

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CLARENCE JAMISON,	§
	§
Defendant Below-	§ No. 158, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0409009565
Plaintiff Below-	§
Appellee.	§

Submitted: June 11, 2008  
Decided: September 10, 2008

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

**ORDER**

This 10<sup>th</sup> day of September 2008, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Clarence Jamison, filed this appeal from a Superior Court order denying his motion for modification of sentence. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Jamison's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Jamison was convicted following a bench trial in September 2005 of two counts of second degree assault and

one count of second degree criminal trespass. The State filed a motion to declare Jamison a habitual offender, which the Superior Court granted. The Superior Court sentenced Jamison to a total period of ten years at Level V incarceration, to be suspended after serving a minimum mandatory eight year term, followed by one year of probation and a \$100 fine. Jamison did not appeal. Thereafter, Jamison filed a motion for modification of sentence in January 2006, which the Superior Court denied. Jamison filed an appeal, which was dismissed as untimely. In February 2008, Jamison again filed a motion seeking modification of sentence. The Superior Court denied that motion, and this appeal followed.

(3) The gist of Jamison's argument on appeal is that he should not have been sentenced as a habitual offender. He argues that second degree assault is not a violent felony. He also makes a vague argument that his prior criminal history did not include the requisite number of adult felony convictions to serve as predicate offenses to establish his habitual offender status.

(4) After careful consideration, we find no merit to Jamison's position. Jamison was declared a habitual offender pursuant to 11 Del. C. § 4214(a). Under Section 4214(a), any person with three prior felony convictions who thereafter is convicted of a subsequent felony may be

declared a habitual offender and sentenced up to life imprisonment.<sup>1</sup> Jamison's suggestion that the prior felony convictions under Section 4214(a) must be "violent" felony convictions is simply wrong. Furthermore, the record reflects that Jamison had the requisite number of prior felony convictions to establish his habitual offender status. His prior convictions for burglary in 1983, possession with intent to deliver in 1987, and distribution within 1000 feet of a school in 1989 were established by the record. Accordingly, his sentencing as a habitual offender under Section 4214(a) was entirely legal. The Superior Court did not err in denying his motion for modification of sentence.

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

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>1</sup> 11 Del. C. § 4214(a) (2007).