

COURT OF APPEALS OF MARYLAND

Tshiwala v. State

424 Md. 612 (2012) · Decided January 23, 2012

SUMMARY

The Maryland Court of Appeals held that Tshiwala’s challenge to the assignment of judges who denied his motion for reconsideration was not cognizable under Maryland Rule 4-345(a), because it did not allege that his 39-year sentences were inherently illegal. The court affirmed the denial of his motion to correct an illegal sentence and explained that an improper exercise of jurisdiction or procedural flaw does not necessarily implicate subject-matter jurisdiction or render a sentence illegal.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Eldridge, J.
JURISDICTION	Maryland
DECIDED	January 23, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tshiwala appealed the denial of his Maryland Rule 4-345(a) motion to correct an illegal sentence. The Court of Appeals of Maryland granted certiorari before further proceedings in the Court of Special Appeals.
STANDARD OF REVIEW	The Court reviewed whether Tshiwala's claim was cognizable under Maryland Rule 4-345(a), a legal question concerning the scope of the rule.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; precedential.
PARTIES	Benoit Tshiwala v. State

TOPICS

- sentence modification
- post-conviction relief
- criminal procedure
- state post-conviction relief

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- sentencing

QUESTIONS PRESENTED

1. Whether Tshiwala's challenge to the assignment of judges who denied his Maryland Rule 4-345(e) motion for reconsideration was cognizable under Maryland Rule 4-345(a) as a motion to correct an illegal sentence.
2. Whether an alleged procedural or jurisdictional error in handling a post-sentencing motion makes an otherwise lawful sentence an illegal sentence under Maryland Rule 4-345(a).

HOLDINGS

1. A Rule 4-345(a) motion to correct an illegal sentence is not available to challenge the assignment of judges or another procedural error occurring after sentencing when the sentence itself is lawful.
2. Even assuming the judges erroneously exercised their authority in deciding the reconsideration motion, that error did not deprive the circuit court of fundamental subject-matter jurisdiction and did not affect the legality of the 39-year sentences.

KEY QUOTATIONS

“a Rule 4-345(a) motion to correct an illegal sentence is not appropriate where the alleged illegality ‘did not inhere in [the defendant’s] sentence.’” (618)

“A sentence does not become “an illegal sentence because of some arguable procedural flaw in the sentencing procedure.”” (619)

“There is a difference between a court or judge lacking “fundamental jurisdiction” and improperly “exercising jurisdiction.”” (621)

“Therefore, he has no cause of action under Rule 4-345(a).” (623)

FACTUAL BACKGROUND

Tshiwala was convicted in three jury trials of attempted armed robbery, armed robbery, handgun offenses, first-degree assault, and conspiracy to commit armed robbery. His original aggregate sentence was 70 years, but a sentence review panel later reduced the aggregate sentence to 39 years, which became the operative sentence. Tshiwala did not contend that the 39-year sentences were intrinsically illegal; instead, he challenged the assignment of his post-sentencing motion for reconsideration to the judges who had served on the sentence review panel.

PROCEDURAL HISTORY

Tshiwala was convicted in three separate jury trials in the Circuit Court for Montgomery County and received aggregate sentences totaling 70 years. The Court of Special Appeals affirmed in an unreported opinion, and the Court of Appeals denied certiorari; the United States Supreme Court also denied certiorari. Following post-conviction proceedings, Tshiwala obtained permission to file a belated application for sentence review. A three-judge review panel reduced the aggregate sentence to 39 years. The panel later denied his Rule 4-345(e) motion for reconsideration, and the circuit court denied his subsequent Rule 4-345(a) motion to correct an illegal sentence.

