

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

STATE OF DELAWARE,	)	
	)	
v.	)	ID#: 0611018775
	)	Cr.A. #: IN-06-12-1069
JOHN K. WILLIAMS,	)	
Defendant.	)	

**ORDER**

**Upon Defendant’s Motion to Correct an Illegal Sentence – DENIED**

1. The court sentenced Defendant to three years in prison as a habitual offender under 11 *Del. C.* § 4214(a), followed by one year of transitional probation under 11 *Del. C.* § 4204(1).

2. Defendant contends that transitional probation under 11 *Del. C.* § 4204(1) is capped by the statute at six months. He relies on *Larson v. State*.<sup>1</sup>

3. In this case’s context, Defendant misreads the statute and *Larson*.

4. Sentences imposed under 11 *Del. C.* § 4214(a) cannot be suspended. Eleven *Del. C.* § 4204(1), however, requires that whenever the court imposes a sentence of, or totaling more than, one year in prison, it must also impose “a period of custodial supervision . . . of not less than six months[.]” Thus, 11 *Del.*

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<sup>1</sup> *Larson v. State*, Del. Supr., 659 A.2d 228 (TABLE), 1995 WL 236650.

C. § 4204(1), by its terms, sets a minimum custodial sentence: six months.

5. Section 4204(1) does not speak directly to a maximum sentence. *Larson*, however, establishes that if the court sentences Defendant to the maximum prison sentence, the custodial sentence mandated by 11 *Del. C.* § 4204(1) is then capped at six months. The sentence in *Larson* was not defective because it was longer than six months; it was defective because it exceeded the statutory maximum for the crime by more than six months.

6. Here, the § 4214(a) sentence exceeds one year in prison, but Defendant did not receive the maximum § 4214(a) sentence: life imprisonment. (A life sentence under 11 *Del. C.* § 4214(a) is tantamount to a fixed term of 45 years.<sup>2</sup>) Accordingly, the court was required to impose no less than six months transitional probation under 11 *Del. C.* § 4204(1). The transitional probation, however, was not capped in this case at six months, as Defendant contends. The probation was only capped by 11 *Del. C.* § 4204(1) at six months if Defendant had received the maximum sentence under § 4214(a), which he did not receive.

7. Taking Defendant's criminal history into account, a six-month transitional probation is not enough to demonstrate Defendant's rehabilitation and to

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<sup>2</sup> *Crosby v. State*, 824 A.2d 894, 902 (Del. 2003) (citing 11 *Del. C.* § 4346).

protect the public from him. It remains to be seen whether Defendant will be able to stay out of criminal trouble for a year after he is released. In any event, the one-year transitional probation here falls within the possible maximum sentence and, therefore, it is legal.

For the foregoing reasons, Defendant's June 22, 2009, Motion to Correct an Illegal Sentence is **DENIED**.

**IT IS SO ORDERED.**

Date: September 16, 2009

/s/ Fred S. Silverman

Judge

cc: Prothonotary (criminal)  
Cynthia Faraone, Deputy Attorney General  
John K. Williams