

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RASHAD NEAL,	§
	§ No. 383, 2013
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0912000501
Plaintiff Below-	§
Appellee.	§

Submitted: October 14, 2013
Decided: November 8, 2013

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

ORDER

This 8th day of November 2013, upon consideration of the opening brief, the State’s motion to affirm, and the record on appeal, it appears to the Court that:

(1) The defendant-appellant, Rashad Neal, filed this appeal from the Superior Court’s sentence for his fourth violation of probation (VOP). The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Neal’s opening brief that his appeal is without merit. We agree and affirm.

(2) Neal pled guilty in March 2010 to one count of Possession of a Deadly Weapon by a Person Prohibited. The Superior Court immediately sentenced him to eight years at Level V incarceration but suspended the entire sentence for one year at Level III probation. On September 1, 2010, the Superior Court found Neal guilty of his first VOP and reimposed the original eight year sentence, to be suspended entirely for eight years at Level IV home confinement, to be suspended upon Neal's obtaining his high school diploma for one year at Level III probation. On October 24, 2012, the Superior Court found Neal guilty of his second VOP and continued his probation as previously ordered. On April 17, 2013, the Superior Court found Neal guilty of his third VOP. The Superior Court sentenced him, effective December 15, 2012, to six years at Level V incarceration to be suspended entirely for six years at Level IV (DOC discretion), to be suspended after three months for eighteen months at Level III probation. As special conditions of his probation, Neal was ordered, among other things, not to drive in the City of Wilmington and not to have contact with Ramier Broomer.

(3) In July 2013, Neal was charged with his fourth VOP after he was found in a car with Broomer. The Superior Court again found Neal in violation of his probation and sentenced him, effective June 27, 2013, to five

years and eight months at Level V incarceration, to be suspended after six months for five years and two months at Level IV work release, to be suspended after six months for eighteen months at Level III probation. Neal appeals that order.

(4) In his opening brief on appeal, Neal contends that he was not guilty of the original weapon offense because the gun was not his but his father's. Neal also challenges the special condition imposed by the Superior Court in his third VOP sentence ordering him not to have contact with his childhood friend Broomer.

(5) Neither of these contentions is properly before the Court for consideration in this appeal. Neal did not file an appeal following his guilty plea and sentence in March 2010. Neal also did not appeal following the Superior Court's imposition in April 2013 of the special condition that Neal not have contact with Broomer. Having failed to timely pursue these claims, Neal has waived his right to seek review now.¹ His brief offers no grounds for reversing the Superior Court's most recent VOP adjudication and sentence. Accordingly, that judgment must be affirmed.

¹ *Doran v. State*, 1991 WL 78439 (Del. Apr. 24, 1991).

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

BY THE COURT:

/s/ Randy J. Holland
Justice