

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MILES CUFFEE,	§	
	§	No. 133, 2000
	§	
Defendant Below,	§	Court Below—Superior Court
Appellant,	§	of the State of Delaware, in
	§	and for Sussex County
v.	§	Cr.A.Nos. VS93-05-0447-03,
	§	0448-03, 0449-03
STATE OF DELAWARE,	§	
	§	Def. ID No. 93S02394DI
Plaintiff Below,	§	
Appellee.	§	Cr.A.No. S00-01-0295
	§	
	§	Def. ID No. 0001010285

Submitted: July 6, 2000

Decided: August 8, 2000

Before **VEASEY, Chief Justice, WALSH and HOLLAND**, Justices.

**ORDER**

This 8th day of August 2000, upon consideration of the appellant's opening brief and the State of Delaware's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) In 1993, the defendant, Miles Cuffee, was convicted of Assault in the First Degree, two counts of Assault in the Second Degree, Conspiracy in the Second Degree, and two counts of Possession of a Deadly Weapon during the Commission of a Felony. Cuffee was

sentenced to a total of 16 years at Level V, suspended after four years minimum mandatory, for one year at Level IV, followed by ten years at Level II. On direct appeal, this Court affirmed.<sup>1</sup>

(2) In January 1998, Cuffee was adjudged guilty of having violated his Level IV status. Cuffee was sentenced to ten years at Level V, with credit for time served, the first 120 days mandatory, suspended for nine months at a Level IV Residential Substance Abuse Treatment Program (“RSATP”). Upon successful completion of the RSATP, the balance was suspended for six months at Level IV or Level III aftercare, followed by six months at Level III, followed by eight years at Level II.

(3) In February 1999, Cuffee was adjudged guilty of violation of probation. Cuffee was sentenced to seven years at Level V, with credit for time served, and was referred to Boot Camp. Upon successful completion of Boot Camp, the balance of Level V was suspended for six months at Level IV/III Boot Camp aftercare, followed by six years at Level III.

(4) On February 7, 2000, Cuffee was charged by Information with Possession of Cocaine and Possession of Drug Paraphernalia. As a result of the new charges, Cuffee was charged with having violated

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<sup>1</sup> *Cuffee v. State*, Del. Supr., No. 393, 1993, Veasey, C.J., 1994 WL 267598 (May 27,

probation. On February 7, 2000, Cuffee pleaded guilty, pursuant to Superior Court Criminal Rule 11(e)(1)(C), to one of the new charges, *i.e.*, Possession of Cocaine, and to the violation of probation charge. The State *nolle prossed* the Possession of Drug Paraphernalia charge.

(5) Pursuant to the written plea agreement, Cuffee agreed to serve eight years at Level V, suspended upon successful completion of the Key Program, for 12 months at Level IV Crest. Upon successful completion of Crest, the balance of Level IV was suspended for three years at Level III, followed by two years at Level II.

(6) On February 10, 2000, Cuffee filed a letter requesting a modification of sentence. On February 11, 2000, Cuffee filed a letter requesting to withdraw his guilty plea, claiming that he was not aware that he had agreed to serve two drug programs, *i.e.*, Key and Crest. By letter decision dated February 23, 2000, the Superior Court denied Cuffee's letter requests to withdraw the guilty plea and to modify the sentence. This appeal followed.

(7) In his opening brief on appeal, Cuffee contends that: (i) as part of the plea agreement, he agreed only to serve three years at Level V;

(ii) he was unaware that he would have to complete two drug programs; and (iii) he “was sentenced to the same 3 years 3 times for violation of probation.” Furthermore, Cuffee requests that the Crest Program be removed from his sentence.

(8) This Court reviews a denial of a motion for modification of sentence and a denial of a request to withdraw a guilty plea, both for an abuse of discretion.<sup>2</sup> We find that the Superior Court acted within its discretion in denying Cuffee’s request to withdraw his guilty plea. Cuffee has not demonstrated “prejudice amounting to manifest injustice” to justify a withdrawal of the plea.<sup>3</sup> Furthermore, Cuffee has not demonstrated that the Superior Court imposed a sentence beyond the maximum authorized by law or otherwise abused its discretion when imposing the sentence upon which the parties agreed.<sup>4</sup>

(9) It appears from the record that the Superior Court sentenced Cuffee in accordance with his agreed-upon plea, with the exception that the sentencing order states that Cuffee is to serve a total of *18* months at Level IV instead of *12* months, as is stated in the plea agreement. Accordingly,

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<sup>2</sup> *Shy v. State*, Del. Supr., 246 A.2d 926 (1968) (motion for modification of sentence); *Blackwell v. State*, Del. Supr., 736 A.2d 971, 972 (1999) (motion to withdraw a guilty plea).

<sup>3</sup> *Allen v. State*, Del. Supr., 509 A.2d 87, 88 (1986).

this case will be remanded for a correction of sentence to reflect that Cuffee is to serve 12 months at Level IV, as is stated in the plea agreement.

(10) It is manifest on the face of Cuffee's opening brief that the appeal is without merit. The issues raised on appeal are clearly controlled by settled Delaware law, and to the extent the issues on appeal implicate the exercise of judicial discretion, 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, except that this matter is REMANDED with directions to CORRECT Cuffee's sentence in accordance with this decision. Jurisdiction is not retained.

BY THE COURT:

s/Joseph T. Walsh  
Justice

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<sup>4</sup> *Mayes v. State*, Del. Supr., 604 A.2d 839, 842 (1992).