

Circuit Court for Baltimore City  
Case No. 194221042

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 2502

September Term, 2023

---

ERNEST TYNDALE

v.

STATE OF MARYLAND

---

Nazarian,  
Reed,  
Harrell, Glenn T., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: November 1, 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.

Ernest Tyndale, appellant, appeals from the denial, by the Circuit Court for Baltimore City, of a motion to correct illegal sentence. For the reasons that follow, we shall affirm the judgment of the circuit court.

On September 19, 1995, a jury in the Circuit Court for Baltimore City found [Mr. Tyndale] guilty of first-degree murder. On November 1, 1995, [Mr. Tyndale] appealed his conviction which [this Court] affirmed on March 27, 1997. On November 17, 1999, [Mr. Tyndale] filed an initial petition for post-conviction relief and then a supplemental petition on March 5, 2001. However, on July 30, 2001, both petitions were subsequently withdrawn without prejudice. [Mr. Tyndale refiled] his petition for post-conviction relief on October 9, 2001. On March 7, 2005, [the post-conviction court] granted [the] petition for post-conviction relief and ordered the State to either consent to a new trial or consent to re-sentencing on a second-degree murder charge.

On March 21, 2005, [Mr. Tyndale] filed a motion to alter or amend judgment. On April 6, 2005, the State appealed the [c]ourt’s decision to grant post-conviction relief. On January 22, 2007, [this Court] vacated the post-conviction relief and remanded the case to the circuit court. A Petition for Writ of Certiorari was denied on July 13, 2007. On January 20, 2011, [Mr. Tyndale’s] petition for post-conviction relief was heard. The petition was subsequently denied on November 15, 2014. On December 18, 2014, [this Court] denied [Mr. Tyndale’s] appeal of his petition for post-conviction relief. On July 13, 2018, the circuit court considered [Mr. Tyndale’s] motion to reopen his postconviction proceedings and subsequently denied that motion. On May 27, 2020, [Mr. Tyndale] filed a motion for modification of his sentence, but that was subsequently denied on June 23, 2020.

On February 8, 2022, Mr. Tyndale filed in the [Supreme Court of Maryland] a petition for writ of habeas corpus, which the Court subsequently referred to the Circuit Court for Baltimore City. In the petition, Mr. Tyndale contended that the March 21, 2005 motion to alter or amend judgment, “which remained open and pending, had the legal effect of removing the finality of the circuit court’s judgment and rendered void any jurisdiction of [this Court] and nullified any subsequent court decision based on it.” (Emphasis omitted.) Mr. Tyndale cited *Green v. Hutchinson*, 158 Md. App. 168 (2004), in which this Court stated that a timely filed motion to alter or amend the dismissal of a petition for writ of habeas corpus “was a proper ten-day motion under Md. Rule 2-534” and “caused the . . . judgment [of dismissal] to lose its finality.” *Id.* at 171.

. . . . On May 31, 2022, the court issued a memorandum and order in which it denied the petition[.]

*Tyndale v. Warden*, No. 1074, Sept. Term 2022 (filed January 6, 2023), slip op. at 1-2 (indentation adjusted).

Mr. Tyndale subsequently appealed to this Court from the denial of the petition. *Id.*

at 1. Affirming the circuit court’s judgment, we stated, in pertinent part:

Although a motion to alter or amend the resolution of a petition for writ of habeas corpus, like that filed in *Green*, is governed by Title 2 of the Rules, Mr. Tyndale’s motion to alter or amend was of a petition for post-conviction relief, which is governed by Title 4 of the Rules. *See* Rule 1-101(d). Mr. Tyndale does not cite any authority in Title 4 or elsewhere that required this Court to wait for the post-conviction court to resolve his motion before addressing the State’s appeal of the post-conviction court’s judgment, and hence, the subsequent judgments of the post-conviction court, this Court, and the [Supreme Court of Maryland] are not void.

*Tyndale* at 4-5.

On September 6, 2023, Mr. Tyndale filed the motion to correct illegal sentence, in which he again contended that the “post-conviction court retain[ed] jurisdiction on the March 7, 2005 judgment while [his] motion to alter or amend judgment remained open and pending,” and hence, “any subsequent . . . judgments are illegal and void.” The court denied the motion on the grounds that Mr. Tyndale’s “assertion . . . was addressed in” our previous opinion, and hence, “the law of the case binds [the] court and forecloses further review of the issue of whether [this Court] had jurisdiction to consider the appeal filed in 2005.”

Mr. Tyndale contends that, for numerous reasons, the court erred in denying the motion. We disagree for two reasons. First, the error alleged by Mr. Tyndale in the motion

does not inhere in the sentence itself. *See Carlini v. State*, 215 Md. App. 415, 426 (2013) (the scope of a motion to correct illegal sentence is “narrow” and “limited to those situations in which the illegality inheres in the sentence itself; *i.e.*, there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which it was imposed and . . . is intrinsically and substantively unlawful” (internal citation and emphasis omitted)). Second, in our previous opinion, we rejected the contention raised by Mr. Tyndale in the motion. The law of the case doctrine prevents relitigation of the contention, *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)), and hence, the court did not err in denying the motion to correct illegal sentence.

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