

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRIAN D. CONNELLY,	§
	§ No. 297, 2013
Defendant Below,	§
Appellant,	§ Court Below—Superior Court of
	§ the State of Delaware, in and for
v.	§ New Castle County
	§ Cr. ID No. 1005011566
STATE OF DELAWARE,	§
	§
Plaintiff Below,	§
Appellee.	§

Submitted: July 30, 2013
Decided: October 9, 2013

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

ORDER

This 9th day of October 2013, upon consideration of the appellant’s opening brief and the motion to affirm filed by the appellee, State of Delaware, it appears to the Court that:

(1) The appellant, Brian D. Connelly, appeals from the Superior Court’s denial of his motion for correction of sentence. The appellee, State of Delaware, moves to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Connelly’s opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Connelly pled guilty in March 2011 to Rape in the Second Degree and Burglary in the Second Degree. Connelly

was sentenced in June 2011 after a presentence investigation. For the rape conviction, the Superior Court imposed twenty years at Level V, ten years minimum mandatory, suspended after fourteen years for six years at Level IV, suspended after six months for probation. For the burglary conviction, the Superior Court imposed eight years at Level V suspended after one year mandatory for probation. Connelly did not appeal.

(3) In April 2013, Connelly filed a motion for correction of sentence under Superior Court Criminal Rule 35(a) (“Rule 35(a)”). Connelly claimed that his sentence for second degree rape was illegal because the Superior Court failed to set forth on the record its reasons for exceeding the sentencing guidelines. By order dated May 9, 2013, the Superior Court denied Connelly’s motion on the basis that the court had, in fact, identified two aggravating factors at sentencing—the “heinous nature of the crime,” and the “lifetime of trauma caused to the victim.” This appeal followed.

(4) Having carefully considered the parties’ positions, the Court has concluded that the denial of Connelly’s motion for correction of sentence should be affirmed on the basis of and for the reasons provided in the Superior Court’s May 9, 2013 order. We also affirm the Superior Court’s

denial of relief on the alternative basis that Connelly's motion for correction of sentence was untimely under Rule 35(a).*

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

* See DEL. SUPER. CT. CRIM. R. 35(a) (providing that a motion to correct a sentence imposed in an illegal manner must be filed within the time limit set forth in Rule 35(b), *i.e.*, "within 90 days after the sentence is imposed").