

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID Nos. 1406013836,
) 1410019214
DEVIN J. HOLT,)
)
 Defendant.)

Date Submitted: June 15, 2020
Date Decided: July 20, 2020

ORDER

Upon consideration of Defendant’s Motion for Modification of Sentence;¹ Superior Court Criminal Rule 35; the facts, arguments, and legal authorities set forth in Defendant’s Motion; statutory and decisional law; and the record in this case, **IT APPEARS THAT:**

1. On January 5, 2015, Defendant Devin Holt pled guilty to Burglary Second Degree, Theft of a Firearm, and Conspiracy Second Degree.² Then, on May 26, 2015, Defendant pled guilty to two counts of Robbery First Degree, Robbery Second Degree, and Conspiracy Second Degree.³

2. By Order dated October 9, 2015, effective October 28, 2014,⁴

¹ Case No. 1406013836, D.I. 39; Case No. 1410019214, D.I. 38.

² Case No. 1406013836, D.I. 18.

³ Case No. 1410019214, D.I. 19. The sentences for these crimes are at issue in this Motion, and therefore, the Court, hereinafter, will only cite to Case No. 1410019214.

⁴ Case No. 1410019214, D.I. 26.

Defendant was sentenced as follows: for Robbery First Degree, IN14-11-0545, 10 years at Level V Key South at Sussex Correctional Center with credit for 19 days previously served, suspended after 3 years and 2 months for 6 years and 10 months at Level IV Crest Program, suspended after successful completion of the Crest Program, followed by 18 months at Level III Crest Aftercare; for Robbery First Degree, IN14-11-0216, 10 years at Level V, suspended after 3 years and 2 months for 18 months at Level III; for Burglary Second Degree, IN14-09-1162, 8 years at Level V, suspended after 1 year for 18 months at Level III; for Robbery Second Degree, IN14-11-0219, 5 years at Level V, suspended for 18 months at Level III; for Theft of a Firearm, IN14-09-1164, 3 years at Level V, suspended after 2 months for 1 year at Level III; for Conspiracy Second Degree, IN14-11-0226, 2 years at Level V, suspended for 1 year at Level III.⁵

3. On June 15, 2020, Defendant filed the instant Motion, asking the Court to modify the Level IV and Level III portions of his sentence for Robbery First Degree, IN14-11-0545, by changing “Level IV Crest Program” to “Level IV Home Confinement” and “Level III Crest Aftercare” to “Level III probation.”⁶ In support of his Motion, Defendant asserts that Home Confinement will be “more beneficial”

⁵ All probation is concurrent. On September 16, 2016, the Court modified the Sentence Order to reflect that the language of 11 *Del. C.* §4204(k) had been removed as to the custody portion for Criminal Action Numbers IN14-11-0545, IN14-11-0216, and IN14-09-1162. All other terms and conditions remained the same. *See* Case No. 1410019214, D.I. 35.

⁶ Case No. 1410019214, D.I. 38.

to his substance abuse treatment and the Crest Program is “counterproductive.”⁷ Defendant also cites to his participation in numerous education and rehabilitation programs while incarcerated.⁸

4. Superior Court Criminal Rule 35 governs motions for modification of sentence. Pursuant to Criminal Rule 35(b), “[t]he Court may . . . reduce the . . . the term or conditions of partial confinement or probation, at any time.” Defendant’s Motion is not time-barred because he seeks to modify the Level III and Level IV portions of his sentence.

5. While the Court commends Defendant for his rehabilitation efforts, the Court finds that Defendant’s sentences are appropriate for all the reasons stated at the time of sentencing.⁹ No additional information has been provided to the Court that would warrant a reduction or modification of these sentences.

⁷ *Id.* Defendant states that Home Confinement will be more beneficial “to allow [him] the opportunity to continue his treatment . . . in society where [he] can learn how to deal with day to day life.”

⁸ *Id.* The following certificates were attached to Defendant’s Motion: (1) James H. Groves High School Diploma; (2) Writing Attainment COA2; (3) Attitude for Success Group; (4) Likeskills – MRT; (5) American Traffic Safety Services Association – Certified Flagger; (6) The Freedom From Within Group; (7) Citizenship Skills Attainment; and (8) T.E.M.P.O. Substance Abuse and Relapse Prevention Program.

⁹ *See* Case No. 1410019214, D.I. 26. The sentence at issue takes into account the following aggravating factors: (1) Defendant’s undue appreciation of offense; (2) Defendant’s custody status at the time of the offense; (3) Defendant’s escalation of criminal activity; and (4) Defendant’s prior abuse of the victims.

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

IT IS SO ORDERED.

Jan R. Jurden

Jan R. Jurden, President Judge

Original to Prothonotary:
cc: Devin J. Holt (SBI# 00677388)
Annemarie H. Puit, DAG