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STATE OF CONNECTICUT *v.* ROBERT KING
(AC 45288)

Elgo, Cradle and Keller, Js.

Syllabus

Convicted, on a plea of guilty, of the crime of conspiracy to commit trafficking in persons, the defendant appealed to this court from the judgment of the trial court denying his motion to correct an illegal sentence. At the defendant's sentencing hearing, the state requested that the court, *inter alia*, require the defendant to register as a sex offender pursuant to statute (§ 54-254 (a)). The defendant did not object to the state's request, and defense counsel confirmed on the record the length of the defendant's period on the registry. Thereafter, the court imposed the requirement that the defendant register as a sex offender as a special condition of his probation. Subsequently, the defendant filed a motion to correct an illegal sentence, claiming that the sentencing court had required him to register as a sex offender illegally because, prior to accepting his guilty plea at his plea acceptance hearing, the court had not advised him that he would be required to register as a sex offender, as required by § 54-254 (a), and there had been no finding that his crime was committed for a sexual purpose. The court found that, although the defendant's sentence was imposed in an illegal manner because the necessary finding and canvass required by § 54-254 never occurred, the defendant's failure to object at the sentencing hearing constituted an acquiescence with its order and a waiver of his right to a hearing on the issue of whether he committed the crime with a sexual purpose. *Held* that the trial court lacked subject matter jurisdiction over the defendant's motion to correct because it did not plausibly challenge his sentence or the manner in which his sentence was imposed: the requirement that the defendant register as a sex offender was not part of his sentence but, rather, was a separate regulatory incident of the criminal judgment of conviction and was not punitive in nature; moreover, the fact that the court imposed the registration requirement as a special condition of the defendant's probation did not make that condition part of his sentence because our Supreme Court held in *State v. Waterman* (264 Conn. 484) that such a condition is not punitive; furthermore, the motion to correct challenged alleged flaws in the plea process in that the court accepted the defendant's plea without first canvassing him in compliance with § 54-254, thus, the motion was a collateral attack on the plea process rather than a true challenge to the legality of his sentence or the manner in which the sentence was imposed; accordingly, the trial court should have dismissed the defendant's motion to correct an illegal sentence.

Argued March 20—officially released July 25, 2023

Procedural History

Substitute information charging the defendant with the crime of conspiracy to commit trafficking in persons, brought to the Superior Court in the judicial district of Danbury, geographical area number three, where the defendant was presented to the court, *Hon. Susan S. Reynolds*, judge trial referee, on a plea of guilty; judgment of guilty in accordance with the plea; thereafter, the court, *D'Andrea, J.*, denied the defendant's motion to correct an illegal sentence, and the defendant appealed to this court. *Reversed; judgment directed.*

Tamar R. Birckhead, assigned counsel, for the appellant (defendant).

Meryl R. Gersz, deputy assistant state's attorney, with whom, on the brief, were *David R. Applegate*, state's attorney, *Stephen J. Sedensky III*, special assistant state's attorney, and *Mary-Caitlin Harding*, deputy assistant state's attorney, for the appellee (state).

Opinion

KELLER, J. The defendant, Robert King, appeals from the judgment of the trial court denying his motion to correct an illegal sentence. On appeal, the defendant claims that the court improperly denied that motion, which challenged the sentencing court's imposition of a special condition of probation that he register as a sex offender pursuant to General Statutes § 54-254 (a).¹ In response, the state argues, inter alia, that the trial court lacked subject matter jurisdiction over the defendant's motion to correct because the requirement that the defendant register as a sex offender was not part of his sentence. We agree with the state and, accordingly, we reverse the judgment of the trial court and remand the case with direction to dismiss the motion to correct.

The following procedural history and facts, as undisputed or made a part of the record at the time the defendant entered his plea, are relevant to this appeal. Between 2012 and 2016, the defendant operated a prostitution ring in the Danbury area. Specifically, the defendant recruited and delivered fifteen male victims to meet with either William Trefzger or Bruce Bemer,² who paid the victims directly in exchange for sexual contact. The victims then shared with the defendant a portion of the money given by either Trefzger or Bemer. All of the fifteen victims suffered from mental health issues or substance abuse issues.

On August 13, 2016, the defendant was arrested and charged with promoting prostitution in the second degree in violation of General Statutes § 53a-87 and tampering with a witness in violation of General Statutes § 53a-151. See *State v. King*, Superior Court, judicial district of Danbury, Docket No. CR-16-0153866-S. On March 31, 2017, the defendant was arrested and charged with conspiracy to commit trafficking in persons in violation of General Statutes (Supp. 2016) § 53a-192a and General Statutes § 53a-48. See *State v. King*, Superior Court, judicial district of Danbury, Docket No. CR-17-0155231-S.

On August 24, 2018, the court held a hearing at which the defendant pleaded guilty to the charge of conspiracy to commit trafficking in persons in violation General Statutes (Supp. 2016) § 53a-192a and § 53a-48. The defendant entered his guilty plea pursuant to a plea agreement in which the state agreed to nolle the charges brought against him in Docket No. CR-16-0153866-S. In exchange, the defendant agreed to fully cooperate with the state in its case against Bemer and to be sentenced to twenty years of incarceration, suspended after four and one-half years, and thirty-five years of probation. The court canvassed the defendant and confirmed that he understood the plea proceedings, previously discussed the case with his attorney, knew the elements

of the charged offense, understood the plea agreement, and was satisfied with the service of his attorneys. The court confirmed that the defendant was aware that his plea would result in him giving up his rights to remain silent, to continue pleading not guilty, to receive a trial by court or jury, to cross-examine the state's witnesses and evidence, and to present his own witnesses and evidence. The court also confirmed that no one had threatened or forced the defendant to plead guilty. The court accepted the defendant's plea and determined that it was freely, voluntarily, and intelligently made. There was no mention at the plea hearing as to whether the defendant was, or should be, required to register as a sex offender.

On June 19, 2019, the court held the defendant's sentencing hearing. At the outset, the court recalled that the plea agreement provided for thirty-five years of probation. Nevertheless, the court noted that, as a result of a 2017 amendment to § 53a-192a,³ the maximum period of probation was five years. Both parties agreed with the court's representation. The court stated that, despite the fact that it was "not happy about it," the court would reduce the period of probation from thirty-five years to five years. Defense counsel confirmed that was the plea deal that the defendant wanted and that the defendant did not want to withdraw his plea and start over.

The state then requested that the court impose the four special conditions of probation recommended by the presentence investigation report (PSI): (1) sexual offender evaluation and treatment; (2) mental health evaluation and treatment; (3) no contact with Bemer and Trefzger; and (4) no contact with the victims. The state further requested that the court require the defendant to register as a sex offender because "this was a crime committed for sexual purposes."⁴

After hearing from certain victims and their representatives, the court offered defense counsel the opportunity to respond. Neither the defendant nor defense counsel objected to, or otherwise opposed, the state's request that the defendant be required to register as a sex offender. Rather, defense counsel spoke briefly about how the defendant cooperated with the state in its case against Bemer and the reduction in the period of probation. Defense counsel concluded by "ask[ing] the court impose the sentence as [he] think[s] the court is inclined to doing"

The court then sentenced the defendant to twenty years of incarceration, suspended after four and one-half years, and five years of probation. In accordance with the recommendations in the PSI and by the state, the court also stated, "Specifically to that probation, in addition to anything else probation deems necessary, is that you will participate in sex offender evaluation and treatment. You will register on the sex offender

registry. You will submit to mental health evaluation and treatment. You will have no contact at all with either Mr. Bemer or Mr. Trefzger. You will have absolutely no contact whatsoever with any of the victims that you have been given the list of—there’s seventeen of them, if you’re ever in doubt, you should contact probation and find out—or their families. You are not to contact Ability Beyond or go to any of its properties, no alcohol, no drugs and you are to—oh, I did that, registration, you’re to go on the re—the sex offender registry.”

Following the imposition of the sentence, neither the defendant nor defense counsel took exception to the court requiring that the defendant register as a sex offender. Instead, defense counsel confirmed the length of the time period that the defendant must register as a sex offender. Specifically, the court asked, “Counsel, what else do I have to do?” Defense counsel responded, “I think the period of the registration, Your Honor.” The court stated, “Oh, that’s a ten year, isn’t it?” The state confirmed, “Yes, Your Honor,” and the court stated, “It’s a ten year registration. I have that written down right here.” The written order of probation, filed on June 20, 2019, evinces that the court imposed the requirement that the defendant register as a sex offender as a special condition of probation pursuant to General Statutes § 54-251. The defendant did not file a direct appeal from his conviction, and he did not file a motion to vacate or withdraw his guilty plea.

Two years later, on July 15, 2021, the defendant filed a motion to correct an illegal sentence and a memorandum of law in support thereof. The defendant argued that the sentencing court illegally required him to register as a sex offender because the court, prior to accepting his plea, failed to comply with § 54-254 (a), which provides in relevant part: “If the court finds that a person has committed a felony *for a sexual purpose* and intends to require such person to register under this section, prior to accepting a plea of guilty or nolo contendere from such person with respect to such felony, the court shall (1) inform the person that the entry of a finding of guilty after acceptance of the plea will subject the person to the registration requirements of this section, and (2) determine that the person fully understands the consequences of the plea. . . .”⁵ (Emphasis added.) The defendant argued that “there was no mention at all of the sex offender registration requirement of § 54-254 (a) during the defendant’s plea acceptance hearing. At no time during the plea acceptance was the defendant advised he would be required to register as a sex offender as is required by § 54-254. The first mention of sex offender registration was at the defendant’s sentencing, when [the state] asked the judge to impose registration in accordance with § 54-254. There was also no formal finding that the defendant had committed conspiracy to commit human trafficking for a sexual purpose.” As for relief, the defendant

requested that the court “correct the defendant’s illegal sentence, vacate the defendant’s sentence, and order him resentenced under the terms of his plea agreement.”

On August 13, 2021, the state filed a motion to dismiss and an objection to the defendant’s motion to correct. On September 8, 2021, the state filed a memorandum of law in support of its motion and its objection in which it made two principal arguments.⁶ First, the state contended that the court lacked subject matter jurisdiction pursuant to Practice Book § 43-22 because the defendant’s motion to correct contested the requirement that he register as a sex offender, which was separate from his sentence. Second, the state argued that the court should deny the defendant’s motion to correct because the defendant, and/or his counsel, was well aware of the requirement that he register as a sex offender when he pleaded guilty.

On September 10, 2021, the court held a hearing on the defendant’s motion to correct. Defense counsel argued that the defendant’s sentence was imposed in an illegal manner because the court at sentencing required him to register as a sex offender without first canvassing him at his plea hearing in compliance with § 54-254. The state argued that the court lacked subject matter jurisdiction over the defendant’s motion to correct because he challenged only the sex offender registration requirement, which is distinct from his actual sentence. The state also argued that the court should deny the motion to correct on the ground that the defendant consented to the registration requirement because neither the defendant nor defense counsel objected to the court’s imposition of this requirement at the sentencing hearing. In response to the state’s jurisdictional argument, defense counsel argued that “[t]he issue is that, at the time of the plea acceptance, he was not advised that that would be part of the plea. And . . . there should have been a finding at that time that it was for a sexual purpose, not at the time of sentencing. . . . What happened at [the] time of sentencing has nothing to do with what we’re claiming here, other than that is where . . . the registration first appears in this case.”

On November 16, 2021, the court issued a memorandum of decision denying the defendant’s motion to correct. The court held that the defendant’s sentence was imposed in an illegal manner because the necessary finding and canvass required by § 54-254 never occurred, and, thus, the sentencing court improperly required him to register as a sex offender. Nevertheless, the court denied the defendant’s motion to correct because defense counsel failed to object at the sentencing hearing to the state’s request that the defendant register as a sex offender and, thus, “the defendant’s silence is the full functional equivalent of acquiescence to the court’s order and a waiver of the right to a hearing

on the issue as to whether the defendant committed the act for a sexual purpose.” Moreover, although the court did not squarely address the state’s argument that it lacked subject matter jurisdiction, the court implicitly rejected that argument by addressing the merits of the defendant’s motion and ruling that the defendant’s sentence was imposed in an illegal manner but that the defendant, by and through his counsel, waived this claim by failing to object at the sentencing hearing.⁷ This appeal followed.⁸

The principal issue in this appeal is whether a motion to correct an illegal sentence is a jurisdictionally proper vehicle by which to challenge the propriety of the sentencing court’s imposition of the requirement that a defendant register as a sex offender. The state contends that the court lacked subject matter jurisdiction over the defendant’s motion to correct because that motion did not contest his sentence or the manner in which his sentence was imposed. Specifically, the state argues that the requirement that the defendant register as a sex offender is not part of his sentence because it is a separate regulatory incident of the criminal judgment of conviction and is not punitive in nature. The state further argues that the defendant’s motion to correct an illegal sentence challenged the plea process, not the sentencing proceeding. In response, the defendant argues that the court had subject matter jurisdiction because the court’s imposition of the special condition of probation that he register as a sex offender is considered part of his sentence. He further argues that the court had subject matter jurisdiction because his motion challenged the illegal manner in which the court imposed his sentence.⁹ We agree with the state.

We first set forth our standard of review and relevant legal principles governing the court’s subject matter jurisdiction over a motion to correct an illegal sentence. “A trial court generally has no authority to modify a sentence but retains limited subject matter jurisdiction to correct an illegal sentence or a sentence imposed in an illegal manner.” (Internal quotation marks omitted.) *State v. Myers*, 343 Conn. 447, 459, 274 A.3d 100 (2022). Practice Book § 43-22, which codifies this common-law rule, provides: “The judicial authority may at any time correct an illegal sentence or other illegal disposition, or it may correct a sentence imposed in an illegal manner or any other disposition made in an illegal manner.” “Therefore, we must decide whether the defendant has raised a colorable claim within the scope of . . . § 43-22. . . . In the absence of a colorable claim requiring correction, the trial court has no jurisdiction. . . . We have emphasized, however, that [t]he jurisdictional and merits inquiries are separate; whether the defendant ultimately succeeds on the merits of his claim does not affect the trial court’s jurisdiction to hear it. . . . In examining whether a claim is colorable, therefore, the jurisdictional inquiry is guided by the plausibility that

the defendant's claim is a challenge to his sentence, rather than its ultimate legal correctness." (Citations omitted; internal quotation marks omitted.) *State v. Myers*, supra, 459.

"[A]n illegal sentence is essentially one [that] . . . exceeds the relevant statutory maximum limits, violates a defendant's right against double jeopardy, is ambiguous, or is internally contradictory. . . . In accordance with this summary, Connecticut courts have considered four categories of claims pursuant to [Practice Book] § 43-22. The first category has addressed whether the sentence was within the permissible range for the crimes charged. . . . The second category has considered violations of the prohibition against double jeopardy. . . . The third category has involved claims pertaining to the computation of the length of the sentence and the question of consecutive or concurrent prison time. . . . The fourth category has involved questions as to which sentencing statute was applicable. . . . We have emphasized that, in order to invoke the jurisdiction of the trial court, a challenge to the legality of a sentence must challenge the sentencing proceeding itself." (Citation omitted; internal quotation marks omitted.) *Id.*, 459–60. "Sentences imposed in an illegal manner have been defined as being within the relevant statutory limits but . . . imposed in a way [that] violates [a] defendant's right . . . to be addressed personally at sentencing and to speak in mitigation of punishment . . . or his right to be sentenced by a judge relying on accurate information or considerations solely in the record, or his right that the government keep its plea agreement promises" (Internal quotation marks omitted.) *State v. Francis*, 322 Conn. 247, 264–65, 140 A.3d 927 (2016). "Whether the trial court had subject matter jurisdiction over the defendant's motion to correct an illegal sentence is a question of law, and our review is plenary." *State v. Ward*, 341 Conn. 142, 149, 266 A.3d 807 (2021).

We conclude that the court lacked subject matter jurisdiction over the defendant's motion to correct because it did not plausibly challenge his sentence or the manner in which his sentence was imposed. First, the defendant's motion to correct did not plausibly challenge his sentence. Our Supreme Court consistently has held that the requirement that a defendant register as a sex offender is not part of a sentence because it is a separate regulatory incident of the criminal judgment of conviction and is not punitive in nature. See, e.g., *Goguen v. Commissioner of Correction*, 341 Conn. 508, 531, 267 A.3d 831 (2021) ("the requirement that the petitioner register as a sex offender is a collateral consequence of his 1996 conviction, not part of the sentence"); *State v. Pierce*, 269 Conn. 442, 448 n.5, 849 A.2d 375 (2004) (sex offender registration requirement pursuant to § 54-254 (a) "is a separate regulatory incident of the criminal judgment of conviction" and "making the factual finding and informing the defendant of

the registration requirement did not necessitate any modification, opening or correction of the defendant's sentence"); *State v. Waterman*, 264 Conn. 484, 497, 498, 825 A.2d 63 (2003) (because sex offender registration statute is regulatory and not punitive in nature, application of statute to defendant "did not necessitate any modification, opening or correction of [his] sentence" and holding that " 'we are not dealing with a sentencing factor or a sentencing enhancement, but with a finding to be made after conviction that has no effect until after a defendant's sentence has been served' "). Moreover, the fact that the court imposed the sex offender registration requirement as a special condition of probation does not make that condition part of the defendant's sentence because *Waterman* held that such a condition is not punitive. See, e.g., *State v. Fowlkes*, 283 Conn. 735, 737-39, 930 A.2d 644 (2007) (holding that nonpunitive conditions of probation do not affect defendant's sentence); *State v. Waterman*, supra, 497 (requirement that defendant register as sex offender was not punitive in nature). The defendant cites no appellate case, and we are not aware of any, holding that a trial court has subject matter jurisdiction over a motion to correct an illegal sentence challenging the court's requirement that the defendant register as a sex offender.¹⁰

Second, rather than challenging the manner in which the court imposed his sentence, the defendant challenges the court's conduct *relative to his plea*. Specifically, he asserts that the court failed to make the required findings and conduct a canvass pursuant to § 54-254 *prior to accepting his guilty plea*. Our appellate courts have held that a trial court lacks subject matter jurisdiction over a motion to correct challenging alleged flaws in the plea process. See, e.g., *State v. Das*, 291 Conn. 356, 363 n.3, 968 A.2d 367 (2009) (because "defendant's claims are based on alleged flaws in the court's acceptance of his plea, Practice Book § 43-22 *is clearly inapplicable*" (emphasis added)); *State v. Boyd*, 204 Conn. App. 446, 456-57, 253 A.3d 988 (trial court lacked subject matter jurisdiction over motion to correct because it was "nothing more than a collateral attack on the plea underlying the defendant's conviction rather than a true challenge to the legality of the sentence imposed or to the sentencing proceedings"), cert. denied, 336 Conn. 951, 251 A.3d 617 (2021); *State v. Robles*, 169 Conn. App. 127, 133, 150 A.3d 687 (2016) (trial court lacked subject matter jurisdiction over motion to correct because defendant's claims challenged "the validity of his plea, and subsequent conviction, on the kidnapping charges and, therefore, do not fall" within purview of § 43-22), cert. denied, 324 Conn. 906, 152 A.3d 544 (2017); *State v. McPherson*, 169 Conn. App. 100, 102, 148 A.3d 630 ("the court properly dismissed the defendant's motion to correct an illegal sentence because the defendant sought to attack the validity of his guilty pleas . . . rather than attacking the

legality of the sentencing proceeding or the sentence itself”), cert. denied, 323 Conn. 950, 151 A.3d 847 (2016); *State v. Monge*, 165 Conn. App. 36, 43, 138 A.3d 450 (trial court lacked subject matter jurisdiction over motion, construed as seeking to correct an illegal sentence, alleging that defendant’s pleas were not knowing and voluntary), cert. denied, 321 Conn. 924, 138 A.3d 284 (2016); *State v. Casiano*, 122 Conn. App. 61, 68, 998 A.2d 792 (trial court lacked subject matter jurisdiction over motion to correct because defendant’s claim did not attack validity of sentence and, instead, pertained to his trial attorney’s effectiveness during plea negotiations and alleged flaws in court’s acceptance of plea), cert. denied, 298 Conn. 931, 5 A.3d 491 (2010).

In the present case, the defendant’s motion to correct and his oral argument in support of that motion made clear that his challenge was to the court’s acceptance of his plea without first complying with § 54-254. In his motion to correct, the gravamen of his argument challenged the plea process, and he concluded his motion by arguing that “there was no mention at all of the sex offender registration requirement of § 54-254 (a) during the defendant’s *plea acceptance hearing*. At no time during the *plea acceptance* was the defendant advised he would be required to register as a sex offender as is required by § 54-254. The first mention of sex offender registration was at the defendant’s sentencing, when [the state] asked the judge to impose registration in accordance with § 54-254. There was also no formal finding that the defendant had committed conspiracy to commit human trafficking for a sexual purpose.” (Emphasis added.) At oral argument in support of the motion to correct, defense counsel repeatedly emphasized that the basis for his motion to correct stemmed from the fact that, at the plea hearing, the court failed to comply with § 54-254. Specifically, defense counsel argued that “[t]he issue is that at the time of the *plea acceptance*, he was not advised that that would be part of the plea. And . . . there should have been a finding *at that time* that it was for a sexual purpose, not at the time of sentencing. . . . *What happened at [the] time of sentencing has nothing to do with what we’re claiming here*, other than that is where . . . the registration first appears in this case.” (Emphasis added.) The defendant also confirmed to the court that the required findings pursuant to § 54-254 must be made prior to the court’s acceptance of the plea and cannot be made by the court at sentencing.¹¹ Despite his attempt on appeal to characterize his motion as challenging the manner in which his sentence was imposed, the defendant’s argument to the trial court made clear that the genesis of his claim was the alleged improprieties at the plea hearing. Therefore, we conclude that the court lacked subject matter jurisdiction because the defendant’s motion to correct is a collateral attack on the plea process rather than a true challenge

to the legality of his sentence or the manner in which his sentence was imposed.

Finally, we make clear that our decision is limited to considering the plausibility that the defendant's motion challenged his sentence, and we do not reach the merits of his claim that he improperly was required to register as a sex offender in violation of § 54-254. It is possible that the defendant has procedural mechanisms, other than a motion to correct an illegal sentence, to obtain an adjudication of his claim. As the state recognized in its supplemental brief, the court would have subject matter jurisdiction if the defendant were to file a motion to modify, pursuant to General Statutes § 53a-30 (c), challenging the legality of the court's requirement that the defendant register as a sex offender as a special condition of his probation.¹² See, e.g., *State v. Suzanne P.*, 208 Conn. App. 592, 609–10, 265 A.3d 951 (2021) (outlining procedure for modifying conditions of probation pursuant to § 53a-30 (c)); see also footnote 8 of this opinion. The state in the present case also recognized that the defendant has the opportunity to file a habeas corpus action to challenge the effectiveness of his counsel. See, e.g., *State v. Parker*, 295 Conn. 825, 851–52, 992 A.2d 1103 (2010) (affirming trial court's dismissal of motion to correct challenging actions of defense counsel at sentencing, and indicating that “exclusive forum for adjudicating ineffective assistance of counsel claims is by way of habeas proceedings”); *State v. Brescia*, 122 Conn. App. 601, 607 n.4, 999 A.2d 848 (2010) (noting that, although trial court lacked subject matter jurisdiction over motion to correct, defendant had ability to raise claim in habeas corpus proceeding).

The judgment is reversed and the case is remanded with direction to dismiss the defendant's motion to correct an illegal sentence.

In this opinion the other judges concurred.

¹ General Statutes § 54-254 (a) provides in relevant part: “Any person who has been convicted . . . of any felony that the court finds was committed for a sexual purpose, may be required by the court upon release into the community or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct to register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Emergency Services and Public Protection, on such forms and in such locations as the commissioner shall direct, and to maintain such registration for ten years from the date of such person's release into the community. If the court finds that a person has committed a felony for a sexual purpose and intends to require such person to register under this section, prior to accepting a plea of guilty or nolo contendere from such person with respect to such felony, the court shall (1) inform the person that the entry of a finding of guilty after acceptance of the plea will subject the person to the registration requirements of this section, and (2) determine that the person fully understands the consequences of the plea. . . .”

