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In the
Court of Special Appeals of Maryland
September Term , 2004

No. 00938

RALPH EDWARD WILKINS,

Appellant,

v.

STATE OF MARYLAND,

Appellee.

Appeal from the Circuit Court for Prince George's County
(Hon. Graydon S. McKee, Chief Judge)

Brief of Appellant Ralph Edward Wilkins

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STATEMENT OF THE CASE

In 1971, Ralph Wilkins was indicted by a grand jury in Prince George's County, Maryland. (T. 10).[1] Following a jury trial, he was found guilty of murder in the first degree. (T. 379).[2] On January 24, 1972, the Honorable William B. Bowie sentenced him to life imprisonment. (T. 418).

The opinions on direct appeal are reported at *Wilkins v. State*, 16 Md. App. 587 (1973), affirmed, *Wilkins v. State*, 270 Md. 62 (1973).

On June 16, 2003, Mr. Wikins' defense counsel, Michael Marr, filed a pleading captioned First Petition for Post-Conviction Relief ("First Post-Conviction Petition").[3] The Circuit Court for Prince Georges County found merit in Ralph Wilkins' request for a belated Motion for Modification of Sentence, but

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[1] The trial transcript will be cited, in parentheses, as "T." followed by the page number.

[2] The charges against Ralph Wilkins arose out of a December 14, 1970 shooting in the parking lot of a store in Chapel Oaks, Maryland. (T. 68). The victim, Thomas Magellan Lewis, was shot once by a sawed-off shotgun and died almost instantly. (T. 68). Though there were some twenty people standing at the front of the store, and at least two people standing in the parking lot within a few yards of the victim, (T. 117-18, 215, 225, 294) no one witnessed the actual shooting. The prosecution's theory of the case was that Ralph Wilkins deliberately shot Lewis during a robbery. (T. 68). To make its case, the prosecution relied principally upon the testimony of two witnesses – a sixteen-year old heroin addict, (T. 186, 188-89), and a teenager who was an initial suspect in the crime (T. 113-14, 153). While both of these witnesses were in the vicinity, neither testified that they saw Ralph Wilkins actually shot Lewis. (T. 144, 218).

[3] The petition, citing *State v. Wooten*, 277 Md. 114 (1976), and *Williamson v. State*, 284 Md. 212 (1979), contended that the trial court was unaware that it had the discretion to suspend all or part of the life sentence it had imposed. (First Post-Conviction Petition). The Circuit Court for Prince George's County erroneously rejected this argument. (Circuit Court 2003 Order, at 5).

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denied the balance of the claims.[4] As a result of the relief granted, Ralph Wilkins will be afforded a review of his sentence.[5] Prince George's County Circuit Court 2003 Order, 9-10.

On May 6, 2004, Mr. Wilkins, acting *pro se*, filed a Motion to Correct Illegal Sentence, alleging that his sentence was rendered illegal by the trial court's failure to recognize its discretion to suspend all or part of the life sentence that the Court imposed. Motion to Correct Illegal Sentence, 1, 3-8 ("MCIS"). This motion was summarily denied by the Prince George's County Circuit Court on May 19, 2004. (Circuit Court's 2004 Order).

On June 3, 2004, Mr. Wilkins filed a timely Notice of Appeal. However, due to circumstance beyond his control, the brief he prepared was never received by the court. On September 13, 2004, this Court dismissed Mr. Wilkins' appeal as untimely. However, upon Motion for Reconsideration filed *pro se* by Wilkins, and supplemented by counsel on November 1, 2004, this Court reinstated the instant appeal on December 29, 2004.[6] Mr. Wilkins now appears before this Court through counsel to challenge the Circuit Court's 2004 Order, denying his Motion to Correct Illegal Sentence.

---

[4] Counsel for Mr. Wilkins, Mr. Marr, appealed the Circuit Court's denials on February 8, 2004. (Order for Appeal). On May 3, 2004, the Court of Special Appeals dismissed the appeal as untimely. (Court of Special Appeals' 2004 Order) The mandate was issued on June 8, 2004.

