

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |                                |
|--------------------|--------------------------------|
| BOOKER T. MARTIN,  | §                              |
|                    | §                              |
| Defendant Below-   | § No. 308, 2007                |
| Appellant,         | §                              |
|                    | §                              |
| v.                 | § Court Below—Superior Court   |
|                    | § of the State of Delaware,    |
| STATE OF DELAWARE, | § in and for New Castle County |
|                    | § Cr. ID Nos. 8800252DI and    |
| Plaintiff Below-   | § 9608015523                   |
| Appellee.          | §                              |

Submitted: December 7, 2007

Decided: February 12, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

**ORDER**

This 12th day of February 2008, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Booker Martin, filed this appeal from the Superior Court's denial of his motion for modification of sentence. Martin filed the motion requesting the Superior Court to modify his 1996 sentence for a violation of probation (VOP) in order to clarify an allegedly ambiguous interpretation of his sentences found in the Department of Corrections' offender status sheet.

(2) After careful consideration, we find it manifest that the judgment below should be affirmed. It is clear that Martin's motion was

both repetitive and untimely.<sup>1</sup> Furthermore, to the extent Martin is arguing that his VOP sentence was illegal because at the time of the VOP hearing he was not on probation but was serving a period of conditional release associated with a different sentence, there is simply no merit to his contention that the Superior Court lacked jurisdiction to sentence him for the VOP.<sup>2</sup>

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>1</sup> Del. Super. Ct. Crim. R. 35(b) (2008) (providing that motions for modification of sentence must be filed within 90 days of sentencing and that the Superior Court will not consider repetitive requests).

<sup>2</sup> See *Dorsey v. State*, 1996 WL 265992 (Del. May 13, 1996), *aff'g*, 1995 WL 862118 (Del. Super. Nov. 1, 1995) (holding that trial court could find defendant who was serving concurrent terms of conditional release and probation guilty of a VOP).