

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID No. 1807009040
)
 JAMES GERLEVE,)
)
 Defendant.)

Date Submitted: February 18, 2021
Date Decided: May 5, 2021

ORDER

Upon consideration of Defendant’s Motion for Modification of No Contact Order,¹ the State’s response,² statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

1. On October 25, 2018, Defendant pled guilty to Second-Degree Assault.³ On March 8, 2019, the Court sentenced Defendant to 6 years at Level V, suspended after 6 months at Level V, for 6 months Level IV (Work Release), followed by 18 months at Level III, hold at Level V until space is available at Level IV (Work Release).⁴ The Court’s sentencing order also prohibited Defendant from

¹ D.I. 18.

² D.I. 20.

³ D.I. 4.

⁴ D.I. 5.

“unauthorized contact” with Morgan or Baily Gerleve unless a Family Court order provided otherwise.⁵

2. On March 21, 2019, the Court issued a corrected sentencing order to reflect that Defendant would be held at Level III, not Level V, while awaiting Level IV (Work Release).⁶ The Court also removed the “unauthorized” language from the no-contact provision, clarifying that “Defendant shall have NO CONTACT with Morgan and Bailey Gerleve unless by Family Court order.”⁷

3. On December 10, 2019, the Court issued a modified sentencing order.⁸ That order modified the March 21, 2019 order reflect that the balance of Level IV (Work Release) would be suspended for 18 months at Level III.⁹ The no-contact provision remained in place.¹⁰

4. On January 28, 2021, Defendant filed the instant Motion for Modification of No Contact Order.¹¹ In that Motion, Defendant asks the Court to remove the no-contact provision of his sentence, which would allow him to see his

⁵ *Id.*

⁶ D.I. 7.

⁷ *Id.*

⁸ D.I. 10.

⁹ *Id.*

¹⁰ *Id.*

¹¹ D.I. 18.

daughters.¹² In support of his request, Defendant explains that he has completed domestic violence and parenting classes and has paid his fines in full.¹³

5. On February 18, 2021, the State filed its response to Defendant's Motion.¹⁴ The State confirmed that Defendant has completed a Turning Point domestic violence treatment program.¹⁵ But the State also noted that Defendant was subsequently arrested and is facing charges in a new criminal case¹⁶: Possession with Intent to Deliver Methamphetamine, Tampering with Evidence, and Possession of Drug Paraphernalia.¹⁷ The State also explains that it attempted to reach the mother of the victim child but was unable to do so.¹⁸ Under these circumstances, the State opposes Defendant's Motion.¹⁹

6. For the reasons outlined by the State, the Court declines to modify the no-contact provision of Defendant's sentence.

NOW, THEREFORE, IT IS ORDERED that Defendant's Motion for Modification of No Contact Order is **DENIED**.

¹² *Id.*

¹³ *Id.*

¹⁴ D.I. 20.

¹⁵ *Id.*

¹⁶ ID No. 2007014228.

¹⁷ D.I. 20.

¹⁸ *Id.*

¹⁹ *Id.*

Jan R. Jurden

Jan R. Jurden, President Judge

Original to Prothonotary

cc: James Gerleve
Kelly Hicks Sheridan (DAG)