

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM D. BAKER,	§
	§ No. 374, 2013
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 1109017910
	§
Plaintiff Below-	§
Appellee.	§

Submitted: September 4, 2013

Decided: October 4, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

O R D E R

This 4th day of October 2013, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, William D. Baker, filed an appeal from the Superior Court's July 2, 2013 violation of probation ("VOP") sentencing order. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court's judgment on the ground that it is manifest on

the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) The record before us reflects that, in March 2012, Baker pleaded guilty to Tier 2 Drug Dealing (Oxycodone). He was sentenced to 10 years of Level V incarceration, to be suspended for 6 months at the VOP Center, to be followed by 18 months of Level III probation. Baker did not file a direct appeal from his VOP sentence.

(3) On November 2, 2012, Baker was found to have committed a VOP. He was re-sentenced to 9 years, 6 months at Level V, with credit for 17 days previously served, the balance of the sentence to be suspended for 9 months at the VOP Center, to be followed by 18 months at Level III probation. Baker's subsequent motion for sentence modification was denied by the Superior Court.

(4) On May 24, 2013, Baker again was found to have committed a VOP. The Superior Court deferred sentencing pending a TASC evaluation. On July 2, 2013, Baker was sentenced to 8 years at Level V, to be suspended upon successful completion of the Key Program for 1 year at Level IV Substance Abuse Treatment and, upon successful completion of the program, 18 months of Level III Aftercare. This appeal followed.

¹ Supr. Ct. R. 25(a).

(5) In this appeal, Baker claims that his due process rights were violated at the VOP hearing. Specifically, he contends that audio tapes reflecting that he was not in violation were not placed into evidence, the evidence against him was not disclosed prior to the hearing, no witnesses were called on his behalf and interviews with witnesses were improperly introduced into evidence.

(6) The record reflects that Baker has not requested transcripts of the VOP proceedings on either May 24, 2013 or July 2, 2013. The Rules of this Court require an appellant to provide to the Court those transcripts of the relevant portions of the proceedings below as are necessary to provide the Court with a fair and accurate account of the context in which the alleged errors occurred.² Even an appellant who is *pro se*, such as Baker, is required to make his own financial arrangements to obtain the necessary transcripts.³ In the absence of such transcripts, we conclude that there is an inadequate record of the proceedings below, which precludes our appellate review of Baker's claims.⁴

(7) It is manifest on the face of the opening brief that the appeal is without merit because the issues presented on appeal are controlled by

² Supr. Ct. R. 14(e). See also Supr. Ct. R. 9(e) (ii).

³ *Mahan v. Mahan*, 2007 WL 1850905 (Del. June 28, 2007) (Ridgely, J.) (citing *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987)).

⁴ *Id.*

settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

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/ Myron T. Steele
Chief Justice