UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1634

September Term, 2013

MARCUS SEAN JONES

v.

STATE OF MARYLAND

Wright,
Hotten,
Salmon, James P.
(Retired, Specially Assigned),

JJ.

Opinion by Salmon, J.

Filed: December 29, 2014

Appealing from the denial by the Circuit Court for Prince George's County of a motion to correct illegal sentence, Marcus Sean Jones contends that the court erred by failing to grant his motion. Finding no error, we affirm the judgment of the circuit court.

I.
BACKGROUND

On August 25, 1999, Jones was convicted by a jury of robbery with a dangerous and deadly weapon, robbery, first degree assault, use of a handgun in the commission of a crime of violence, and conspiracy to commit robbery with a dangerous and deadly weapon. At sentencing, which occurred on December 6, 1999, the following colloquy occurred:

> [THE COURT:] The sentence is as follows: For the conviction of the first count robbery with a dangerous and deadly weapon the [c]ourt sentences you to the Division of Correction for a period of twenty years.
>
> For your conviction in the second count robbery that merges with the first count.
>
> For your conviction of the third count first degree assault the [c]ourt sentences you to a period of twenty years concurrent with the sentence as to the first count. I do not think that it merges but it relates directly to the first count.
>
> For your conviction of the fourth count use of a handgun in the commission of a crime of violence the [c]ourt sentences you to twenty years. And that twenty years is consecutive to your sentence on the first count.
>
> For your commission of conspiracy to commit robbery with a deadly weapon which is the ninth count the [c]ourt sentences you to twenty years. And that twenty years is consecutive to your conviction for the fourth count use of a handgun in the commission of a crime of violence.
>
> * * *
>
> [DEFENSE COUNSEL]: Your Honor, is that date effective August 25th [the date the jury convicted appellant]?

THE COURT: That is –

[DEFENSE COUNSEL]: All sentences?

THE COURT: All sentences are effective August 25th of 1999.

The contemporaneously signed commitment record in this case states that the sentence for use of a handgun in the commission of a crime of violence is to run consecutive to the sentence for robbery with a dangerous and deadly weapon, and the sentence for conspiracy to commit robbery with a dangerous and deadly weapon is to run consecutive to the sentence for use of a handgun in the commission of a crime of violence. The commitment record further states that "[t]he total time to be served is 60 years, to . . . begin on 8-25-99."

II.
ANALYSIS

Jones, who filed this appeal *pro se*, argues: "[i]n clarifying . . . that all sentences . . . are effective August 25th of 1999, the [sentencing j]udge rendered all of the sentences concurrent as a matter of law." (quotations omitted.) We disagree. *Dutton v. State*, 160 Md. App. 180 (2004), is controlling. In *Dutton*, this Court summarized the relevant facts in that case, as follows:

> [The appellant] appeals from the denial of his motion to correct an allegedly illegal sentence. In that motion, Dutton asserted that, on September 9, 1999, he was already serving two sentences of differing lengths – one for 18 months, and one for 4 years – when he was sentenced to an additional 15 year term that was "to run consecutive to the sentence [singular] that you are currently serving." Dutton argued in his motion to correct an "illegal sentence" that the 15 years should begin to run after he completed the 18 month sentence rather

> than after he completed the 4 year sentence. The sentencing judge denied Dutton's motion.

Id. at 181.

We affirmed the judgment of the circuit court, and explained:

> [I]f there was any potential ambiguity in the sentence as announced orally, such ambiguity was removed by the contemporaneous commitment record that stated more explicitly: "The total time to be served is Fifteen (15) years, to run: . . . consecutive to the last sentence to expire of all outstanding and unserved Maryland sentences." This unambiguous commitment order satisfied the concern . . . that a defendant be clearly apprised of the time he must serve.

Id. at 193.

We reach a similar conclusion here. Any ambiguity in the sentence as announced orally by the sentencing judge was removed by the contemporaneously filed commitment record, which explicitly states that Jones is to serve three consecutive terms of 20 years' imprisonment, for a total term of 60 years' imprisonment. The commitment record is unambiguous, and clearly apprised Jones of the time he must serve.

Jones contends that our unreported opinion in *Glenn Vincent Rhodes v. State*, No. 39, September Term, 1992 (filed: March 18, 1993), requires reversal of the judgment of the circuit court. Appellant's reliance on an unreported opinion is misplaced. *See* Rule 1-104(a), which provides that "[a]n unreported opinion of [this] Court . . . is neither precedent within the rule of stare decisis nor persuasive authority."

In support of his reliance on the *Rhodes* case, appellant contends that in *Maryland Correctional Institution-Women v. Lee*, 362 Md. 502 (2001), the Court of Appeals

"acknowledged the importance of the *Rhodes* decision." This assertion is incorrect. The Court simply set forth the facts in *Rhodes* to distinguish those facts from the case before it. The Court did not hold that *Rhodes* was correctly decided.

For the above reasons, we hold that the Circuit Court for Prince George's County did not err in denying appellant's motion.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT.