

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE	)	
	)	
	)	
v.	)	
	)	
	)	C.A. No. 1007009018 &
MICHAEL W. COLEMAN	)	1007008965
	)	
	)	

Submitted: February 23, 2015  
Decided: March 18, 2015

Upon Defendant’s Motion for Modification of Sentence

**DENIED**

**ORDER**

1. On March 18, 2011, Defendant was sentenced to 8 years of unsuspended time (as an habitual offender) for Burglary 2<sup>nd</sup> Degree; 3 years, suspended after 1 year for Attempted Robbery 2<sup>nd</sup> Degree; 3 years, suspended after 1 year for Possession of a Deadly Weapon by a Person Prohibited; and 1 year suspended for Theft of a Controlled Substance. In accordance with Title 11, Section 3901(d) of the Delaware Code, the Level 5 sentences are consecutive.<sup>1</sup>

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<sup>1</sup>11 *Del. C.* § 3901(d) (2012) (“No sentence of confinement of any criminal defendant...shall be made to run concurrently with any other sentence of confinement imposed on

2. Section 3901(d) has been amended, with an effective date of July 9, 2014. As amended, Section 3901(d) provides in pertinent part: “The court shall direct whether the sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently or consecutively with any other sentence of confinement imposed on such criminal defendant.”

3. Defendant requests that the Court modify his sentence so that the Level 5 sentences of confinement be served concurrently.

4. Amended statutes will not be applied retroactively, unless the statute clearly contains express language indicating that the legislature intended retroactive application.<sup>2</sup>

5. The Court finds that Section 3901(d), as amended, was not intended by the Delaware General Assembly to have retroactive effect.

**THEREFORE, Defendant’s Motion to Modify Sentence is hereby DENIED.  
IT IS SO ORDERED.**

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/s/ Mary M. Johnston

The Honorable Mary M. Johnston

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such criminal defendant.”).

<sup>2</sup>*State v. Ismaeel*, 840 A.2d 644, 654 (Del. Super. 2004).