² William Trefzger pleaded guilty to patronizing a prostitute pursuant to General Statutes (Rev. to 2015) § 53a-83 (c), and was sentenced to ten years of incarceration, execution suspended after one year, followed by ten years of probation.

A jury found Bruce Bemer guilty of four counts of patronizing a prostitute

in violation of General Statutes (Rev. to 2015) § 53a-83 (c), and one count of trafficking in persons as an accessory in violation of General Statutes (Supp. 2016) § 53a-192a and General Statutes § 53a-8. On appeal, our Supreme Court held that the state presented insufficient evidence to establish that Bemer had the requisite knowledge or intent to support the charged counts. *State v. Bemer*, 340 Conn. 804, 807, 266 A.3d 116 (2021). Thus, our Supreme Court reversed the judgment of conviction and remanded the case with direction to render judgment of not guilty. *Id.*, 822.

³ In 2017, our legislature amended § 53a-192a to reclassify the offense from a class B felony to a class A felony. See Public Acts 2017, No. 17-32, § 2. We are not convinced that the reclassification of § 53a-192a in 2017 changed the maximum allowable sentence of probation for an offense of conspiracy to commit trafficking in persons in violation of General Statutes §§ 53a-192a and 53a-48. Pursuant to General Statutes § 53a-29 (d), the maximum sentence of probation for a class B felony is not more than five years. As the trial court and the parties agreed, conspiracy to commit trafficking in persons in violation of General Statutes (Supp. 2016) § 53a-192a and § 53a-48, was a class B felony *prior to 2017*. *After 2017*, conspiracy to commit trafficking in persons in violation of §§ 53a-192a and 53a-48, also was a class B felony because, although § 53a-192a was now a class A felony, General Statutes § 53a-51 reduced the classification of conspiracy to commit that crime to a class B felony. See General Statutes § 53a-51 (“[a]ttempt and conspiracy are crimes of the same grade and degree as the most serious offense which is attempted or is an object of the conspiracy, except that an attempt or conspiracy to commit a class A felony is a class B felony”).

⁴ The state also requested that the court impose two more restrictions on the defendant: (1) that the “court add with condition number four no contact with the victims or their families. Victims number four and thirteen are deceased, but their family members are still alive and they do not want any contact with this defendant”; and (2) “that the defendant possess no alcohol and no drugs and that he have no contact with Ability Beyond or any other [of its] properties.”

⁵ General Statutes § 54-250 (12) defines the phrase “sexual purpose” to mean “that a purpose of the defendant in committing the felony was to engage in sexual contact or sexual intercourse with another person without that person’s consent. A sexual purpose need not be the sole purpose of the commission of the felony. The sexual purpose may arise at any time in the course of the commission of the felony.”

⁶ The state also argued that the sentencing court did not err because the defendant was required to register as a sex offender because his plea of guilty to conspiracy to commit human trafficking triggered the automatic registration requirement of § 54-251 (a), requiring “[a]ny person who has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor or a nonviolent sexual offense” to register as a sex offender. The state does not renew this argument on appeal, likely because none of the fifteen victims were minors.

⁷ Although the court did not expressly address the state’s subject matter jurisdiction argument, this does not preclude our resolution of that claim on appeal because “[t]he subject matter jurisdiction requirement may not be waived by any party, and also may be raised by a party, or by the court sua sponte, at any stage of the proceedings, including on appeal” (Internal quotation marks omitted.) *Wolfork v. Yale Medical Group*, 335 Conn. 448, 459, 239 A.3d 272 (2020).

⁸ After oral argument, this court, sua sponte, ordered the parties to file supplemental briefs “addressing whether: [1] The trial court had subject matter jurisdiction over the defendant’s motion to correct an illegal sentence because that motion challenged whether the sentencing court improperly imposed registration as a sex offender as a condition of probation; and [2] If the defendant filed a motion to modify probation, the trial court would have subject matter jurisdiction to review the claimed illegality of the sex offender registration requirement because it has continuing jurisdiction to modify conditions of probation pursuant to General Statutes § 53a-30.”

