

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES E. MELTON,	§
	§ No. 109, 2013
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 1107021277
	§
Plaintiff Below,	§
Appellee.	§

Submitted: July 8, 2013

Decided: August 22, 2013

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

ORDER

This 22nd day of August 2013, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, James E. Melton, appeals from the Superior Court’s February 27, 2013 order that denied his motion for reargument of its January 3, 2013 order denying Melton’s motion for correction of illegal sentence pursuant to Superior Court Criminal Rule 35. The plaintiff-appellee, the State of Delaware, moves to affirm the Superior

Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) The record before us reflects that, in 2011, Melton was indicted on charges of Trafficking in Cocaine, Possession of a Firearm During the Commission of a Felony, Possession With Intent to Deliver Cocaine, Possession of a Firearm By a Person Prohibited, Possession of a Deadly Weapon By a Person Prohibited, Maintaining a Dwelling for Keeping a Controlled Substance, Possession of Drug Paraphernalia and Failure to Stop at a Red Light. Melton entered pleas of guilty to Trafficking in Cocaine, Possession With Intent to Deliver Cocaine, and Possession of a Firearm By a Person Prohibited. The Superior Court granted the State's motion to have Melton declared a habitual offender and sentenced him to a total of 17 years at Level V, to be suspended after 10 years for decreasing levels of supervision. Melton did not file a direct appeal.

(3) In November 2012, Melton filed a motion for correction of his allegedly illegal sentence. The Superior Court denied the motion on January 3, 2013. Melton's subsequent motion for reargument was denied by the Superior Court on February 27, 2013. This appeal followed.

¹ SUPR. CT. R. 25(a).

(4) In his appeal, Melton claims that the Superior Court erred as a matter of law when it denied his motion for correction of illegal sentence as well as his motion for reargument, because his sentences for Trafficking in Cocaine and Possession With Intent to Deliver Cocaine violate double jeopardy and are, therefore, illegal.

(5) Because Melton pleaded guilty to the charges against him, he has waived any claim of a double jeopardy violation.² In any case, Melton's claim that his two drug sentences violate double jeopardy is legally meritless. This Court has ruled that, under *Blockburger v. United States*,³ a defendant may be charged with, and sentenced for, Trafficking in Cocaine and Possession With Intent to Deliver Cocaine without violating double jeopardy, because each offense contains an element of proof not present in the other, even though the offenses may arise out of the same incident.⁴ Melton's claim of a double jeopardy violation is unavailing.

(6) The proper purpose of a motion for reargument is to request the trial court to reconsider whether it overlooked an applicable legal precedent or misapprehended the law or the facts in such a way as to affect the

² *Bowers v. State*, Del. Supr., No. 666, 2006, Steele, C.J. (Aug. 20, 2007) (citing *Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988)).

³ 284 U.S. 299 (1932).

⁴ *State v. Skyers*, 560 A.2d 1052, 1054 (Del. 1989).

outcome of the case.⁵ This Court reviews a trial court's denial of a motion for reargument for abuse of discretion.⁶ In the absence of any showing by Melton that the Superior Court overlooked a legal precedent or misapprehended the facts or the law, we conclude that that there was no abuse of discretion on the part of the Superior Court in denying Melton's motion for reargument. It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁵ *Trump v. State*, 2005 WL 583749 (Del. Mar. 9, 2005) (citing *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del. 1969)).

⁶ *Parker v. State*, 2001 WL 213389 (Del. Feb. 26, 2001).