

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARRY D. MARVEL,	§
	§
Defendant Below-	§ No. 11, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0510007925
Plaintiff Below-	§
Appellee.	§

Submitted: February 4, 2008
Decided: April 23, 2008

Before **BERGER, JACOBS,** and **RIDGELY,** Justices.

ORDER

This 23rd day of April 2008, upon consideration of the appellant’s opening brief, the State’s motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Larry Marvel, filed this appeal from the Superior Court’s denial of his motion for correction of an illegal sentence. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Marvel’s opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that a Superior Court jury convicted Marvel in May 2006 of second degree criminal solicitation and second degree

conspiracy. This Court affirmed his convictions and sentence on direct appeal.¹ Thereafter, Marvel filed a motion for correction of illegal sentence in November 2007. In his motion, Marvel argued that his sentence is illegal because: (i) the indictment against him was defective; (ii) his conviction violated the First Amendment; and (iii) the State failed to prove criminal solicitation beyond a reasonable doubt. The Superior Court denied his motion. This appeal followed.

(3) It is well-established that the grounds for a motion seeking correction of an illegal sentence under Superior Court Criminal Rule 35(a) must be limited to alleged errors within the sentence itself, i.e., the sentence exceeds the statutory limits, violates double jeopardy, is ambiguous or inconsistent, or omits a required term.² A motion under Rule 35(a) is not an appropriate means to argue alleged errors in the underlying conviction.³

(4) Accordingly, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's well-reasoned decision dated December 13, 2007. The Superior Court did not err in concluding that Marvel's sentence was not illegal. The relief Marvel seeks

¹ *Marvel v. State*, 2007 WL 2713271 (Del. Sept. 18, 2007).

² *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

³ *Id.*

may be pursued only through a motion for postconviction relief under Superior Court Criminal Rule 61.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice