

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT D. BROWN,	§
	§
Defendant Below-	§ No. 378, 2007
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0605017922
Plaintiff Below-	§
Appellee.	§

Submitted: September 10, 2007  
Decided: November 27, 2007

Before **BERGER, JACOBS, and RIDGELY**, Justices.

**ORDER**

This 27<sup>th</sup> day of November 2007, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Robert Brown, has filed this appeal from the Superior Court's denial of his motion for postconviction relief. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Brown's opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that Brown pled guilty in September 2006 to one count of delivery of cocaine. In exchange for his plea agreement, the

State dismissed two other charges included in the same indictment and also dismissed three additional charges filed under a separate indictment. The plea agreement provided that the State would request a presentence investigation and would file a motion requesting habitual offender sentencing. The habitual offender motion was filed prior to sentencing. On December 18, 2006, the Court granted the State's habitual offender motion and sentenced Brown to five years at Level V incarceration to be followed by six months probation. Brown did not appeal. Instead, in February 2007, he filed a motion for postconviction relief arguing that his plea agreement had not been fulfilled and that his sentence exceeded the sentencing guidelines. The Superior Court denied his motion. This appeal followed.

(3) After careful consideration of appellant's opening brief and the State's motion to affirm, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's well-reasoned decision dated July 11, 2007. The Superior Court did not err in holding, as a matter of law, that appellant's sentence was within the statutorily-mandated limits and thus provided no basis for postconviction relief.<sup>1</sup> Moreover, the Superior Court's conclusion that the State had fulfilled its part of the plea agreement is supported by the record. It is clear that the State dismissed the remaining

---

<sup>1</sup> See *Mayes v. State*, 604 A.2d 839 (Del. 1992).

charges against Brown in exchange for his guilty plea. The plea agreement clearly provided Brown with a substantial benefit.

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice