

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID BUCHANAN,	§
	§ No. 474, 2013
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0801031784
Plaintiff Below-	§
Appellee.	§

Submitted: October 2, 2013  
Decided: November 1, 2013

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

**ORDER**

This first day of November 2013, upon consideration of the opening brief, the State’s motion to affirm, and the record on appeal,<sup>1</sup> it appears to the Court that:

(1) The appellant, David Buchanan, filed this appeal from the Superior Court’s denial of his motion for correction of illegal sentence. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Buchanan’s opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that a Superior Court jury convicted Buchanan in September 2008 of Burglary in the Third Degree, Resisting Arrest, Criminal Contempt, three counts of Possession of a Firearm by a Person Prohibited, and two

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<sup>1</sup> Without addressing the parties’ arguments with respect to Buchanan’s motion to proceed *in forma pauperis*, we grant that motion *nunc pro tunc*.

counts of Carrying a Concealed Deadly Weapon. On direct appeal, this Court affirmed all of Buchanan's convictions except his conviction for third degree burglary.<sup>2</sup> Since that time, Buchanan has filed numerous petitions and motions seeking to overturn his convictions and sentence.<sup>3</sup>

(3) Most recently, in July 2013, Buchanan filed a motion for correction of illegal sentence. Buchanan's motion argued that his sentence was illegal because the Superior Court did not have jurisdiction over his charges, which, Buchanan asserted, should have been heard in the Family Court as a civil contempt proceeding. The core of Buchanan's argument below and on appeal is that the PFA order entered against him by the Family Court, which prohibited his possession of weapons and resulted in the weapon charges against him, was invalid. Buchanan asserts that he was denied the right to challenge the validity of the PFA order when the State pursued criminal charges against him stemming from his alleged violation of that order in the Superior Court rather than filing a civil contempt petition against him in the Family Court. The Superior Court denied Buchanan's motion. This appeal followed.

(4) Buchanan enumerates two issues in his opening brief on appeal. First, he contends that the Superior Court lacked jurisdiction over him and that the State

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<sup>2</sup> *Buchanan v. State*, 981 A.2d 1098 (Del. 2009).

<sup>3</sup> *See, e.g., Buchanan v. State*, 2011 WL 3452148 (Del. Aug. 8, 2011) (affirming denial of postconviction relief); *Buchanan v. State*, 2010 WL 3002981 (Del. Aug. 2, 2010) (affirming denial of habeas corpus relief).

should have pursued a civil contempt petition against him in the Family Court for his alleged violation of the PFA order. Second, Buchanan contends that the Superior Court erred in failing to correct his sentence because the illegal sentence was the direct result of his trial counsel's ineffectiveness in failing to quash the indictment against him based on the Superior Court's lack of jurisdiction.

(5) A motion for correction of sentence under Rule 35(a) is very narrow in scope.<sup>4</sup> The purpose of the rule is to permit correction an illegal sentence, *not* to reexamine errors occurring at trial or prior to the imposition of sentence.<sup>5</sup> Rule 35(a) presupposes a valid conviction.<sup>6</sup> Relief under Rule 35(a) is available only if the sentence imposed exceeds the statutorily authorized limits, violates the Double Jeopardy Clause, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to the substance of the sentence, or is a sentence which the judgment of conviction did not authorize.<sup>7</sup>

(6) It is manifest that Buchanan's motion and appeal are challenging the validity of his weapon convictions. Because his claims require an examination of alleged errors occurring prior to the imposition of his sentence, Rule 35(a) provides

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<sup>4</sup> *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

no relief. Accordingly, we find no error in the Superior Court's denial of his motion.

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

BY THE COURT:

/s/ Randy J. Holland  
Justice