[5] In the instant appeal, relief would not be limited to a sentence review, rather relief could encompass a new sentencing hearing that is itself reviewable by a three-judge panel. *See* Md. Rule 4-344.

[6] This motion was accompanied by a Motion for Extension of Filing Time and a Motion Requesting the Court to Make Copies Pursuant to Md. Rule 8-505.

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QUESTION PRESENTED

Is Ralph Wilkins entitled to a new sentencing hearing because the sentencing court erroneously believed it could not suspend any part of the life sentence it imposed on him?

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STATEMENT OF FACTS

At the time of sentencing, there was substantial mitigating evidence before the sentencing judge. For example, at the time of the offense, Ralph Wilkins had just turned twenty (T. 409-10). In addition, as defense counsel reminded the court, prior to trial, Ralph Wilkins voluntarily surrendered to the police in response to the charge against him. (T. 409-10). In addition, during his pre-trial confinement at the county jail, Ralph Wilkins served as a "tier representative" and "tier counselor" to other inmates. (T. 409). Indeed, defense counsel proffered that the sheriff would likely testify that Ralph Wilkins was a "calming influence at the jail as a tier counselor" during occasional "disturbances." *Id*. The sentencing court also had before it documentation of Ralph Wilkins' abusive childhood and troubled upbringing. (T. 409) (indicating that the pre-sentence investigation revealed Ralph Wilkins' background). However, the court did not consider any of this evidence in imposing sentence because it believed that its sentencing discretion was limited to only one option – life imprisonment--and that it could not suspend any part of this sentence.

Sentencing

At the time of Ralph Wilkins' conviction, the sentencing statute applicable to first degree murder stated, in relevant part:

> Every person convicted of murder in the first degree, his or her aiders, abettors and counselors, shall suffer death, or undergo a confinement in the penitentiary of the State for the period of their

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> natural life, in the discretion of the court before whom such person may be tried.

Md. Code Ann., Article 27, § 413 (1967 Repl. Vol.).

Citing Ralph Wilkins' youth (T. 411), his abusive upbringing (T. 409), his exemplary record in jail (T. 409), and the fact that Wilkins had cooperated with authorities by turning himself in (T. 409-10), defense counsel repeatedly urged the court to exercise its discretion and sentence Ralph Wilkins to something less than life imprisonment. (T. 408) ("[U]nder the provisions of Article 27, Section 641 (a) and 643 this Court has the discretion, if it sees fit to exercise that discretion, to give a sentence less than that called for of life imprisonment."). However, notwithstanding defense counsel's arguments, the sentencing judge repeatedly stated his belief that the applicable statute, § 413, restricted his discretion to only two sentencing options – natural life imprisonment or death. (T. 412). Since the jury had returned a verdict of first degree murder "without capital punishment," (T. 379), the judge explained that his discretion was even further restricted to just a single option – life imprisonment—with no further power to suspend all or part of that sentence. (T. 412). Specifically, the court stated:

> Now, I would think that where you have got a conviction of first degree murder, the mere fact that it has life or death there does not take it away from the fact that it only has that penalty. And I wouldn't think that we would have a right under a penalty that says you either give them death or life. If the jury says without capital punishment, then the only penalty that can be imposed is life. But it has always been my impression – and I will touch on that point later, but I just want to say that this is my impression – that the sentence in this case being first degree murder, and being found guilty of first degree murder without capital punishment, that there is only one

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> penalty provided under the statute as a result of the verdict of the jury, and that is that it be life.

Id. (emphasis added).

Defense counsel continued to press the court to recognize its sentencing discretion. However, when counsel was unable to provide citation to case law in support of his interpretation, the court declared that its belief that it lacked discretion was the "right" one:

> THE COURT: Can you cite me any case in Maryland where a man has been either convicted of or pleaded guilty to first degree murder where he ever got anything less than life?
>
> MR. FEISSNER: No, I cannot.
>
> THE COURT: What?
>
> MR. FEISSNER: No, I cannot.
>
> THE COURT: I think I am right on it but I will also protect myself on it later.

