

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STANLEY E. SHABAZZ,	§
	§
Defendant Below-	§ No. 545, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN96-05-1687 and
Plaintiff Below-	§ IN96-09-0450
Appellee.	§

Submitted: April 25, 2005

Decided: June 14, 2005

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

**ORDER**

This 14<sup>th</sup> day of June 2005, upon consideration of the opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The defendant-appellant, Stanley Shabazz, filed this appeal from the Superior Court's denial of his motion to modify or correct his sentence. The State has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of Shabazz's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Shabazz pled guilty in January 1997 to two charges of second degree burglary. Prior to sentencing, he moved to withdraw his plea. After appointing substitute counsel, the Superior Court denied Shabazz's motion in October 1998. Thereafter, Shabazz was sentenced to a total of sixteen years at Level V incarceration, to be suspended after serving ten years for decreasing levels of supervision. This Court affirmed on appeal.<sup>1</sup>

(3) Shabazz filed his latest motion contending that the Superior Court had sentenced him in excess of the presumptive sentence called for under the sentencing guidelines. Shabazz argues that this violated his rights as set forth in the United States Supreme Court's decisions in *Apprendi v. New Jersey*<sup>2</sup> and *Blakely v. Washington*.<sup>3</sup> The Superior Court denied Shabazz's motion. This appeal followed.

(4) It is well-established that appellate review of a criminal sentence is limited in Delaware, with few exceptions, to a determination that the sentence is within the statutory limits.<sup>4</sup> In this case, Shabazz's sentence fell within the statutory range of authorized sentences for second degree

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<sup>1</sup> *Shabazz v. State*, 1999 WL 1192969 (Del. Nov. 30, 1999).

<sup>2</sup> 530 U.S. 466 (2000).

<sup>3</sup> 124 S.Ct. 2531 (2004)

<sup>4</sup> *See Siple v. State*, 701 A.2d 79, 82-83 (Del. 1997).

burglary.<sup>5</sup> As we have held in similar cases, neither *Apprendi* nor *Blakely* impact this outcome given the voluntary and nonbinding nature of Delaware's sentencing guidelines.<sup>6</sup>

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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<sup>5</sup> 11 *Del. C.* § 4205(b)(4) (establishing a sentencing range of up to 8 years for class D felonies).

<sup>6</sup> *Accord Bengé v. State*, 2004 WL 2743431 (Del. Nov. 12, 2004).