

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID Nos. 1104000154,
) 1101003228
 EDWARD H. JONES,)
)
 Defendant.)

Date Submitted: April 16, 2020
Date Decided: April 20, 2020

ORDER

Upon consideration of Defendant’s Motion for Modification/Suspension of Level 4 (“Motion”),¹ Superior Court Criminal Rule 35, statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

1. On June 20, 2011, Defendant pled guilty to Possession of a Weapon with a Removed, Obliterated or Altered Serial Number.² Then, in February 2012, Defendant was found guilty of Attempted Robbery First Degree, Possession of a Firearm During the Commission of a Felony (“PFDCF”), Conspiracy Second Degree, Possession of a Firearm By a Person Prohibited (“PFBPP”), and two counts of Aggravated Menacing.³

¹ ID No. 1104000154, D.I. 85 (case with trial); ID No. 1101003228, D.I. 27 (pled guilty).

² ID No. 1101003228, D.I. 13 (pled guilty case).

³ ID No. 1104000154, D.I. 51 (case with trial). For the remainder of the Order, the Court shall cite to ID No. 1104000154 unless specifically noted otherwise.

2. By Order dated June 7, 2012, effective January 10, 2012, Defendant was sentenced as follows: for Attempted Robbery First Degree, 3 years at Level V with credit for 27 days previously served; for PFDCF, 3 years at Level V; for PFBPP, 3 years at Level V; for Possession of a Weapon with a Removed, Obliterated or Altered Serial Number, 2 years at Level V, suspended after 1 year for 6 months at Level IV (DOC Discretion), followed by 6 months at Level III; for Aggravated Menacing (PN11-04-0811), 12 months at Level V, suspended after 6 months for 6 months at Level IV (DOC Discretion); for Aggravated Menacing (PN11-04-2139), 15 months at Level V, suspended for 15 months at Level III; and for Conspiracy Second Degree, 12 months at Level V, suspended for 12 months at Level III.⁴

3. On April 16, 2020, Defendant filed the instant Motion (his fourth motion for sentence modification),⁵ asking the Court to suspend the remainder of his Level IV sentence upon completion of the Key North Correctional Recovery Program and the Gateway Addiction Treatment Program for either 3 additional months at Level III or enrollment in 30-day therapy course selected by the Court.⁶ In support of the Motion, Defendant cites his (1) acceptance of responsibility for his

⁴ D.I. 55. Probation is concurrent.

⁵ For ID No. 1101003228, this is his fourth motion. ID No. 1101003228, D.I. 19, (first motion), 21 (second motion), 25 (third motion). For ID No. 1104000154, this is his third motion. ID No. 1104000154, D.I. 59 (first motion), D.I. 83 (second motion).

⁶ D.I. 85.

actions, (2) rehabilitative efforts while incarcerated, (3) pending employment upon release, and (4) family's support upon release.⁷

4. Requests for reduction or modification of sentence are governed by Superior Court Criminal Rule 35(b). Pursuant to Rule 35(b), “the Court will not consider repetitive requests for reduction of sentence.”⁸ The repetitive bar is “absolute and flatly ‘prohibits repetitive requests for reduction of sentence.’”⁹ This is Defendant’s fourth motion for sentence modification, and therefore, it is barred as repetitive.

5. The Court finds the sentences are 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 sentences.

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant’s Motion for Modification/Suspension of Level 4 of Sentence is **DENIED**.

⁷ *Id.* In his Motion, Defendant states that, while serving his sentences, he has participated in the following programs: Life Skills, Alcoholics Anonymous, Green Tree, Gateway Addiction Treatment, Key North Correctional Recovery, and New Start Re-Entry.

⁸ Super. Ct. Crim. R. 35(b); *see State v. Culp*, 152 A.3d 141, 144 (Del. 2016) (A Rule 35(b) motion is considered repetitive when the motion “is preceded by an earlier Rule 35(b) motion, even if the subsequent motion raises new arguments.”).

⁹ *State v. Redden*, 111 A.3d 602, 608–09 (Del. Super. Ct. 2015).

Jan R. Jurden

Jan R. Jurden, President Judge

Original to Prothonotary

cc: Edward H. Jones (SBI# 00457356)
Matthew B. Frawley, DAG