(T. 413).

Just moments later, the court again advised counsel that it was rejecting the notion that it had discretion to sentence Ralph Wilkins to anything other than life imprisonment:

> Except that if I disagree with your argument technically, I like to put that in the record because I do still disagree with that. And I think that the proper interpretation of that is once the jury has come up with first degree murder without capital punishment that there is only one penalty the Court can give.

(T. 413) (emphasis added).

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Finally, just prior to sentencing Ralph Wilkins to life in prison, the court once more announced its belief that it had no discretion to sentence Ralph Wilkins to anything else: "Now, even though your counsel has argued that the Court could give something else than life imprisonment, we don't agree with this." (T. 417) (emphasis added).

The judge then, in a self-described effort to "protect [himself] on it," (T. 413), stated for the record that a life sentence was justified even if discretion existed to do otherwise. (T. 417). However, even in its attempt to "protect" the record, the only discretion the court referred to was its ability to sentence Ralph Wilkins to something other than death. *Id.* The court at no time accepted the argument advanced by defense counsel that it had authority to sentence Ralph Wilkins to something other than life:

> On the other hand, let the record clearly show we will assume that we do have a right to give something less than the death penalty, but in this case we see no reason in the world why there should be anything other than life imprisonment in this case because it is just not warranted under the facts of what happened.

(T. 417-18) (emphasis added).

The court then, as it had promised all along it must, sentenced Mr. Wilkins to the "only" penalty the court believed it had the discretion to impose – life imprisonment. (T. 418).

Post-Sentencing

On July 28, 1978, after serving nearly a decade of his life sentence, Ralph Wilkins was transferred to the Patuxent Institution in preparation for his eventual

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parole. (MCIS, 2). As a result of his steady progress through Patuxent's four-tier system, Ralph Wilkins was granted increasing freedoms at the institution. For example, in June 1981, Ralph Wilkins was given the right to accompanied day leaves. *Id*. Then, in January of 1982, he was granted work release status. *Id*. Finally, in June of 1982, Ralph Wilkins was granted parole. *Id*.

Following his parole, two years passed without incident. However, on February 17, 1984, Ralph Wilkins was charged with a minor offense, vandalism,[7] and was released on bail pending trial. While awaiting trial, Ralph Wilkins moved to Atlanta, Georgia, and began life under an assumed name. Thereafter, an interstate detainer was issued when he failed to appear in court on the vandalism charge, and a parole revocation warrant was issued when he left the state without written permission. *Id*. Ultimately, the charges in the vandalism case were dropped.

Mr. Wilkins spent sixteen years in Georgia as "Richard T. Edmonston." *Id*. For nearly two decades, he maintained full-time employment, enrolled in college courses, became an active member of a local church, served as a community volunteer, and worked as a civic leader receiving commendations from political and community officials for his positive citizenry. *Id*.

Nonetheless, in early 2001, acting on a tip from a confidential source, police in Georgia arrested Ralph Wilkins on the 1984 interstate detainer. *Id*.

[7] The vandalism charges against Mr. Wilkins in Case No. 84-308 were dropped by the State's Attorney for Prince George's County. MCIS, 2.

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Ralph Wilkins did not fight extradition and was returned to Patuxent on February 17, 2001. *Id.* Due to the parole revocation, the life sentence that was first imposed in 1971 was reinstated in full. *See Md. Correctional Services Code Ann.* §7-401. Ralph Wilkins is currently serving this sentence.

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ARGUMENT

I. Maryland Rule 4-345 Grants Broad Authority to Correct the Illegal Life Sentence Imposed on Ralph Wilkins.

Pursuant to Maryland Rule 4-345, a court "may correct an illegal sentence at any time." *See* Md. Rule 4-345 (a); *see also State v. Kanaras*, 357 Md. 170, 183 (1999) (noting that "a motion under Rule 4-345 may be made at any time"). Moreover, the corrective powers granted by the rule are, as the courts have recognized, exceptionally broad. *See*, *e.g.*, *Oken v. State*, 378 Md. 179 (2003) (entertaining a broad challenge to the constitutionality of Maryland's death penalty on Sixth, Eighth, and Fourteenth Amendment grounds); *Dixon v. State*, 364 Md. 209 (2001) (finding that motion to correct illegal sentence was the appropriate means for lodging constitutional and statutory challenges to severity of sentence imposed on retrial); *State v. Griffiths,* 338 Md. 485 (1995) (motion to correct illegal sentence was appropriate vehicle to challenge constitutionality of separate convictions and sentences for lesser included offenses); *Roberts v. Warden*, 206 Md. 246 (1955) (motion to correct illegal sentence was appropriate vehicle to raise constitutionally excessive nature of sentence).

In keeping with the broad nature of the corrective powers granted by Rule 4-345, the limitations that courts have placed on petitions filed under the Maryland Post Conviction Procedure Act, Md. Code Ann., Crim. Proc. §§ 7-101-109 (2004), are not applicable to Rule 4-345 motions. *Kanaras*, 357 Md. at 182. As the court found in *Kanaras*, "[a] motion to correct an illegal sentence is not a 'statutory'

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remedy. Statutes are enacted by the General Assembly of Maryland. The Maryland Rules are adopted by the Court of Appeals." *Kanaras*, 357 Md. at 182; 742 A.2d at 515-16 (1999) (quoting *Valentine v. State*, 305 Md. 108, 123; 501 A.2d 847, 854 (1985)).

II. Ralph Wilkins' Sentence Must Be Vacated and a New Sentencing Hearing Ordered Because the Court that Sentenced Ralph Wilkins Erroneously Believed It Could Not Suspend Any Part of the Life Sentence Imposed.

Ralph Wilkins argued before the Circuit Court that his sentence was illegal because the sentencing judge failed to recognize his discretion to sentence him to something other than life in prison. The court below summarily rejected this claim without analysis or discussion. However, the denial of Ralph Wilkins' motion was erroneous where the plain letter of the law in Maryland clearly afforded the sentencing court the authority to suspend all or part of the life sentence it imposed, and where the record clearly reflects that the court below did not know that it had the discretion that the law granted to it. *See State v. Wooten*, 277 Md. 114, 117 (1976); *Williamson v. State*, 284 Md. 212, 214, 215 (1979).

A. The Sentencing Statutes Applicable to Ralph Wilkins – § 413 and § 641A – Afforded the Judge Discretion to Suspend All or Part of Ralph Wilkins' Life Sentence.

Mr. Wilkins was sentenced pursuant to § 413 of Article 27 of the Maryland Code. This section provides, in relevant part:

> Every person convicted of murder in the first degree, his or her aiders, abettors and counselors, shall suffer death, or undergo a

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> confinement in the penitentiary of the State for the period of their natural life, in the discretion of the court before whom such person may be tried.

See Md. Code Ann., Article 27, § 413 (1967 Repl. Vol.).

As defense counsel alerted the court, a second statute under that same Article – § 641A – was also relevant to the question of Ralph Wilkins' sentence. (T. 408) ("Your Honor, under the provisions of Article 27, Section 641 (a) and 643 this Court has the discretion, if it sees fit to exercise that discretion, to give a sentence less than that called for of life imprisonment."). Section 641A provided,[8] in relevant part:

> Upon entering a judgment of conviction, the court having jurisdiction, may suspend the imposition or execution of sentence and place the defendant on probation upon such terms and conditions as the courts deem proper. The court may impose a sentence for a specified period and provide that a lesser period be served in confinement, suspend the remainder of the sentence and grant probation for a period longer than the sentence but not in excess of five years.

Article 27, § 641A (1971 Repl. Vol.).

The Court of Appeals, in *State v. Wooten*, 277 Md. 114, 117 (1976), analyzed the interplay of these two statutory provisions and clarified that nothing in the plain language of either section prevented suspension of a life sentence.

In *Wooten*, the trial court sentenced the defendant to life imprisonment, pursuant to § 413, but then looked to § 641A, and suspended all but eight years of

[8] Maryland Code Ann., Art. 27, § 641A was repealed by Ch. 356, Acts 2001, effective October 1, 2001, and re- enacted with amendments as Md. Code Ann., Criminal Procedure Article, §§ 6-221 and 6-222(a) (1974, 2001 Repl. Vol.) .

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that time. 277 Md. 114, 115 (1976). On appeal, the State challenged the court's authority to suspend the life sentence, arguing that the plain language of § 413 and the severity of the punishments imposed therein justified a conclusion that suspension of any sentence under the section was prohibited. The State also argued that because § 641A did not specifically refer to § 413, suspension was not authorized. *Wooten*, Md. at 116-17 (1976). The *Wooten* court flatly rejected both of these claims.

Explaining that the plain language of § 413 does not foreclose a court's right to suspend sentence, the court stated, "there is simply nothing in the section which in any way indicates that a sentence imposed under it is to be exempt from the sweep of § 641A [which provides courts with a general power to suspend sentences]." *Wooten*, 277 Md. at 117-18 (1976). The court also noted that "§ 641A does not in any manner attempt to list the sentences to which it applies, but rather, in clear, unambiguous and unqualified language, bestows upon courts the power to suspend completely or partially any and all sentences over which they have jurisdiction." *Wooten*, 277 Md. at 117. Based upon these observations, the court concluded that nothing in the plain language of either statute impeded application of the suspension authority of § 641A to a sentence imposed under § 413. In other words, the *Wooten* court clarified "that life sentences were subject to possible subsequent suspension." *State v. Chaney*, 375 Md. 168, 184 (2003).

Just three years after *Wooten*, the Court of Appeals found that a trial court's failure to exercise the discretion bestowed by the plain language of §§ 413 and

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641A requires re-sentencing. *Williamson*, 284 Md. 212, 214 (1979). Thus, since the trial court, in the instant case, expressly rejected the notion that discretion existed, re-sentencing is required.

Just two years ago, the Court of Appeals reaffirmed its holding in *Wooten*. *See State v. Chaney*, 375 Md. 168, 176, n.4 (2003). There, however, the court denied relief based upon a conclusion that the record did not clearly reflect that the trial court lacked knowledge of its sentencing discretion. *Id.* at 175. A similar conclusion would be unwarranted on the record in the instant case.[9]

Prior to sentencing Ralph Wilkins to life in prison, the trial judge repeatedly announced his unwavering conviction that he lacked the authority to suspend any part of a sentence imposed under § 413. For example, just after defense counsel asked the court to exercise its discretion in sentencing, the court announced, "I wouldn't think that we would have a right under a penalty that says you either give them death or life." (T. 412) (emphasis added). Moments later, the court confirmed its belief in a lack of discretion, stating, "[i]f the jury says without capital punishment, then the only penalty that can be imposed is life." (T. 412) (emphasis added). The court continued, advising the parties that his belief was a long-held one: "[I]t has always been my impression . . . that there is only

[9] In determining that the record did not clearly reflect the lower court's lack of knowledge of its sentencing discretion, the Court of Appeals, in *State v. Chaney*, considered, among other things, the fact that Chaney was sentenced two years after the *Wooten* decision was issued. In the instant case, Ralph Wilkins was sentenced four years before *Wooten* clarified the plain meaning of the statutes. (T. 380).

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one penalty provided under the statute as a result of the verdict of the jury, and that is that it be life." (T. 412) (emphasis added).

Indeed, undeterred by counsel's persistent requests that the court recognize its existing discretion, the court again professed that it lacked the power to suspend:

> Except that if I disagree with your argument technically, I like to put that in the record because I do still disagree with that. And I think that the proper interpretation of that is once the jury has come up with first degree murder without capital punishment that there is only one penalty the Court can give.

(T. 413) (emphasis added).

