

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID I. WALKER,	§	
	§	No. 458, 2012
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0804007018
Appellee.	§	

Submitted: March 22, 2013  
Decided: June 12, 2013

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 12<sup>th</sup> day of June 2013, upon consideration of the parties’ briefs and the Superior Court record, it appears to the Court that:

(1) The appellant, David I. Walker, filed this appeal from his July 26, 2012 conviction and sentencing on his third violation of probation (“VOP”). Walker contends that the evidence presented at the VOP hearing was insufficient to sustain his conviction, and he asks the Court to remand his case for a “more appropriate” sentence.

(2) On November 17, 2008, Walker pled guilty to Assault in the First Degree and Possession of a Deadly Weapon by a Person Prohibited and was sentenced to 10 ½ years imprisonment suspended after 3 ½ years for decreasing

levels of supervision. On April 7, 2011, Walker was found guilty of his first VOP and was resentenced to 6 ½ years imprisonment suspended after 14 days for probation. On March 15, 2012, Walker was found guilty of his second VOP and was resentenced to 4 years imprisonment suspended after 30 days. On July 26, 2012, the Superior Court found Walker guilty of his third VOP and resentenced him to 3 years and 9 months suspended after 9 months. This appeal followed.

(3) The transcript of the July 26, 2012 VOP hearing does not support Walker's claim on appeal that the Superior Court considered only the "hearsay testimony" of his probation officer and "ignored" Walker's explanation that legally prescribed medication caused him to test positive for drugs. At the hearing, Walker's probation officer stated that he was at his "wit's end" because Walker "continues to use illegal substances" and "[does] not comply with treatment," and Walker himself admitted that he had succumbed to "peer pressure" and used cocaine.

(4) Walker's claim on appeal that the sentence imposed was "excessive" and/or "inappropriate" is without merit. The record reflects that Walker had 3 years and 11 months remaining on his sentence when he was sentenced, on July 26, 2012, to 3 years and 9 months suspended after nine months. If a VOP is established, "the court may . . . require the probation violator to serve the sentence

imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.”\*

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

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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\* Del. Code Ann., tit. 11, § 4334(c) (Supp. 2013).