BEAR, J., dissenting. I disagree with the majority's conclusion that the trial court improperly denied the motion to correct an illegal sentence filed by the defendant, Ronald Brown. I conclude, to the contrary, that the trial court properly denied the defendant's motion because the sentence imposed was not illegal. I therefore respectfully dissent from the majority's direction to remand the case for resentencing, and I would affirm the judgment of the sentencing court.

I agree with the majority that the outcome of this case is dependent on our interpretation of the General Statutes. In *State* v. *Tabone*, 292 Conn. 417, 431–32, 973 A.2d 74 (2009), our Supreme Court explained: "When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered." (Internal quotation marks omitted.)

General Statutes § 54-125e provides: "(a) Any person convicted of a crime committed on or after October 1, 1998, who received a definite sentence of more than two years followed by a period of special parole shall, at the expiration of *the maximum term or terms of imprisonment imposed by the court*, be automatically transferred to the jurisdiction of the chairperson of the [b]oard of [p]ardons and [p]aroles or, if such person has previously been released on parole pursuant to subsection (a) of section 54-125a or section 54-131a, remain under the jurisdiction of said chairperson until the expiration of the period of special parole imposed by the court. The [d]epartment of [c]orrection shall be responsible for the supervision of any person transferred to the jurisdiction of the chairperson of the [b]oard of [p]ardons and [p]aroles under this section during such person's period of special parole.

"(b) When sentencing a person to a period of special parole, the court may recommend that such person comply with any or all of the requirements of subsection (a) of section 53a-30. The court shall cause a copy of any such recommendation to be delivered to such person and to the [d]epartment of [c]orrection. The [b]oard of [p]ardons and [p]aroles may require that such person comply with the requirements of subsection (a) of sec-

tion 53a-30 which the court recommended. Any person sentenced to a period of special parole shall also be subject to such rules and conditions as may be established by the [b]oard of [p]ardons and [p]aroles or its chairperson pursuant to section 54-126.

"(c) The period of special parole shall be not less than one year or more than ten years, except that such period may be for more than ten years for a person convicted of a violation of subdivision (2) of section 53-21 of the general statutes in effect prior to October 1, 2000, subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b or sentenced as a persistent dangerous felony offender pursuant to subsection (h) of section 53a-40 or as a persistent serious felony offender pursuant to subsection (j) of section 53a-40.

"(d) Whenever a parolee has, in the judgment of such parolee's parole officer, violated the conditions of his or her special parole, the board shall cause the parolee to be brought before it without unnecessary delay for a hearing on the violation charges. At such hearing, the parolee shall be informed of the manner in which such parolee is alleged to have violated the conditions of such parolee's special parole and shall be advised by the employee of the board conducting the hearing of such parolee's due process rights.

"(e) If such violation is established, the board may: (1) Continue the period of special parole; (2) modify or enlarge the conditions of special parole; or (3) revoke the sentence of special parole.

"(f) If the board revokes special parole for a parolee, the chairperson may issue a mittimus for the commitment of such parolee to a correctional institution for any period not to exceed the unexpired portion of the period of special parole.

"(g) Whenever special parole has been revoked for a parolee, the board may, at any time during the unexpired portion of the period of special parole, allow the parolee to be released again on special parole without court order." (Emphasis added.)

In construing the meaning of this statute, the majority recognizes the principle of law that "a statute should not be read in such a manner as to render any portion of it superfluous." It then proceeds to pay special attention to the words "*term or terms of imprisonment*" in subsection (a) of § 54-125e to reach the conclusion that "the legislature has provided that a period of special parole commences not only in a situation in which a person has been sentenced to a single *term* of incarceration and special parole, but after a person has been sentenced to multiple *terms* of incarceration and special parole for more than one offense." (Emphasis in original.) The emphasized language merely provides that, in a situation in which a person has been sentenced

for multiple offenses to terms of incarceration and special parole, special parole begins after the expiration of the multiple terms of incarceration. The statutory reference to a "period of special parole" describes that period of time that follows the expiration of a person's term of incarceration for each offense to which the defendant has pleaded or has been found to be guilty. Thus, I am not persuaded by the majority's interpretation that limits the period of special parole to a maximum of ten years despite the number of offenses to which the defendant has pleaded or has been found to be guilty, and which, although attempting to read the statute in a manner that would not render any portion thereof superfluous, ignores the plain words that state: "Any person convicted of *a crime* committed on or after October 1, 1998, who received *a definite sentence* of more than two years followed by *a period of special parole* shall, at the expiration of the maximum term or terms of imprisonment imposed by the court, be automatically transferred to the jurisdiction of the chairperson of the [b]oard of [p]ardons and [p]aroles . . . ." (Emphasis added.) General Statutes § 54-125e (a). While focusing on the words "term or terms of imprisonment," the majority fails to consider the legislative import of the words "a crime" and "a definite sentence," also used in the statute.

I agree with the state's interpretation of § 54-125e and conclude that the legislature has not limited the authority of the sentencing court in the manner set forth by the majority. Following the legislative directive of § 1-2z that we consider the text of a statute in relation to other statutes; see *State* v. *Tabone*, supra, 292 Conn. 431–32; I find further support for the state's interpretation of § 54-125e in other statutes. General Statutes § 54-128 (c) provides that "[t]he total length of the term of incarceration and term of special parole combined shall not exceed the maximum sentence of incarceration authorized *for the offense* for which the person was convicted." (Emphasis added.) I conclude that this further supports the state's position that the sentencing court is limited only by the maximum sentence on each offense.

Additionally, General Statutes § 53a-28, entitled "Authorized sentences," provides in relevant part: "(a) Except as provided in section 17a-699 and chapter 420b, to the extent that the provisions of said section and chapter are inconsistent herewith, every person convicted of an offense shall be sentenced in accordance with this title. (b) Except as provided in section 53a-46a, when a person is convicted of *an offense*, the court shall impose one of the following sentences: (1) A term of imprisonment; or (2) a sentence authorized by section 18-65a or 18-73; or (3) a fine; or (4) a term of imprisonment and a fine; or (5) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court,

and a period of probation or a period of conditional discharge; or (6) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a fine and a period of probation or a period of conditional discharge; or (7) a fine and a sentence authorized by section 18-65a or 18-73; or (8) a sentence of unconditional discharge; *or (9) a term of imprisonment and a period of special parole as provided in section 54-125e*." (Emphasis added.)

Furthermore, General Statutes § 53a-37 provides: "When multiple sentences of imprisonment are imposed on a person at the same time, or when a person who is subject to any undischarged term of imprisonment imposed at a previous time by a court of this state is sentenced to an additional term of imprisonment, the sentence or sentences imposed by the court shall run either concurrently or consecutively with respect to each other and to the undischarged term or terms in such manner as the court directs at the time of sentence. The court shall state whether the respective maxima and minima shall run concurrently or consecutively with respect to each other, and shall state in conclusion the effective sentence imposed. When a person is sentenced for two or more counts each constituting a separate offense, the court may order that the term of imprisonment for the second and subsequent counts be for a fixed number of years each. The court in such cases shall not set any minimum term of imprisonment except under the first count, and the fixed number of years imposed for the second and subsequent counts shall be added to the maximum term imposed by the court on the first count."

Reviewing each of the statutes referenced herein in relation to each other, I conclude that the sentencing court may sentence a defendant to a term of imprisonment and special parole for each crime upon which he or she is convicted, provided each individual sentence does not exceed the maximum sentence allowed for that offense, and that the court has the authority to order those sentences to run consecutively, even if the aggregate term of special parole exceeds ten years. See General Statutes §§ 54-128 (c), 54-125e, 53a-28 and 53a-37.

Under the rationale of the majority opinion, if the sentencing court were to order multiple sentences to run concurrently, and it ordered special parole on each sentence, the terms of special parole simply would merge into the largest term of special parole so long as it was ten years or less, unless one or more of the offenses were within the statutory exception permitting a longer term. I do not disagree with this interpretation for concurrent sentences. However, I disagree with the majority's application of this principle to consecutive sentences. Although our statutes clearly permit the sen-

tencing court to order consecutive sentences; see General Statutes § 53a-37; the majority concludes that consecutive sentences with special parole can be ordered only if the aggregate term of the special parole does not exceed ten years, except for certain enumerated crimes. If the aggregate term of special parole would exceed ten years, the majority concludes that the court is not permitted to order such a sentence. This would result, under the reasoning of the majority, in an illegal sentence. Although the majority reads these restrictions into § 54-125e, I can find no authority to support such a limitation on the sentencing court.[1]

Furthermore, our legislature knows how to limit explicitly the authority of the court when it desires to impose such a limitation in the area of sentencing. In General Statutes § 53a-31, our legislature has directed: "(a) A period of probation or conditional discharge commences on the day it is imposed, except that, where it is preceded by a sentence of imprisonment with execution suspended after a period of imprisonment set by the court, it commences on the day the defendant is released from such imprisonment. *Multiple periods, whether imposed at the same or different times, shall run concurrently. . . .*" (Emphasis added.) There is no similar limitation in the area of special parole.

Additionally, the majority opines that "[i]t is not clear from a review of subsection (c) of § 54-125e whether the ten year limit on the 'period of special parole' limits the special parole portion of the sentence imposed for individual offenses or whether it limits a defendant's aggregate sentence that arises from his conviction of multiple offenses for which special parole was imposed by the sentencing court." For the purpose of argument, I assume that the majority and the defendant correctly have determined that § 54-125e is ambiguous, and I, thus, also examine applicable legislative history.

The legislative history of § 54-125e does not clarify the intent of the legislature in enacting that statute. However, the legislative history of a proposed revision to § 54-125e provides some support for my interpretation of § 54-125e. On March 7, 2002, Senate Bill No. 587 was referred to the joint committee on judiciary, which, on March 25, 2002, reported favorably on the bill in a unanimous vote.[2] The bill, which then was passed by the Senate on April 17, 2002, on a vote of thirty-three to three, provided that § 54-125e be amended:[3]

"The Committee on Judiciary reported through SEN. [ERIC D.] COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

"AN ACT CONCERNING SPECIAL PAROLE.

"Be it enacted by the Senate and House of Representatives in General Assembly convened:

"Section 1. Section 54-125e of the general statutes,

as amended by section 21 of public act 01-84, is repealed and the following is substituted in lieu thereof (Effective October 1, 2002):

"(a) Any person convicted of [a crime] one or more crimes committed on or after October 1, 1998, who received a definite sentence or aggregate sentence of more than two years followed by a period of special parole shall, at the expiration of the maximum term or terms of imprisonment imposed by the court, be transferred from the custody of the Commissioner of Correction to the jurisdiction of the [chairman] chairperson of the Board of Parole or, if such person has previously been released on parole pursuant to subsection (a) of section 54-125a, as amended, or section 54-131a, remain under the jurisdiction of said [chairman] chairperson until the expiration of the period of special parole imposed by the court.

"(b) Any person sentenced to a period of special parole shall be subject to such rules and conditions as may be established by the Board of Parole or its [chairman] chairperson pursuant to section 54-126.

"(c) The period of special parole shall be not less than one year nor more than ten years for any single crime, except that such period may be for more than ten years for a person convicted of a violation of subdivision (2) of section 53-21 of the general statutes in effect prior to October 1, 2000, subdivision (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b or sentenced as a persistent dangerous felony offender pursuant to subsection (h) of section 53a-40 or as a persistent serious felony offender pursuant to subsection (j) of section 53a-40."

When asked to explain the bill, Senator Coleman explained in relevant part: "Oftentimes an individual [may be] arrested for a single incident and there may be a number of charges that are lodged as a result of that incident. And a person may be convicted for multiple charges . . . [a]nd may be sentenced on those convictions. Under that circumstance it was very unclear under the way that the current statute has been written that that person could ever be eligible for a special parole because of the multiple convictions. This bill seeks to make it clear that such an individual would be able to earn special parole . . . . I can't deny . . . that part of the rationale for that would be to alleviate the overcrowding in our prison system that currently exists. But also, I think there is some forward thinking in operation." 45 S. Proc., Pt. 4, 2002 Sess., p. 1062, remarks of Senator Eric D. Coleman. When asked by Senator John P. McKinney whether the law currently provided that people convicted of multiple crimes could only serve concurrent terms of special parole; id., pp. 1066–67; Senator Coleman explained: "Under the current interpretation of the statute there is some thought that a person could not be on parole, special parole,

for more than ten years. What this bill does is to make it clear that particularly in the case of aggregate sentences that a person could be placed on special parole for a period of time exceeding ten years." Id., p. 1067. When questioned further, Senator Coleman responded: "The intent of this bill is to make it extremely clear that special parole is applicable to individuals who've been sentenced for conviction on more than one crime"; id., p. 1069; and that "the main purpose of the bill is to make it clear that a person could be placed on special parole for a period of time exceeding ten years."[4] Id., p. 1074.

Although 2002 Senate Bill No. 587 had unanimous support in the judiciary committee and had considerable support in the Senate, it, nonetheless, died in the House of Representatives. See 45 H.R. Proc., Pt. 6, 2002 Sess., pp. 1792–1811.

In this case, the defendant was sentenced on two different dockets after a global plea agreement. In docket number CR-06-0112604, he accepted an offer of five years incarceration, to be followed by ten years of special parole. In docket number CR-05-0109070, he accepted an offer of four years incarceration, to be followed by six years of special parole. The sentences, as agreed, were to run consecutively, for a total effective sentence of nine years incarceration, followed by sixteen years special parole. Had the defendant chosen to go to trial on these charges, he was exposed to a maximum sentence of twenty years incarceration in the first docket and fifteen years incarceration in the second docket, for a total exposure of thirty-five years incarceration.[5] Under our law, if the defendant were convicted after trial, the sentencing court could have sentenced him to serve up to thirty-five years incarceration, after ordering the sentences on each of the two charges that were the basis for sentencing to run consecutively. However, under the majority's reasoning, the court could not sentence him to nine years in prison, twenty-six years less than the maximum sentence for the offenses, followed by sixteen years special parole, solely because the aggregate term of special parole exceeded ten years. I do not agree that § 54-125e limits the authority of the sentencing court in such a manner. Considering § 54-125e in relation to §§ 54-128 (c), 53a-28 and 53a-37, I conclude that the court had the authority to order the defendant's sentence, including the separate periods of special parole, to run consecutively.

Additionally, I also note my disagreement with the remedy set forth by the majority in this case. Practice Book § 43-22 provides that the judicial authority may at any time correct an illegal sentence or other illegal disposition, or it may correct a sentence imposed in an illegal manner or any other disposition made in an illegal manner. The majority vacates the defendant's sentence and remands the matter for resentencing according to

law. However, I conclude that it likely is impossible for the court to correct the sentence imposed in a manner that effectuates the intent of the plea agreement. Because the majority opinion requires a reduction of six years of special parole, this case arguably differs from *Tabone*, where what was at issue was one year of the special parole part of the agreement. This result in the present case does not give the state the benefit of its bargain, nor does it leave the trial court with the terms and scope of the sentence it accepted. The court is not permitted to substitute probation for special parole; see *State* v. *Tabone*, supra, 292 Conn. 429–30; nor would more prison time be a comparable substitute for the special parole portion of the sentence. See id. It appears that the only alternative for the court in this case would be to reduce the defendant's term of special parole by more than one third. In this case, the defendant not only received the benefit of a nine year term of incarceration, when he was exposed to a maximum sentence of thirty-five years, but he also received an unconditional discharge on a count of reckless driving in another docket and nolle prosequis on several other counts in other dockets. See footnote 5 of this opinion. The majority's rescript also would provide the defendant the unforeseen additional benefit of an approximate one-third reduction in his period of special parole. I agree with the state that, if the sentence as imposed in this case was illegal, there is no legal sentence that could approximate the plea agreement. Thus, as requested by the state, I conclude that the defendant's pleas should be rescinded, that each count encompassed or covered by the plea agreement, including the nolle prosequis and the unconditional discharge, should be reinstated and that the matter should be remanded to the trial court for further proceedings, including, but not limited to, trial. See id., 453–56 (*Schaller*, *J.*, concurring in part and dissenting in part).

On the basis of the foregoing, I respectfully dissent and would affirm the judgment of the trial court.

[1] It is possible that the decision of the majority in this case may affect other persons already serving consecutive special parole terms in excess of ten years. See, e.g., *State* v. *Eastwood*, 83 Conn. App. 452, 454, 454 n.1, 850 A.2d 234 (2004) (defendant sentenced to total effective term of nine years incarceration, followed by fifteen years of special parole), cert. denied, 286 Conn. 914, 945 A.2d 978 (2008). A review of the judgment file in the *Eastwood* case reveals the following sentence: On count one, criminal attempt to commit kidnapping in the second degree in violation of General Statutes §§ 53a-49 (a) (2) and 53a-94 (a), the court sentenced the defendant to three years incarceration, to be followed by five years special parole. On count two, criminal attempt to commit kidnapping in the second degree in violation of §§ 53a-49 (a) (2) and 53a-94 (a), the court sentenced the defendant to three years incarceration, to be followed by five years special parole, to run consecutive to count one. On count three, criminal attempt to commit kidnapping in the second degree in violation of §§ 53a-49 (a) (2) and 53a-94 (a), the court sentenced the defendant to three years incarceration, to be followed by five years special parole, to run consecutive to counts one and two. On counts four through six, each of which was a charge of risk of injury to child in violation of General Statutes (Rev. to 1999) § 53-21 (a) (1), as amended by Public Acts 2000, No. 00-207, § 6, the court sentenced the defendant to three years incarceration, to run concurrently. On the final count, count seven, interfering with an officer in violation of General Statutes

§ 53a-167a, the court sentenced the defendant to one year incarceration, also to run concurrently, for a total effective sentence of nine years incarceration, to be followed by fifteen years of special parole.

[2] See history of 2002 Senate Bill No. 587 available at www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=587&which_year=2002&SUBMIT1.x=12&SUBMIT1.y=7

[3] Deleted material is bracketed; new material is underlined.

[4] I also note that there was some discussion among some members of the Senate that the special parole provisions of § 54-125e were meant only to apply to persons sentenced after being convicted of one crime and that special parole could not be given to someone convicted of more than one crime. See 45 S. Proc., Pt. 4, 2002 Sess., pp. 1061–74. This, however, did not appear to be the sentiment of the majority. See id.

[5] Furthermore, as set forth in its footnote 2, the majority notes that the defendant received additional benefits from his plea agreement because the court imposed a sentence of unconditional discharge on the reckless driving count that was brought under MV-05-0443087, and the state entered a nolle prosequi with regard to several additional charges brought under several docket numbers, including docket numbers CR-05-0109070 and CR-06-0112604.