Just prior to sentencing, the court announced one final time its firm belief that it had no power to sentence Ralph Wilkins to anything other than life in prison: "Now, even though your counsel has argued that the Court could give something else than life imprisonment, we don't agree with this." (T. 417) (emphasis added). As the record clearly reflects, the court confirmed on no fewer than five occasions that it was of the definite belief that discretion did not exist to sentence Ralph Wilkins to anything other than life in prison. Where the record clearly reflects the sentencing court failure to exercise discretion, reversal is warranted. *Cf. Wooten*, 277 Md. at 119; *see also Williamson*, 284 Md. at 214-15.

Finally, this Court should reject the trial court's transparent attempt to "protect [himself] on [the question of discretion]," (T. 413). As an initial matter, even in its ostensible effort to "protect" the record, *id*., the only discretion the court referred to was its ability to sentence Ralph Wilkins to something other than

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death. (T. 417) ("[L]et the record clearly show we will assume that we do have a right to give something less than the death penalty."). The court at no time accepted the notion advanced by defense counsel that authority existed to sentence Ralph Wilkins to something other than life.

Moreover, this Court should decline to indulge the lower court's thinly veiled refusal to apply the law. As the lower court itself admitted, the statement that a life sentence was justified was made for the record in a weak attempt to avoid reversal. (T. 413). As the record makes clear, the court at no time accepted – and in fact consistently rejected – the idea that it had discretion to sentence Ralph Wilkins to anything other than life. (T. 411-417). As discussed in greater detail below, in addition to the statements made on the record, the failure of the lower court to evaluate any of the mitigating evidence presented by counsel[10] – Ralph Wilkins' youth, abusive home environment, cooperation with the authorities, and exemplary record in jail – confirms that the sentencing court rejected the notion that it possessed any discretion.

B. There Was Substantial Mitigating Evidence in Ralph Wilkins' Case Which, If Considered by the Lower Court, Would Have Justified Suspending All or Part of Ralph Wilkins' Life Sentence.

As the Supreme Court found in *Eddings v. Oklahoma*, a sentencing judge must not be limited in its consideration of mitigating circumstances. 455 U.S.

[10] The court has expressly held that "home environment, marital status, degree of maturity, and drug abuse" are all factors relevant to the concept of "youthful age." *White v. State*, 300 Md. 719, 738-39 (1984).

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104, 113-114 (1982). Accordingly, the "character, prior record, age, [and] lack of specific intent to cause death" are, among other things, all factors that a sentencing body may consider. *Lockett v. Ohio*, 438 U.S. 586, 597 (1978). In the instant case, there were a number of factors that, if considered by the lower court, would have constituted mitigating evidence that justified suspension of Ralph Wilkins' life sentence.

First, as Ralph Wilkins' attorney reminded the court, Ralph Wilkins' age should have been a significant consideration in determining sentence. (T. 411). In fact, counsel expressly noted that giving a "young man of [Ralph Wilkins'] age a life sentence is to, in essence, exile him from society." *Id.* In fact, at the time of the incident, Mr. Wilkins had just turned 20 years old, and lived with his emotionally and physically abusive parents.[11] Ralph Wilkins age and background should have been considered by the sentencing court in evaluating the appropriateness of Ralph Wilkins' sentence.

The lower court also should have considered Ralph Wilkins' voluntary surrender to authorities as mitigating evidence that justified the suspension of part of the life sentence. (T. 409-10); *cf. Hitchcock v. Dugger*, 481 U.S. 393, 397-99 (1987) (finding that the exclusion of mitigating evidence, including the petitioner's cooperation with authorities, rendered the death sentence imposed invalid).

[11] The court has expressly held that "home environment, marital status, degree of maturity, and drug abuse" are all factors relevant to the concept of "youthful age." *White v. State*, 300 Md. 719, 738-39 (1984).

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Additionally, during the sentencing hearing defense counsel noted that the sheriff would likely indicate that Ralph Wilkins was a "calming influence at the jail as a tier counselor." (T. 409). Ralph Wilkins' exemplary conduct in the jail was evidence of his amenability to rehabilitation. However, once again the lower court failed to consider this relevant mitigating evidence. *See Hitchcock*, 481 U.S. 393, 399 (1987) (finding that exclusion of mitigating evidence, including petitioner's potential for rehabilitation, was error).

