UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 2280

September Term, 2023

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KARLOS WILLIAMS

v.

STATE OF MARYLAND

_____

Zic,
Tang,
Meredith, Timothy E.
  (Senior Judge, Specially Assigned),

JJ.

_____

PER CURIAM

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Filed: June 4, 2024

Karlos Williams, appellant, appeals the denial, by the Circuit Court for Baltimore County, of his motion to correct illegal sentence. For the reasons that follow, we shall affirm.

In 2002, appellant was convicted by a jury of two counts of first-degree assault and one count of first-degree burglary. The court imposed concurrent 25-year sentences for the assault convictions and a consecutive 10-year sentence for the burglary conviction. This Court affirmed those convictions on direct appeal. However, following his appeal from the denial of a 2007 motion to correct illegal sentence, we vacated his sentence for one count of first-degree assault, holding that because it was a lesser-included offense of an armed robbery charge of which appellant was acquitted, his sentence on that count was limited to a maximum of 20 years' imprisonment. *Williams v. State*, 187 Md. App. 470 (2009). On remand, the circuit court resentenced appellant on that count to a concurrent term of 20 years' imprisonment and left his remaining sentences unchanged.

In 2023, appellant filed a new motion to correct illegal sentence claiming that: (1) his first-degree assault conviction was illegal because the jury acquitted him of use of a handgun in the commission of a felony or crime of violence, resulting in a legally inconsistent verdict; (2) his first-degree burglary conviction was illegal because the jury acquitted him of robbery with a dangerous weapon, resulting in a legally inconsistent verdict; (3) the allegedly inconsistent verdicts violated his rights under the Due Process Clause of the Fourteenth Amendment; and (4) the court that denied his post-conviction petition in 2013 erred when it found that he had not been prejudiced by the trial court's first-degree assault jury instruction, which improperly referenced both modalities of first-

degree assault. The court denied the motion to correct illegal sentence without a hearing. Appellant now appeals, raising the same claims that he raised in his motion to correct illegal sentence. For the reasons that follow, we shall affirm.

The Supreme Court of Maryland has explained that there is no relief, pursuant to Maryland Rule 4-345(a), where "the sentences imposed were not inherently illegal, despite some form of error or alleged injustice." *Matthews v. State*, 424 Md. 503, 513 (2012). A sentence is "inherently illegal" for purposes of Rule 4-345(a) where there was no conviction warranting any sentence, *Chaney v. State*, 397 Md. 460, 466 (2007); where the sentence imposed was not a permitted one, *id.*; or where the sentence imposed exceeded the sentence agreed upon as part of a binding plea agreement, *Matthews*, 424 Md. at 514. A sentence may also be "inherently illegal" where the underlying conviction should have merged with the conviction for another offense for sentencing purposes, where merger was required. *Pair v. State*, 202 Md. App. 617, 624 (2011). 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) (quotation marks and citation omitted).

With those principles in mind, we hold that appellant's claims, even if true, do not demonstrate that his sentence was inherently illegal. Appellant's first three contentions concern the illegality of his sentences owing to allegedly inconsistent verdicts. However, in *Pitts v. State*, 250 Md. App. 496 (2021), this Court held that sentences resulting from un-objected-to inconsistent verdicts are not illegal within the contemplation of Maryland Rule 4-345.

As to appellant's last contention, to the extent he is claiming that the court erred in denying his post-conviction petition, that claim should have been raised in an application to leave for appeal. On the other hand, to the extent he is also claiming that his sentences for first-degree assault are illegal because the trial court improperly instructed the jury with respect to both modalities of first-degree assault, such a claim lacks merit.

Appellant essentially argues that because neither the charging document nor the court's instructions specified which modality of first-degree assault the State was relying on, his right to jury unanimity was violated, resulting in an illegal sentence. But "when a defendant is charged with assault, a jury need not agree unanimously as to the means of the violation. So long as the jury unanimously agrees that the defendant has committed a modality of assault, the jury need not agree as to how the assault was committed." *Watts v. State*, 457 Md. 419, 440 (2018); *see also Rice v. State*, 311 Md. 116, 26 (1987) (holding that when a statute has outlined different means of violating a single crime, jury unanimity on the modality of the violation is unnecessary on which particular modality occurred). Thus, appellant's right to a unanimous jury was not violated. Appellant does not otherwise claim that any ambiguity with respect to which modality of first-degree assault the jury relied on to convict him would result in the merger of his sentences. And in any event, neither modality of first-degree assault would merge with burglary, the only other crime for which he was convicted.

In short, because appellant has not established that his sentences are inherently illegal, the circuit court did not err in denying his motion to correct illegal sentence. Consequently, we shall affirm the judgment.

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