

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)	
)	
)	ID# 9610006796
v.)	
)	
DEREK MAYHEW,)	
)	
Defendant.)	

Submitted: October 29, 2019
Decided: December 5, 2019

On Defendant’s “Motion for Sentence Modification.”
DENIED.

ORDER

Dominic A. Carrera, Jr., Esquire, Deputy Attorney General, Department of Justice,
Wilmington, Delaware, Attorney for the State.

Michael W. Modica, Esquire, Wilmington, Delaware, Attorney for Defendant.

COOCH, R.J.

This 5th day of December 2019, upon consideration of Defendant’s “Motion
for Sentence Modification,” it appears to the Court that:

1. On December 11, 1996, Defendant pled guilty to Attempted Unlawful Sexual Intercourse First Degree.¹ On February 7, 1997, Defendant was sentenced to life at Level V, suspended after 15 years for 1 year at supervision Level IV, followed by 1 year at supervision Level III, followed by the remaining balance at supervision Level II.²

¹ D.I. 9.

² D.I. 12.

2. On September 30, 2019, Defendant filed the instant Motion. Defendant requests that the Court suspend the remaining balance of his supervision at Level II sentence.³ In support of this request, Defendant cites his compliance on probation, completion of all required sex offender treatment programs, and fulfillment of all financial obligations due.⁴
3. The State opposes Defendant's "Motion for Sentence Modification." The State asserts that "[o]n November 25, 2015, a progress report from probation [...] was filed with the court and approved on December 3, 2015 for Defendant to continue to be supervised for life under Level II probation [...] and mandating GPS monitoring during the term of probation as a registered Tier 3 sex offender."⁵ Additionally, the State argues that "[t]he Defendant was on probation for multiple sex related offenses when he committed the violent Class A felony that he was facing sentencing for"⁶ and that "Defendant is not just a recidivist, he is the most dangerous kind of recidivist[,] a sexual recidivist."⁷ The State supports this contention by stating "the fact remains that the Defendant has 10 separate and distinct sexual offense for which he has been committed. Each of the 10 offenses were committed on different days, even though several had been resolved and sentenced on the same day."⁸ Further, the State contends that "[t]he Defendant's history shows a dangerous repetitive pattern of committing sexual offenses [...]" and "[t]he very thing that Defendant seeks relief from is likely the one thing that has kept Defendant compliant."⁹
4. Requests for reduction or modification of sentence are governed by Superior Court Criminal Rule 35(b). Rule 35(b) provides that the Superior Court may reduce the "term or conditions of partial confinement or probation ... at any time."¹⁰

³ D.I. 18.

⁴ *Id.*

⁵ State's Resp. to Def.'s Mot. for Modification of Sentence at ¶ 2.

⁶ *Id.* at ¶ 7.

⁷ *Id.* at ¶ 8.

⁸ *Id.*

⁹ *Id.* at ¶ 9.

¹⁰ *Iverson v. State*, 977 A.2d 898 (Del. 2009) (TABLE).

5. Defendant's sentence is appropriate for all the reasons stated at the time of sentencing. The sentence in this case was imposed pursuant to a Plea Agreement between the State and Defendant. Defendant bargained for and accepted the Plea Agreement as between the State and Defendant before presenting such Plea Agreement to this Court. No additional information has been provided to the Court that would warrant a reduction or modification of Defendant's sentences. Upon consideration of Defendant's Rule 35 Motion, the Court finds that the sentence imposed was well within the statutory guidelines, as well as reasonable and just under the circumstances presented. The State's concerns are well-reasoned.

6. Accordingly, Defendant's Motion for Sentence Modification is **DENIED**.

IT IS SO ORDERED.



Richard R. Cooch, J.

cc: Prothonotary
Investigative Services
Michael W. Modica, Esq.
Dominic A. Carrera, Jr., Esq., Deputy Attorney General