There were a number of mitigating factors that the lower court should have considered in determining whether Ralph Wilkins deserved to be imprisoned for the balance of his natural life. Consequently, because the lower court refused to acknowledge the discretionary authority it possessed, the sentence imposed should be vacated and a new sentencing hearing granted.

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CONCLUSION

For the reasons set forth herein, Appellant respectfully requests that this Court vacate his life sentence and remand his case for re-sentencing.

Respectfully submitted,

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STATEMENT PURSUANT TO RULE 8-504(a)(8)

This brief was prepared in the processing system Microsoft Word, with Times New Roman typeface, 13 point font text (13 point font footnotes).

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MARYLAND STATUTES
Rule 8-504(a)(7) Pertinent Texts

1. **Md. Rule 4-344. Sentencing - Review**.

(d) **Review panel – Appointment of**. Upon notification by the clerk of the filing of an application, the Circuit Administrative Judge shall promptly appoint a Review Panel of three judges, not including the sentencing judge, and shall designate one as Chair, to review the sentence. The sentencing judge may sit with the Review Panel in an advisory capacity if requested by a majority of the Review Panel. A Review Panel may be appointed to serve for a fixed term or may be appointed to review only cases specifically assigned to it by the Circuit Administrative Judge.
(e) **Review panel – Procedure before**. Unless a hearing is required by the Review of Criminal Sentences Act, the Review Panel may render its decision without a hearing if it affords the parties an opportunity to present relevant information in writing. If a hearing is to be held, the Review Panel shall serve the defendant, defendant's counsel, and the State's Attorney with reasonable notice of the time and place of the hearing. At the hearing the Review Panel may take testimony and receive other information.
(f) **Review panel – Decision**. Whether or not an appeal has been taken, the Review Panel shall file a written decision with the clerk, within 30 days after the application is filed. If the sentence is to be increased, the defendant shall be brought before the panel and resentenced pursuant to Rule 4-342. If the sentence is reduced or not changed, the defendant need not be brought before the Review Panel. In either case, the Review Panel shall state the reasons for its decision and shall furnish a copy of the decision to the defendant, defendant's counsel, and the State's Attorney.

2. **Md. Rule 4-345. Sentencing – Revisory power of court**.

(a) **Illegal sentence**. The court may correct an illegal sentence at any time.
(e) **Modification Upon Motion**. (1) Generally. Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, the court has revisory power over the sentence, except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not increase the sentence.

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3. **Md. Code Ann., Art. 27, § 413**.

Every person convicted of murder in the first degree, his or her aiders, abettors and counselors, shall suffer death, or undergo a confinement in the penitentiary of the State for the period of their natural life, in the discretion of the court before whom such person may be tried.

4. **Md. Code Ann., Art. 27, § 641A. Suspension of sentence and probation by court having jurisdiction; period of probation; probation when offense punishable by fine and imprisonment; limiting probation; revoking or modifying condition of probation**.

Upon entering a judgment of conviction, the court having jurisdiction, may suspend the imposition or execution of sentence and place the defendant on probation upon such terms and conditions as the courts deem proper. The court may impose a sentence for a specified period and provide that a less period be served in confinement, suspend the remainder of the sentence and grant probation for a period longer than the sentence by not in excess of five years.
Probation may be granted whether the offense is punishable by fine or imprisonment or both. If the offense is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to the imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgment. The court may revoke or modify any condition of probation or may reduce the period of probation. (1970, ch. 480)

5. **Md. Correctional Services Code Ann. § 7-401**. **Revocation of parole**.

(c) **Action authorized to be taken by commissioner**. -- If the commissioner finds from the evidence that the parolee has violated a condition of parole, the commissioner may taken any action that the commissioner considers appropriate, including:

(1)(i) revoking the order of parole;

(d) **Portion of sentence to be served**. –

(1) Subject to paragraph (2) of this subsection and further action by the Commission, if the order of parole is revoked, the inmate shall serve the remainder of the sentence originally imposed unless the commissioner hearing the parole revocation, in the commissioner's discretion, grants credit time between releaser on parole and revocation or parole.