With respect to the first question, the defendant contended that the court had subject matter jurisdiction because the court’s imposition of the special condition of probation that he register as a sex offender is considered part of his sentence pursuant to *State v. Koslik*, 116 Conn. App. 693, 977 A.2d 275, cert. denied, 293 Conn. 930, 980 A.2d 916 (2009). Conversely, the state contended that the court lacked subject matter jurisdiction because the defendant’s motion to correct did not challenge the conditions of his probation and, even if it did, the requirement that the defendant register as a sex

offender is not part of his sentence because it is not punitive pursuant to *State v. Fowlkes*, 283 Conn. 735, 930 A.2d 644 (2007). With respect to the second question, both parties agreed that the court would have subject matter jurisdiction to modify the defendant's special conditions of probation if he were to prospectively file a motion to modify his special conditions of probation pursuant to § 53a-30 (c).

⁹ The defendant also argued for the first time in his appellate reply brief that the sentencing court's order requiring him to register as a sex offender constituted "any other disposition made in an illegal manner" pursuant to Practice Book § 43-22. We decline to review this argument because the defendant raised it for the first time on appeal in his appellate reply brief. See *State v. Griffin*, 217 Conn. App. 358, 375 n.9, 288 A.3d 653 ("it is well established that we do not entertain arguments raised for the first time in a reply brief"), cert. denied, 346 Conn. 917, 290 A.3d 799 (2023); *Jaynes v. Commissioner of Correction*, 216 Conn. App. 412, 419, 285 A.3d 412 (2022) ("[a]rguments asserted in support of a claim for the first time on appeal are not preserved"), cert. denied, 345 Conn. 972, 286 A.3d 906 (2023).

¹⁰ In his supplemental brief, the defendant primarily relies on *State v. Koslik*, 116 Conn. App. 693, 700, 977 A.2d 275, cert. denied, 293 Conn. 930, 980 A.2d 916 (2009), in which this court determined that the trial court had subject matter jurisdiction over a motion to correct an illegal sentence in which the defendant argued that his sentence of three years of probation exceeded the relevant statutory maximum of two years of probation. We are not persuaded that *Koslik* is applicable here because the present motion to correct challenged the sentencing court's imposition of a special condition of probation on the ground that the court at the plea hearing failed to make a required finding. In contrast, the claim in *Koslik* that the sentence exceeded the statutory maximum clearly falls within the prescribed categories that a trial court retains jurisdiction to correct. See, e.g., *State v. Francis*, supra, 322 Conn. 264 (trial court has subject matter jurisdiction over motion to correct in which defendant argues that sentence exceeds applicable statutory maximum limits).

¹¹ Additionally, the defendant in his motion and at oral argument before the trial court primarily relied on *State v. Davenport*, 127 Conn. App. 760, 763, 15 A.3d 1154, cert. denied, 301 Conn. 917, 21 A.3d 464 (2011), in which this court, on appeal from the judgment of conviction rendered after the defendant's plea, held that it was plain error for the court to accept the defendant's plea without first complying with the mandates of § 54-251 (a). The *Davenport* decision dealt only with the plea process, and did not concern sentencing, jurisdiction, or a motion to correct an illegal sentence. Accordingly, not only his argument, but also the substantive authority supporting his argument, evinces that the defendant's challenge was to the plea process, not to his sentence.

¹² To be clear, the state contends that the court would have subject matter jurisdiction over the defendant's prospective motion to modify the conditions of his probation pursuant to § 53a-30, not that the defendant would prevail on the merits of such a motion. Indeed, the state in its supplemental brief expressly reserved its right to contest any future motion to modify on the merits, including but not limited to the grounds that (1) the canvass and findings required by § 54-254 do not implicate a constitutional right that the defendant must personally waive, (2) the defendant was afforded any process constitutionally due, and (3) the defendant and/or his counsel waived any right to the § 54-254 findings and canvass. See, e.g., *State v. Morel-Vargas*, 343 Conn. 247, 253-54, 273 A.3d 661, cert. denied, U.S. , 143 S. Ct. 263, 214 L. Ed. 2d 114 (2022); *State v. Arthur H.*, 288 Conn. 582, 602-609, 953 A.2d 630 (2008).
