

Circuit Court for Somerset County
Case No. 19-K-05-008029

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1937

September Term, 2023

THOMAS DWAYNE COOK

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.

Thomas Dwayne Cook, appellant, appeals from the denial, by the Circuit Court for Somerset County, of a motion to amend commitment record. For the reasons that follow, we shall affirm the judgment of the circuit court.

On May 11, 2006, Mr. Cook was convicted by a jury of first degree assault of Lieutenant Aubrey Fletcher, reckless endangerment of Lt. Fletcher, and reckless endangerment of Officer Cynthia Powell. For the first degree assault, the court sentenced Mr. Cook “to serve twenty-five years in the custody of the Commissioner of Correction,” and ordered that the sentence “be consecutive to the last sentence to expire of all outstanding and unserved Maryland sentences.” The court merged the conviction of reckless endangerment of Lt. Fletcher into the conviction of first degree assault.

The court then stated:

[T]he sentence on . . . reckless endangerment [of] Officer Powell will be five years in the custody of the Commissioner of Correction. That sentence will be consecutive to the twenty-five years that the court has previously imposed . . . and will also be consecutive to the last sentence to expire of all outstanding and unserved Maryland sentences.

So that the record is completely clear[,] the sentence of this court will be thirty years total, thirty years in the custody of the Commissioner of Correction consecutive to the last sentence to expire of all outstanding and unserved Maryland sentences.

The court subsequently issued a commitment record reflecting the sentences. The commitment record states that that the sentence of five years for reckless endangerment “is [c]onsecutive to the” sentence for first degree assault. The commitment record further states: “The total time to be served is 30 years . . . to run . . . consecutive to the last sentence to expire of all outstanding and unserved Maryland sentences.”

On November 20, 2023, Mr. Cook filed the motion to amend commitment record, in which he contended that Rule 4-351(a)(5) (requiring that a commitment record contain a “statement whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of the preceding term or to any other outstanding or unserved sentence”) “was not adhered to during his sentencing procedure.” The court denied the motion.

Mr. Cook now contends that the court abused its discretion in denying the motion. Mr. Cook’s brief is confusing, but he appears to contend that the court’s order that the sentence for reckless endangerment of Officer Powell run consecutively to the sentence for first degree assault somehow violated Rule 4-351(a)(5). We disagree. Although the sentencing court ordered that the sentence for reckless endangerment of Officer Powell run “consecutive[ly] to the last sentence to expire of all outstanding and unserved Maryland sentences,” the sentencing court explicitly ordered that the sentence also run consecutively to the sentence for first degree assault. The sentencing court subsequently re-affirmed its intent that the sentence for reckless endangerment of Officer Powell run consecutively to the sentence for first degree assault when it announced, “[s]o that the record is completely clear,” that the total term of imprisonment imposed by the court was “thirty years total . . . consecutive to the last sentence to expire of all outstanding and unserved Maryland sentences.” There is no ambiguity in the sentencing court’s intent or pronouncement of

sentence, and hence, the court did not abuse its discretion in denying the motion to amend commitment record.

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