

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
)
 v.) I.D. No. 1810016746
)
)
 JAVON J. GLENN,)
)
)
 Defendant.)

ORDER

AND NOW TO WIT, this 12th Day of November 2019, upon consideration of Defendant Javon Glenn’s (“Defendant”) Motion for Modification of Sentence, the sentence imposed upon the Defendant, and the record in this case, it appears to the Court that:

1. On May 20, 2019, Defendant pleaded guilty to Drug Dealing Tier 2 with an Aggravating Factor, and Possession of a Firearm by a Person Prohibited.¹ Defendant was sentenced to twenty-five years at Level V, suspended after two years at Level V, followed by one year at Level III.² Defendant was further sentenced to

¹ Final Case Review: Defendant Pled Guilty/Sentenced, *State of Delaware v. Glenn*, Crim. ID No. 1810016746, D.I. 7 (Del. Super. May 20, 2019).

² Sentence: ASOP Order Signed and Filed on 05/21/2019, *State of Delaware v. Glenn*, Crim. ID No. 1810016746, D.I. 8 (Del. Super. May 20, 2019).

three years at Level V, suspended after one year at Level III, to be served consecutively.³ In sum, he received two years of incarceration followed by one year at Level III. At the time of sentencing, Defendant faced a minimum mandatory sentence of two years as to the charge of Drug Dealing, and a maximum of twenty-eight years as to both charges.⁴

2. On August 16, 2019, Defendant asked this Court to modify his Level V sentence under Rule 35(b).⁵ Defendant requests that this Court reduce the remainder of his two-year Level V sentence to home confinement beginning in the final 180 days of his minimum mandatory sentence. In support of his Motion, Defendant states the following grounds: (1) “Rehabilitation,” (2) “Family Hardship,” (3) “Remorse,” and (4) his plans for “Education.”⁶

3. The sentence in Defendant’s case was imposed pursuant to a Plea Agreement between the State and Defendant.⁷ After an appropriate colloquy, the Court addressed Defendant in open court pursuant to Superior Court Criminal Rule 11(c)(1) and determined that he understood the nature of the charge to which the

³ Sentence: ASOP Order Signed and Filed on 05/21/2019, *State of Delaware v. Glenn*, Crim. ID No. 1810016746, D.I. 8 (Del. Super. May 20, 2019).

⁴ Final Case Review: Defendant Pled Guilty/Sentenced, *State of Delaware v. Glenn*, Crim. ID No. 1810016746, D.I. 7 (Del. Super. May 20, 2019).

⁵ SUPER. CT. CRIM. R. 35(b).

⁶ Motion for Modification of Sentence Filed Pro-Se, *State of Delaware v. Glenn*, Crim. ID No. 1810016746, D.I. 9 (Del. Super. August 16, 2019).

⁷ Final Case Review: Defendant Pled Guilty/Sentenced, *State of Delaware v. Glenn*, Crim. ID No. 1810016746, D.I. 7 (Del. Super. May 20, 2019).

plea was offered, the mandatory minimum penalty provided by law and the maximum statutory penalties. Defendant fully acknowledged in open court that the range of possible penalties included the sentence that was imposed by the Court in this case.

4. Under Superior Court Criminal Rule 35(b), the Court may reduce a sentence of imprisonment on a motion made within ninety days after the sentence is imposed.⁸ “Rule 35(b) allows for a reduction of sentence without regard to the existence of a legal defect.”⁹ Thus, relief under Rule 35(b) is within the sound discretion of the Sentencing Court.¹⁰ Accordingly, a timely and non-repetitive Rule 35(b) motion is “essentially a ‘plea for leniency.’”¹¹ However, Superior Court Rule of Criminal Procedure 35(b) provides no authority for a reduction or suspension of the mandatory portion of a *substantive* statutory minimum sentence.¹² Therefore, while Defendant’s motion is not time barred, it is nonetheless denied, where Defendant is subject to a minimum mandatory sentence.

5. Although the Court is mindful that Defendant’s confinement may cause his family to suffer from his absence, Defendant’s family situation does not form a basis for relief. The Court also acknowledges and commends Defendant for steps

⁸ SUPER. CT. CRIM. R. 35(b).

⁹ *State v. Lewis*, 797 A.2d 1198, 1201 (De. 2002).

¹⁰ *Id.*

¹¹ *Id.* at 1202 (quoting *United States v. Maynard*, 485 F.2d 247, 248 (9th Cir. 1973)).

¹² *State v. Sturgis*, 947 A.2d 1087, 1092 (Del. 2008).

taken towards rehabilitation, remorse, and planning to further his education upon release. However, the Court does not have discretion to modify a minimum mandatory sentence. As such, the sentence was and remains appropriate for all the reasons stated at the time of sentencing.

IT IS SO ORDERED that Defendant's Motion for Modification of Sentence is **DENIED**.



Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Department of Justice
Investigative Services
Defendant