DISPOSITION

affirmed

CASES CITED

- Tshiwala v. State, 367 Md. 88, 785 A.2d 1291 (2001)
- Tshiwala v. Maryland, 535 U.S. 1065, 122 S. Ct. 1934, 152 L. Ed. 2d 839 (2002)
- Gardner v. State, 420 Md. 1, 14, 20 A.3d 801, 809 (2011)
- Hoile v. State, 404 Md. 591, 614, 622-623, 948 A.2d 30, 43-44, 48 (2008)
- Montgomery v. State, 405 Md. 67, 74-77, 950 A.2d 77, 81-83 (2008)
- Evans v. State, 382 Md. 248, 278-279, 855 A.2d 291, 309 (2004), cert. denied, 543 U.S. 1150, 125 S. Ct. 1325, 161 L. Ed. 2d 113 (2005)
- State v. Kanaras, 357 Md. 170, 185, 742 A.2d 508, 517 (1999)
- Randall Book Corp. v. State, 316 Md. 315, 323, 558 A.2d 715, 719 (1989)
- State v. Wilkins, 393 Md. 269, 273, 275, 900 A.2d 765, 768-769 (2006)
- Corcoran v. State, 67 Md. App. 252, 255, 507 A.2d 200, 202, cert. denied, 307 Md. 83, 512 A.2d 377, cert. denied, 479 U.S. 932, 107 S. Ct. 404, 93 L. Ed. 2d 357 (1986)
- Taylor v. State, 407 Md. 137, 141 n. 4, 963 A.2d 197, 199 n. 4 (2009)
- Baker v. State, 389 Md. 127, 133, 883 A.2d 916, 919 (2005)
- Chaney v. State, 397 Md. 460, 466, 918 A.2d 506, 509-510 (2007)
- Pollard v. State, 394 Md. 40, 42, 904 A.2d 500, 501 (2006)
- Evans v. State, 389 Md. 456, 463, 886 A.2d 562, 565 (2005)
- Ridgeway v. State, 369 Md. 165, 171, 797 A.2d 1287, 1290 (2002)
- Moosavi v. State, 355 Md. 651, 662, 736 A.2d 285, 291 (1999)
- Campbell v. State, 325 Md. 488, 508-509, 601 A.2d 667, 677 (1992)
- Walczak v. State, 302 Md. 422, 425-427, 488 A.2d 949, 951 (1985)
- First Federated Commodity Trust Corp. v. Commissioner, 272 Md. 329, 334-335, 322 A.2d 539, 543 (1974)
- Moore v. McAllister, 216 Md. 497, 507, 141 A.2d 176 (1958)
- Board of License Comm. v. Corridor Wine, Inc., 361 Md. 403, 417-418, 761 A.2d 916, 923 (2000)
- Brown v. State, 409 Md. 1, 5-9, 971 A.2d 932, 934-936 (2009)
- John A. v. Board of Education, 400 Md. 363, 388, 929 A.2d 136, 151 (2007)
- Application of Kimmer, 392 Md. 251, 254-255 n. 1, 896 A.2d 1006, 1008 n. 1 (2006)
- Board of Nursing v. Nechay, 347 Md. 396, 405-407, 701 A.2d 405, 410-411 (1997)
- Cardinell v. State, 335 Md. 381, 424-425 n. 8, 644 A.2d 11, 32 n. 8 (1994)
- Rush v. State, 403 Md. 68, 98, 939 A.2d 689, 706 (2008)
- State v. Green, 367 Md. 61, 785 A.2d 1275 (2001)
- Parker v. State, 337 Md. 271, 282-284, 653 A.2d 436, 441-442 (1995)
- Kaouris v. Kaouris, 324 Md. 687, 708-709, 598 A.2d 1193, 1203 (1991)

- Pulley v. State, 287 Md. 406, 414-419, 412 A.2d 1244, 1248-1251 (1980)
- Greco v. State, 347 Md. 423, 431-433, 701 A.2d 419, 422-424 (1997)
- Strickland v. State, 407 Md. 344, 965 A.2d 887 (2009)
- State v. Peterson, 315 Md. 73, 85-90, 553 A.2d 672, 678-681 (1989)

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