

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE, )  
 )  
 v. ) ID Nos. 1903002385,  
 ) 1802010143, 1712001454  
 KEITH L. EVANS, )  
 )  
 Defendant. )

Date Submitted: October 2, 2019  
Date Decided: November 15, 2019

**ORDER**

Upon consideration of Defendant’s Motion for Sentence Modification and Supplemental Letter (collectively the “Motion”), Superior Court Criminal Rule 35, statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

1. On March 26, 2019, Defendant pled guilty to Drug Dealing,<sup>1</sup> and was found in Violation of Probation (“VOP”) on Possession Tier 1<sup>2</sup> and Escape After Conviction.<sup>3</sup> On the same day, Defendant was sentenced as follows: (1) for VOP on Possession Tier 1, 2 years and 6 months at Level 5, suspended immediately, for 2 years at Level 4 (DOC Discretion), suspended after 6 months, for 1 year at Level 3, hold at Level 5 until space available at Level 4 (DOC Discretion);<sup>4</sup> (2) for VOP on

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<sup>1</sup> ID No. 1903002385, D.I. 3.  
<sup>2</sup> ID No. 180201043, D.I. 12.  
<sup>3</sup> ID No. 1712001454, D.I. 17, 18.  
<sup>4</sup> ID No. 180201043, D.I. 13.

Escape After Conviction, 8 years at Level 5 suspended for 1 year at Level 3;<sup>5</sup> and (3) for Drug Dealing, 5 years at Level 5, suspended after 9 months, for 2 years at Level 4 (DOC Discretion), suspended after 6 months, for 18 months at Level 3, hold at Level 5 until space available at Level 4 (DOC Discretion).<sup>6</sup>

2. On September 17, 2019 and October 2, 2019, Defendant filed the Motion for Modification of Sentence<sup>7</sup> and a Supplemental Letter, respectively.<sup>8</sup> Defendant asks to modify the Level 4 portion of his sentence to 1 year GPS monitoring and the HOPE Commission, or, alternatively, hold at Level 3 until space is available at Level 4 House Confinement.<sup>9</sup> In support of his Motion, Defendant cites his uncertain housing situation, and states that the HOPE Commission will help with his rehabilitative efforts through reentry programs, enrollment in educational programs, and finding employment.<sup>10</sup>

3. Pursuant to Superior Court Criminal Rule 35(b), the Court may reduce a sentence of imprisonment on a motion made within 90 days after the sentence is imposed.<sup>11</sup> A motion for modification of partial confinement or probation, however,

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<sup>5</sup> ID No. 1712001454, D.I. 18.

<sup>6</sup> ID No. 1903002385, D.I. 4 (sentences of confinement run consecutive but probation runs concurrent). For clarity, the Court shall cite the one case number for the remainder of this Order.

<sup>7</sup> ID No. 180201043, D.I. 17.

<sup>8</sup> ID No. 1903002385, D.I. 8.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* He further states that he pled guilty to Escape After Conviction when he lived at the Plumber Center because he wanted to go home. *Id.*

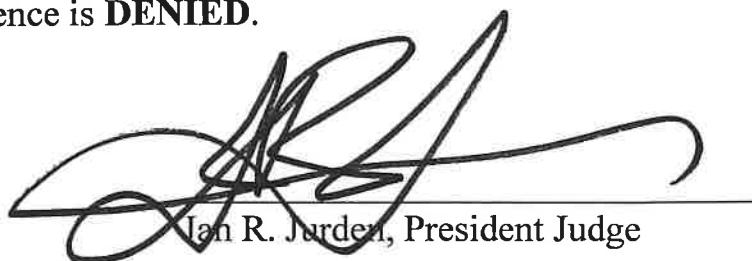
<sup>11</sup> Super. Ct. Crim. R. 35(b).

is not procedurally barred by the 90-day requirement.<sup>12</sup> Therefore, Defendant's Motion is not time barred because he seeks to modify Level 4 partial confinement.

5. Upon review of the record, the Court finds the sentence is reasonable and appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the Court that would warrant a reduction or modification of this sentence.

Accordingly, for the foregoing reasons, this Court finds that Defendant has not demonstrated cause for the relief sought.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Defendant's Motion for Modification of Sentence is **DENIED**.



Jan R. Jarden, President Judge

Original to Prothonotary

cc: Keith L. Evans, *pro se*  
Nichole T. Whetham Warner, DAG

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<sup>12</sup> *Id.* (“The Court may . . . reduce the . . . term or condition of partial confinement or probation, at any time.”); *see also State v. Redden*, 111 A.3d 602, 609 (Del. Super. 2015).