

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TREMAYNE L. PARKER,

Defendant Below-
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below-
Appellee.

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No. 563, 2005

Court Below—Superior Court
of the State of Delaware,
in and for Sussex County
Cr. ID 0001000052

Submitted: September 22, 2006

Decided: December 6, 2006

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

ORDER

This 6th day of December 2006, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The defendant-appellant, Tremayne Parker, filed this appeal from the Superior Court's denial of his motion for correction of sentence. The Superior Court held that Parker's motion was time-barred by Superior Court Criminal Rule 35(b) and that his motion raised issues that could have been raised prior to his plea. After careful consideration of the parties' respective positions, we conclude that the judgment of the Superior Court must be affirmed.

(2) The record reflects that Parker pled guilty in April 2000 to one count each of possession with intent to deliver, driving under the influence, and resisting arrest. Because Parker had a prior delivery conviction, he was eligible for an enhanced penalty ranging from 30 to 99 years at Level V incarceration, with a mandatory minimum term of 15 years incarceration.¹ Parker and the State entered into the plea agreement pursuant to former Superior Court Criminal Rule 11(e)(1)(C). Among other things, the plea agreement provided for an agreed-to sentence on the possession with intent to deliver charge of 40 years at Level V incarceration, to be suspended after serving 15 years minimum mandatory, followed by decreasing levels of supervision. Since his sentencing, Parker has filed multiple, unsuccessful motions seeking modification of his sentence and postconviction relief.

(3) After careful consideration of the parties' respective positions on appeal, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned decision dated November 1, 2005. The Superior Court did not err or abuse its discretion in denying Parker's repetitive motion.² Furthermore, Parker's sentence, which he agreed to and which was within the statutory limits for a


¹ Del. Code Ann. tit. 16, § 4763(a)(3)1 (2003). This provision was deleted by 74 Del. Law ch. 106, effective June 30, 2003, and replaced with a provision requiring an additional maximum term of 5 years incarceration for a prior delivery conviction.

² See Del. Super. Ct. Crim. R. 35(b).

repeat offender, was not illegal or otherwise in violation of the Eighth Amendment.³

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

BY THE COURT:



Justice

³ See *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).