

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,	)	
	)	
v.	)	I.D. # 0710016069
	)	
	)	
JACKIE M. JONES,	)	
Defendant.	)	

Submitted: March 3, 2009  
Decided: May 15, 2009

**Memorandum Opinion**

Upon Defendant's Motion for Postconviction Relief.  
**DENIED.**

Brian Robertson, Esq., Dept. of Justice, 820 North French St., Sixth Floor,  
Wilmington, DE. 19801.

Timothy J. Weiler, Esq., 831 North Tatnall Street, Suite 200, Wilmington,  
DE 19801.

Jackie Jones, BAYLOR WOMEN'S CORRECTIONAL INSTITUTION,  
660 Baylor Blvd., New Castle DE 19720, *pro se.*

**Scott, J.**

This \_\_\_ day of May, 2009, upon consideration of Defendant's motion for postconviction relief it appears to the Court that:

(1) Defendant Jackie M. Jones ("Jones") pled guilty to Maintaining a Dwelling on November 7, 2007.<sup>1</sup> She was sentenced to three years at Level V, suspended after completion of the Key program, balance at Level IV, suspended after completion of the Crest program for one year at Level III Aftercare.<sup>2</sup>

(2) On March 27, 2008 and again on May 2, 2008, Jones filed a motion for modification of sentence.<sup>3</sup> In those motions, she claimed that she is unable to complete the Key program because to do so would require her to violate tenants of her Islamic faith. She asked this Court to modify her sentence to nine months at Level V. Upon release, she requested that she be discharged to Islamic transitional housing. The Court denied her motions on the grounds that her sentence is appropriate and the motions were untimely.<sup>4</sup> On October 15, 2008, Jones repackaged her claim into this motion for postconviction relief.<sup>5</sup>

(3) The Court does not find that Jones' claim is procedurally barred. Therefore, it will address the substantive aspects of her claim. Jones

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<sup>1</sup> Plea Agreement, Docket Item ("D.I.") 2.

<sup>2</sup> Sentence, D.I. 2.

<sup>3</sup> Motion for Modification of Sentence, D.I. 11, 12.

<sup>4</sup> Order, D.I. 13, 14.

<sup>5</sup> Def. Mot. for Postconviction Relief, D.I. 16.

claims that her sentence is not legal because the condition that she enter the Key program is unconstitutional. The Court does not agree.

(4) In *State v. Mitchell*,<sup>6</sup> the defendant was sentenced to Level V, suspended after successful completion of boot camp, balance at Level III. The defendant was Rastafarian. He claimed that in order to enter boot camp he would be forced to cut his dreadlocks which would violate the tenants of his religious faith. He motioned the Court to reduce his sentence because the condition that he enter boot camp violated his First Amendment religious rights. The Court held that the defendant's rights were not violated because participation in boot camp was an alternative to serving Level V time and he was free to opt out of boot camp and serve the Level V time.

(5) Similarly here, Jones is not being forced to participate in the Key program. It is a voluntary. Jones is free to serve Level V time in lieu of participating in the program. Because Jones fails to show that her sentence is unconstitutional, her claim for postconviction relief is **DENIED**.

**IT IS SO ORDERED.**

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Judge Calvin L. Scott, Jr.

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<sup>6</sup> 1999 WL 743978 (Del. Super., Aug. 16, 1999).