

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ADOLPH A. CONOVER,	§	
	§	
Defendant Below-	§	No. 453, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	Cr. A. Nos. IN99-08-1811; 1782
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: January 7, 2005
Decided: March 10, 2005

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

ORDER

This 10th day of March 2005, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Adolph A. Conover, filed an appeal from the Superior Court's October 2, 2004 order denying his motion for reduction of sentence pursuant to Superior Court Criminal Rule 35(b). We find no merit to the appeal. Accordingly, we affirm.

(2) On May 13, 2004, Conover was sentenced at a contested violation of probation (“VOP”) hearing to a total of 1 year of incarceration at Level V, to be suspended after 6 months for decreasing levels of probation.¹

(3) In this appeal, Conover claims that the Superior Court erred as a matter of law by denying his motion for sentence reduction on the ground that the motion was untimely.

(4) This Court will not interfere with the Superior Court’s denial of a sentence reduction motion unless it can be demonstrated that the sentence imposed was beyond the maximum authorized by law or was the result of an abuse of discretion by the sentencing judge.² Conover does not argue here, nor did he argue in the Superior Court, that his sentence is beyond the maximum authorized by law.³

(5) Even assuming that Conover is correct that his motion for sentence reduction was timely filed, we, nevertheless, find no evidence that the sentence exceeded the statutorily-authorized limits and, therefore, find no abuse of discretion on the part of the Superior Court in denying Conover’s sentence reduction motion.

¹ Conover was found to have violated his probationary sentences in connection with his convictions of Escape After Conviction and Misdemeanor Theft.

² *Mayes v. State*, 604 A.2d 839, 842 (Del. 1992).

³ His argument in the Superior Court was that he has two close relatives in poor health who need his help and that he already has served a substantial amount of time in prison.

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

BY THE COURT:

/s/ Randy J. Holland
Justice