

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRANDEN L. FRADY,	§
	§
Defendant Below-	§ No. 269, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0108004841
Plaintiff Below-	§
Appellee.	§

Submitted: June 23, 2008
Decided: September 16, 2008

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

ORDER

This 16th 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, Branden Frady, filed this appeal from the Superior Court's denial of his motion to compel, which was treated as a motion for correction of sentence under Superior Court Criminal Rule 35. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Frady's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that, at the time he was indicted in Delaware in September 2001, Frady was incarcerated in Maryland on unrelated criminal charges. Pursuant to the Interstate Agreement on Detainers (IAD), Frady was transferred to Delaware in October 2002. In November 2002, he pled guilty to two counts of identity theft, two counts of felony theft, and two counts of second degree forgery. The Superior Court sentenced Frady in January 2003 to a total period of 20 months at Level V incarceration, with credit for 104 days previously served. In February 2003, Frady was returned to Maryland to finishing serving his Maryland sentence. He was returned to Delaware in February 2008 to begin serving his Delaware sentence.

(3) On May 7, 2008, Frady filed a motion in the Superior Court entitled “motion to compel.” In the motion, Frady contended that the Department of Correction had failed to credit him with time he served on his Delaware sentence between October 2002 and February 2003. The Superior Court treated Frady’s motion to compel as a motion for correction of sentence and denied it.

(4) We agree there was no basis to grant Frady additional credit time. Under the IAD, Frady remained under the jurisdiction of Maryland authorities during the time that he was returned temporarily to Delaware to

resolve his pending criminal charges here.¹ Frady continued to serve his Maryland sentence while he was temporarily in the custody of Delaware authorities under the IAD.² Thus, the time for which he now seeks credit toward his Delaware sentence was already credited to him on his Maryland sentence. There was no basis to award additional credit time on his Delaware sentence.³

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

BY THE COURT:

/s/ Carolyn Berger
Justice

¹ See 11 Del. C. § 2544(g) (2007) (“for all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall remain in the custody of and subject to the jurisdiction of the sending state...”).

² *Id.* § 2544(f).

³ *Brisco-Bey v. State*, 1993 WL 78216 (Del. Mar. 15, 1993).