

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. Henley Graves
Resident Judge

SUSSEX COUNTY COURTHOUSE
THE CIRCLE
P.O. BOX 746
GEORGETOWN, DE 19947
(302) 856-5257

October 31, 2003

N440
Jackie E. Jackson
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: State v. Jackson
Defendant ID 0107021899

Dear Mr. Jackson:

I have received on September 30th, a Motion for Stay of Proceedings in the Postconviction process in order that you could pursue a Motion for Correction of an Illegal Sentence pursuant to Superior Court Criminal Rule 35(a). Together with that, a Motion for Correction of Illegal Sentence was also attached.

I have studied your Motion for Correction of Illegal Sentence together with the attachments and find that it has no merit. The basis of your Motion under Superior Court Criminal Rule 35(a) is that I made personal statements that you found to be offensive. You attached a copy of your sentencing transcript to evidence same.

Additionally, you complain that you were sentenced outside the SENTAC guidelines without being made aware of any aggravating factors.

As usual, I find your communications interesting but your present argument has no merit. In the transcript that you provided, it is apparent that the Court denied the State's application to have you sentenced as a habitual offender. That was done because you were representing yourself and the State did not have the Motion to declare you a habitual offender filed in a timely manner. I thought it was a violation of due process to proceed with a habitual offender petition on the morning of sentencing. You actually thanked me for doing that and I told you that doesn't get you out of the woods. My comments were neither personal nor sarcastic. I noted that you and your co-defendant worked as a team and worked together well. I noted that he was the wheel man and that

Jackie Jackson
Page 2
October 31, 2003

you were the "guy that can dress up and go anywhere by way of charm and personality". I explained to you why you got a harsher sentence than your co-defendant. That was based upon your record being the worst of the two, and that I perceived you to be the leader.

Therefore, based upon the contents of the transcript, there is no basis to find that I should recuse myself from having sentenced you. The transcript itself evidences the aggravating factors of your lengthy record which triggered the filing of a habitual offender petition which to your benefit was not acted on by the Court. I guess if I granted your present application and you came back for re-sentencing, the timeliness of the State's motion for petition to declare you a habitual offender would no longer be an obstacle for the Court considering same. I am probably doing you a favor by denying your application, but I am sure you do not appreciate it.

Defendant's Motion pursuant to Superior Court Criminal Rule 35 is denied.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj
cc: Prothonotary
Department of Justice