

**SUPERIOR COURT  
OF THE  
STATE OF DELAWARE**

VIVIAN L. MEDINILLA  
JUDGE

LEONARD L. WILLIAMS JUSTICE CENTER  
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March 2, 2021

Kevin H. Boone  
SBI# 00658955  
HRYCI  
P.O. Box 9561  
Wilmington, DE 19809

**Re: *State v. Kevin H. Boone***  
**Cr. Id. No. 1305018893**

Dear Mr. Boone:

This Court has reviewed your Motion for Transcripts filed on November 17, 2020.<sup>1</sup> Your one-sentence request asks for a copy of transcripts from your December 20, 2017 Violation of Probation sentencing hearing so that you can “verify that the Court never stated, on the record, a reason for deviating from the pre-set SENTAC benchbook sentencing guideline, and in failing to do so, sentenced Defendant illegally.”<sup>2</sup>

The right of a criminal defendant to the provision of a free transcript is governed by Superior Court Criminal Rule 61(d)(4), which states that: “[t]he judge may order the preparation of a transcript of any part of the prior proceedings in the case needed to determine whether the movant may be entitled to relief.” As such, it is within the discretion of the judge who has examined the motion and contents of the record to determine whether to order the preparation of a transcript of any part of the proceedings.<sup>3</sup> If the defendant offers no factual basis and fails to clearly identify the fundamental rights that were violated, the Court will find the defendant’s claim to be frivolous and deny his motion.<sup>4</sup> I so find.

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<sup>1</sup> The Motion was received in Chambers on February 26, 2021.

<sup>2</sup> The requested records are for transcripts of the Violation of Probation Hearing held on December 20, 2017.

<sup>3</sup> *State v. Bishop*, 2006 WL 1360936, at \*1 (Del. Super. May 17, 2006).

<sup>4</sup> *State v. Johnson*, 1999 WL 1568387, at \*1 (Del. Super. Feb. 8, 1999); *State v. Quill*, 1999 WL 1229313, at \*1 (Del. Super. Oct. 18, 1999).

Recall that on May 4, 2018, you filed a Motion under Rule 35(a) for Correction of Sentence claiming your sentence was illegal.<sup>5</sup> Your Motion was denied.<sup>6</sup> You appealed to the Delaware Supreme Court.<sup>7</sup> The Supreme Court affirmed this Court's decision.<sup>8</sup>

Therefore, your motion fails to set forth any basis as to how or why the transcripts requested will assist you as it relates to what you unsuccessfully challenged in May 2018. Your request is unsupported by any specific claim or facts and you assert no other reason why the expense of this transcript should be borne by the State. As such, the Court cannot grant your request.

Based upon the foregoing, your motion is **DENIED**.

**IT IS SO ORDERED.**

Sincerely,



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Vivian L. Medinilla  
Judge

oc: Prothonotary  
cc: Department of Justice  
Investigative Services  
Office of Defense Services

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<sup>5</sup> See Defendant's Motion for Correction of Sentence, *State of Delaware v. Kevin H. Boone*, ID No. 1305018893, D.I. 24 (Del. Super. Ct. May 4, 2018).

<sup>6</sup> The Court held that Defendant's sentence did not exceed the statutory maximum, did not implicate double jeopardy, and was neither ambiguous nor contradictory. See Letter/Order, *State of Delaware v. Kevin H. Boone*, ID No. 1305018893, D.I. 25 (Del. Super. Ct. May 30, 2018).

<sup>7</sup> See Notice of Appeal, *State of Delaware v. Kevin H. Boone*, ID No. 1305018893, D.I. 26 (Del. Super. Ct. June 28, 2018).

<sup>8</sup> See generally *Boone v. State*, 195 A.3d 481, 2018 WL 4908383 (Del. 2018) (TABLE) (affirming denial of Defendant's motion for correction of illegal sentence); see also Mandate Filed from Supreme Court: Superior Court Judgment Affirmed, *State of Delaware v. Kevin H. Boone*, ID No. 1305018893, D.I. 32 (Del. Oct. 29, 2018).