

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES A. ROCHESTER,	§
	§ No. 70, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 0603020180
	§
Plaintiff Below-	§
Appellee.	§

Submitted: September 30, 2008

Decided: October 7, 2008

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

**ORDER**

This 7<sup>th</sup> day of October 2008, it appears to the Court that:

(1) This is an appeal from the Superior Court's January 17, 2008 order denying the motion of the defendant-appellant, James A. Rochester, for sentence modification. In May 2006, Rochester pleaded guilty to Trafficking in Cocaine and Criminal Impersonation. On the trafficking conviction, he was sentenced to 25 years at Level V, to be suspended after 2 years for decreasing levels of supervision. On the criminal impersonation conviction, he was sentenced to 1 year at Level V, to be followed by 1 year at Level III.

(2) In his appeal, Rochester claimed that a) he should be given additional Level V credit on his trafficking sentence because his premature release to Levels IV and III was not his fault; and b) he should not be required to serve Level V time on his sentence for criminal impersonation because the sentence is illegal. On July 21, 2008, the Court remanded this matter to the Superior Court because its January 17, 2008 order failed to fully address Rochester's claims.

(3) On September 30, 2008, the Superior Court filed its report following remand. In the report, the Superior Court states that a hearing on Rochester's sentences was held in the Superior Court on August 20, 2008, at which both Rochester and the State of Delaware appeared. By agreement of the parties and with the approval of the Superior Court, Rochester withdrew his original guilty pleas and entered new pleas to charges of Possession With Intent to Deliver Cocaine and Criminal Impersonation. Also by agreement of the parties and with the approval of the Superior Court, Rochester was sentenced on the cocaine possession conviction to 15 years at Level V, to be suspended for time previously served for decreasing levels of supervision, and on the criminal impersonation conviction to 1 year at Level V, to be suspended for 6 months at Level III.

(4) In its report, the Superior Court represents that Rochester's claims were completely resolved by agreement of the parties at the hearing on August 20, 2008. As such, the issues raised by Rochester on appeal are now moot and his appeal will be dismissed.

NOW, THEREFORE, IT IS ORDERED that the appeal is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice