

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FREDERICK W. SMITH, JR.,	§
	§ No. 369, 2022
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 93007368DI (N)
STATE OF DELAWARE,	§
	§
Appellee.	§

Submitted: October 31, 2022

Decided: December 6, 2022

Before **VALIHURA, VAUGHN,** and **TRAYNOR,** Justices.

**ORDER**

After careful consideration of the appellant’s opening brief, the State’s motion to affirm, and the record on appeal, we conclude that the judgment below should be affirmed on the basis of the Superior Court’s order, dated September 26, 2022, denying the appellant’s motion purporting to seek correction of a clerical mistake under Superior Court Criminal Rule 36. As the Superior Court determined, the appellant received credit for the time that he served before his adjudications because the court made the sentences effective as of the date that the appellant was taken into custody. Moreover, it is unlikely that the Superior Court did not consider the results of the psychiatric evaluation that it ordered before the August 31, 2021 sentencing;

in any event, the appellant's contention that it did not does not establish a basis for relief under Superior Court Criminal Rule 36.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ James T. Vaughn, Jr.  
Justice