

Circuit Court for Baltimore County
Case No.: C-03-CR-19-003914

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2364

September Term, 2023

TERRENCE HAMMOCK

v.

STATE OF MARYLAND

Leahy,
Kehoe, S.,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 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.

In 2021, a jury in the Circuit Court for Baltimore County convicted Terrence Hammock of seventeen offenses, including home invasion, robbery with a dangerous weapon, four counts of first-degree assault, use of a firearm in the commission of a felony, and the unlawful taking of a motor vehicle. The court sentenced him to 20 years' imprisonment for home invasion, a concurrent 20 years for use of a firearm in the commission of a felony, four consecutive 20-year sentences for each of the first-degree assaults, and a five-year concurrent term for the motor vehicle offense for a total term of 100 years' imprisonment. The remaining convictions were merged for sentencing purposes. On direct appeal, Mr. Hammock challenged his convictions. This Court affirmed the judgment. *Hammock v. State*, No. 1594, September Term, 2022 (Md. App. April 11, 2024).

Mr. Hammock has filed many papers in the circuit court, as a self-represented litigant, including various requests to set aside his conviction and to correct allegedly illegal sentences. To date, the circuit court has denied all such motions. This Court recently affirmed a judgment of the circuit court denying Mr. Hammock's petition for actual innocence and motion to correct an illegal sentence. *Hammock v. State*, No. 1194, September Term, 2023 (Md. App. May 29, 2024).

In January 2024, Mr. Hammock filed a notice of appeal from the denial of a motion for a new trial "based on scientific evidence such [as] fingerprints and DNA[.]" In the brief he filed in this Court, he claims, for various reasons, that his convictions and sentences are illegal. For the reasons to be discussed, we reject his contentions and shall affirm the judgment of the circuit court denying relief.

DISCUSSION

Rule 4-345(a) provides that a court “may correct an illegal sentence at any time[.]” but the Rule is very narrow in scope and is “limited to those situations in which the illegality inheres in the sentence itself[.]” *Chaney v. State*, 397 Md. 460, 466 (2007). An inherently illegal sentence is one in which there “has been no conviction warranting any sentence for the particular offense[.]” *id.*; where “the sentence is not a permitted one for the conviction upon which it was imposed[.]” *id.*; where the sentence exceeded the sentencing terms of a binding plea agreement, *Matthews v. State*, 424 Md. 503, 519 (2012); or where the court “lacked the power or authority” to impose the sentence. *Johnson v. State*, 427 Md. 356, 370 (2012). 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) (quoting *State v. Wilkins*, 393 Md. 269, 273 (2006)). In other words, “only claims sounding in substantive law, not procedural law, may be raised through a Rule 4-345(a) motion.” *Id.* at 728. Appellate court review of the circuit court’s ruling on a motion to correct an illegal sentence is *de novo*. *Bratt v. State*, 468 Md. 481, 494 (2020).

Mr. Hammock makes a number of contentions in his brief in support of his claim that certain convictions are invalid and hence his sentences are illegal. We shall address each in turn.

Assault Convictions

Mr. Hammock asserts that he was “illegally convicted and sentence[d] to 60 years” for first and second-degree assault of three individuals (children at home at the time of the home invasion) because the State did not produce them in court to testify against him. In other words, he is challenging the sufficiency of the evidence to support those assault convictions. That issue, however, is something he presumably could have raised on direct appeal and the issue is not properly before us in this collateral attack on his convictions and sentences.

Inconsistent Verdicts

Mr. Hammock maintains that his conviction for use of a firearm in the commission of a felony or crime of violence is inconsistent with the jury’s acquittal of the count charging him with possession of a regulated firearm after having been convicted of a crime that disqualified him from possessing the same. The issue, however, is not properly before us. As the State points out, Mr. Hammock did not object, as required, to the alleged inconsistency when the jury announced its verdict. *Givens v. State*, 449 Md. 433, 472-73 (2016). And in *Pitts v. State*, 250 Md. App. 496, 524 (2021), this Court held that sentences resulting from unobjected to inconsistent verdicts are not illegal within the contemplation of a Rule 4-345(a) motion to correct an illegal sentence.

“Misidentification”

Mr. Hammock contends that there were “no identifications or descriptions by eyewitnesses” that matched his description. Again, this issue is not properly before us in this collateral attack of his convictions and sentences.

Defective Charging Document

Mr. Hammock asserts that his conviction for robbery with a dangerous weapon (which merged, for sentencing purposes, with the sentence imposed for home invasion) was defective. Specifically, he points out that Count 2 of the indictment charged him as follows:

And the jurors of the State of Maryland, for the body of Baltimore County, do on their oath present that TERRENCE EDWARD HAMMOCK, on or about August 22, 2019, in Baltimore County, did unlawfully and feloniously, with a dangerous weapon, rob Latoya Dee White and violently did steal from said person property, against the peace, government, and dignity of the State. (Robbery with Dangerous Weapon, CR.3.403, 2 0705.)

He claims that the charge did not conform to Criminal Law § 3-404(a), which provides:

An indictment, information, warrant, or other charging document for robbery is sufficient if it substantially states:

“(name of defendant) on (date) in (county) did feloniously rob (name of victim) of (property/service) (having a value of \$1,000 or more) (with a dangerous weapon) in violation of (section violated) against the peace, government, and dignity of the State.”.

Mr. Hammock asserts that Count 2 “did not state the (property / service) (having a value of \$,1000 or more) (with a dangerous weapon)” and, therefore, it was insufficient to “substantially charge” him with that offense. We find no merit to his contention.

Count 2 of the indictment charged that Mr. Hammock did “unlawfully and feloniously, with a dangerous weapon, rob” the victim and “did steal from said person property[.]” Although the count did not specify the nature of the property or its value, we are not persuaded that the indictment failed to charge Mr. Hammock with the offense of

robbery with a dangerous or deadly weapon. *Putman v. State*, 234 Md. 537, 544 (1964) (Even if “it does so in an inexact or defective manner,” a charging document that “imports the presence of” the required elements of a crime sufficiently charges the crime.). Crim. Law § 3-403 provides that “[a] person may not commit or attempt to commit robbery . . . with a dangerous weapon[.]” Count 2 of the indictment included the requisite elements of that offense, namely, that Mr. Hammock did rob the victim with a dangerous weapon and did steal property from her.

“Illegal Arrest”

Mr. Hammock claims that the police “never submitted an affidavit to a commissioner or judge to obtain an arrest [warrant] to arrest [him] on 9-19-19” and, therefore, “the rubber stamped warrant” that was issued “is invalid and [his] arrest as well.” The issue is not properly before us.

“Illegal Sentence”

Mr. Hammock claims that his convictions and sentences are illegal because the homeowner did not pick his photo from a photo array and he asserts that, at trial, she testified that she could not identify any of the three assailants because her house was dark. This is a sufficiency of the evidence claim and it is not properly before us in this collateral attack of his convictions.

Speedy Trial Rights Violation

Mr. Hammock claims that his right to a speedy trial was violated. This issue too is not properly before us.

Sentence Exceeds Sentencing Guidelines

Mr. Hammock asserts that the sentencing guidelines in his case were 12 – 90 years, and “the sentencing judge illegally exceeded” the guidelines by imposing a total term of 100 years’ incarceration. A sentence exceeding the guidelines is not an illegal sentence. Consequently, there is no merit to this contention.

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