February 15, 2006, [Mr. Jones] entered an *Alford* plea to attempted first-degree murder. On April 20, 2006, the court sentenced him to life in prison, suspending all but 25 years, to be followed by a five-year term of supervised probation. A month later, defense counsel filed a motion for modification or reduction of sentence, which the court promptly denied. Mr. Jones then filed, as a self-represented litigant, an application for review of sentence pursuant to Md. Rule 4-344(a) and § 8-102 of the Criminal Procedure Article ("Crim. Proc.") of the Md. Code. Following a hearing [on May 10, 2007], at which Mr. Jones was represented by counsel, the three-judge panel increased [the] sentence to life imprisonment, suspending all but 50 years. The panel noted "the egregious nature of the crime" and [that] the "fact that the victim was not killed was due to the intervention of witnesses, not because of a lack of intent by the Defendant." The panel also noted that Mr. Jones committed the crime "only ten days after a Protective Order had been issued."
>
> In 2019, Mr. Jones, representing himself, filed a motion to correct an illegal sentence and a motion "for correction of sentencing errors and breach of plea agreement." He asserted that the three-judge review panel illegally increased his sentence because it breached the sentencing terms of his "binding" plea agreement. The circuit court summarily denied the motion.

Jones v. State, No. 1578, Sept. Term 2019 (filed September 2, 2020), slip op. at 1.

Mr. Jones subsequently appealed from the court's judgment. *Id.* at 1. Although "Mr. Jones was responsible for ensuring that the full transcripts of [the plea and sentencing hearings] were in the record," he "attached [only] excerpts from the . . . hearings to his Reply brief." *Id.* at 2 n.1. Affirming the judgment, we stated that

> Mr. Jones has not established that the plea court had bound itself to impose any particular sentence, much less life suspend all but 25 years.
>
> At the plea hearing, the prosecutor informed the court that "at the time of sentencing the State is going to recommend life in prison," but the

> "defense is not tied to that sentence" and "they can ask for any sentence that they feel is appropriate." He further noted that the guidelines were "18 to 25 years." Based on the limited record before us, we are not persuaded that the court bound itself to impose any particular sentence. Accordingly, the three-judge panel did not render Mr. Jones's sentence illegal when it increased the sentence to life imprisonment, all but 50 years suspended. *See* Crim. Proc., § 8-105(c)(3) (after a hearing, a review panel may order "an increased sentence").

Jones at 1-2 (footnote omitted).

On July 14, 2023, Mr. Jones filed the motion for appropriate relief. In the motion, Mr. Jones stated that he had made "numerous attempts to obtain" a transcript of the May 10, 2007 hearing "to no avail." Mr. Jones again contended that the sentence imposed by the three-judge panel "was illegal on a binding plea," and asked the court to "[p]roduce [the] transcripts" on the ground that "[d]ue [p]rocess [a]ffords [him] the right to continue his legal process in accordance with . . . established rules and principles." Mr. Jones attached to the motion what appears to be an e-mail from defense counsel to the court's Digital Recording Office. In the e-mail, defense counsel indicated that on December 4, 2016, he and a prosecutor "visited [the] office to inquire about the availability of a transcript of [the] May 10, 2007 hearing." Counsel "learned that there was no transcript of this hearing, and that the court reporter's notes were not available, meaning that no transcript could be produced." Counsel asked the office "to confirm whether this is still the case." Mr. Jones also attached to the motion a February 7, 2017 e-mail from a supervisor of the office to counsel, in which the supervisor stated that for numerous reasons, "[n]o transcript can be produced for the hearing." The court denied the motion.

Mr. Jones's brief is confusing, but he appears to contend that, for three reasons, the court erred in denying the motion. First, the court's failure to provide a transcript of the May 10, 2007 hearing "deprived Mr. Jones of procedural due process under the 5th Amendment." Second, the three-judge panel "violated [his] 8th Amendment Right" by "imposing an excessive sentence that goes against statutory limits," exceeding "the maximum amount of time provided by his sentencing guideline sheet," failing to "give a reason as to why [it] departed upward from his guidelines," and failing to "instruct[] the lower court to seek . . . an enhanced penalty." Finally, defense counsel provided ineffective assistance in "allowing Mr. Jones to plead to an inconsistent verdict" and committing "cumulative errors." Mr. Jones "requests that the judgment of the [t]hree-judge [p]anel be reversed and a hearing be set for Sentence Statement or a new trial."

We affirm the court's judgment. Mr. Jones does not cite any authority that requires a court, when it is unable to transcribe a proceeding in a criminal matter, to vacate the result of the proceeding and hold a new proceeding. Also, we have previously rejected Mr. Jones's argument that "the three-judge panel . . . render[ed the] sentence illegal when it increased the sentence to life imprisonment, all but 50 years suspended," *Jones* at 2, and hence, the law of the case doctrine prevents relitigation of the argument. *See Nichols v. State*, 461 Md. 572, 593 (2018) ("the law of the case doctrine prevents relitigation of an 'illegal sentence' argument that has been presented to, and rejected by, an appellate court" (internal citation, quotations, and brackets omitted)). Furthermore, Mr. Jones did not argue to the circuit court that the increase in the sentence violated his Eighth Amendment rights or that his conviction is somehow "inconsistent," and "[o]rdinarily, [we] will not decide

any . . . issue unless it plainly appears by the record to have been raised in or decided by the trial court." Rule 8-131. Finally, the Supreme Court of Maryland has stated that "[p]ost-conviction proceedings are preferred with respect to ineffective assistance of counsel claims because the trial record rarely reveals why counsel . . . omitted to act, and such proceedings allow for fact-finding and the introduction of testimony and evidence directly related to the allegations of the counsel's ineffectiveness." *Mosley v. State,* 378 Md. 548, 560 (2003) (citations and footnote omitted). For these reasons, we conclude that the court did not err in denying the motion for appropriate relief.

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