

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM BARRALL,	§
	§
Defendant Below,	§ No. 245, 2013
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 1201003157
Plaintiff Below,	§
Appellee.	§

Submitted: July 26, 2013  
Decided: August 23, 2013

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

**ORDER**

This 23<sup>rd</sup> day of August 2013, upon consideration of the appellant’s opening brief and the State’s motion to affirm, it appears to the Court that:

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

(2) In January 2012, Barrall was arrested and later indicted on twenty-five counts of Unlawfully Dealing in Child Pornography, a class B felony.<sup>1</sup> In April 2012, Barrall pled guilty to four counts of the indictment. In exchange for his

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<sup>1</sup> DEL. CODE ANN. tit. 11, § 1109(4) (Supp. 2012).

guilty plea, the State agreed to dismiss the remaining twenty-one counts of the indictment and agreed to recommend a sentence of twelve years at Level V incarceration.<sup>2</sup> The Superior Court, after an extensive colloquy, accepted the plea agreement and sentenced Barrall in accordance with his plea agreement to 100 years at Level V incarceration to be suspended after serving twelve years for a period of probation. Barrall did not appeal.

(3) Instead, Barrall filed a motion for sentence modification in September 2012, which the Superior Court denied. Barrall did not appeal. He filed his second motion for modification of sentence in March 2013. The Superior Court denied that motion, and this appeal followed.

(4) Barrall asserts two arguments in his opening brief on appeal. First, he contends that the Superior Court abused its discretion in denying his motion because there were no facts that justified the imposition of more than the mandatory minimum sentence of eight years. Second, Barrall asserts that public policy compels reversal in his case.

(5) We find no merit to either contention. Barrall's arguments completely ignore that his sentence was entered pursuant to a valid guilty plea. The transcript reflects that Barrall entered the plea knowingly, intelligently, and voluntarily. His

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<sup>2</sup> As a Class B felony, Unlawfully Dealing in Child Pornography has a sentencing range of not less than two years up to twenty-five years at Level V imprisonment pursuant to DEL. CODE ANN. tit. 11, § 4205(b)(2).

agreement to plead guilty to four charges and to accept the State's recommendation of a twelve year prison sentence was extremely favorable to Barrall. Barrall avoided a trial on twenty-five criminal charges that, if he were found guilty on all counts, carried a maximum sentence of 625 years in prison.

(6) Pursuant to Superior Court Criminal Rule 35(b), a motion for reduction of sentence must be filed within 90 days of sentencing unless the defendant can establish extraordinary circumstances.<sup>3</sup> Rule 35(b) also provides that the Superior Court will not consider repetitive requests for sentence modification.<sup>4</sup> This was Barrall's second motion for modification of sentence, and it was filed more than 90 days after he was originally sentenced. Barrall's motion for modification of sentence did not establish any extraordinary circumstances. Accordingly, we find no abuse of the Superior Court's discretion in denying Barrall's untimely and repetitive motion for modification of sentence.

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>3</sup> DEL. SUPER. CT. CRIM. R. 35(b) (2013).

<sup>4</sup> *Id.*