

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

v.

GREGORY JOHNSON,

Defendant.

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I.D. No. 1804008647

Submitted: October 18, 2019

Decided: October 24, 2019

*Upon Defendant's Motion for Correction of Sentence*

**DENIED.**

**ORDER**

Gregory Johnson, *pro se*, Smyrna, DE.

Maria T. Knoll, Esquire, Deputy Attorney General, Department of Justice, 820 N. French St., Wilmington, Delaware, Attorney for the State.

**WHARTON, J.**

This 24th day of October, 2019, upon consideration of Defendant's Motion for Correction of Sentence and the record in this matter, it appears to the Court that:

1. Defendant Gregory Johnson ("Johnson") pled guilty to Possession of a Firearm During the Commission of a Felony ("PFDCF"), Reckless Endangering First Degree, Assault Second Degree, and Assault Third Degree. On June 21, 2018, he was sentenced as a habitual offender to 25 years of incarceration on the PFDCF charge.<sup>1</sup> He received suspended sentences of incarceration, followed by lesser periods of supervision on the other charges.<sup>2</sup>

2. Before the Court is Johnson's Motion for Correction of Sentence.<sup>3</sup> In it, he claims that the Court failed to take into consideration multiple mitigating factors outside of the SENTAC Guidelines, and that extenuating circumstances, including a period of 22 years without a criminal conviction, should have "require[ed] the state and the court to reconsider the movant's **§ 4214(d) habitual Offender status**" (emphasis in original).<sup>4</sup> Additionally, citing *Adams v. Governor of Delaware*,<sup>5</sup> he contends that the court lacked jurisdiction in the plea proceedings so that his plea and sentence should be vacated.<sup>6</sup>

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<sup>1</sup> D.I. 50.

<sup>2</sup> *Id.*

<sup>3</sup> D.I. 58.

<sup>4</sup> *Id.*

<sup>5</sup> 2019 WL 1549857 (3d. Cir. Apr. 10, 2019).


<sup>6</sup> *Id.*

3. Neither of these arguments has merit. SENTAC Guidelines are just that - guidelines - and are not binding on the sentencing judge. Similarly, SENTAC Statements of Policy are no more determinative of a defendant's sentence than the Guidelines themselves. Neither override the plain language of 11 *Del. C.* § 4214, which, in Johnson's case, because of his prior convictions, required the Court to declare him a habitual offender and to impose a sentence of 25 years on the PFDCF charge.

4. Further, Johnson reads too much into *Adams*. Similar arguments were made and rejected in *State v. Desmond*<sup>7</sup> and *State v. Kane and McNeil*.<sup>8</sup> For the same reasons set out in those cases, this Court rejects Johnson's claim here.

**THEREFORE**, Johnson's Motion for Correction of Sentence is **DENIED**.

**IT IS SO ORDERED.**

  
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Ferris W. Wharton, J.

oc: Prothonotary  
cc: Investigative Services

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<sup>7</sup> 2019 WL 1950426 (Del. Super. May 1, 2019).

<sup>8</sup> 2019 WL 1468195 (Del. Super. Mar. 29, 2019).