

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROMAYNE O. JACKSON,	§
	§
Defendant Below-	§ No. 652, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos.VN96-09-0413-01
Plaintiff Below-	§ VN97-09-0532-01
Appellee.	§

Submitted: December 9, 2002
Decided: February 4, 2003

Before **VEASEY**, Chief Justice, **HOLLAND** and **STEELE**, Justices

ORDER

This 4th day of February 2003, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Romaine O. Jackson, filed an appeal from the Superior Court's October 30, 2002 order denying his motion for reduction/modification of sentence. The State of Delaware has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face

of Jackson's opening brief that the appeal is without merit.¹ We agree and AFFIRM.

(2) In May 1998, a Superior Court jury convicted Jackson of Robbery in the Second Degree, among other charges. He was sentenced to 5 years incarceration at Level V, to be suspended after 1 year for a total of 4 years at decreasing levels of probation. Jackson's convictions and sentences were affirmed by this Court on direct appeal.² In June 1998, Jackson pleaded guilty to Possession of Cocaine. He was sentenced on that conviction to 1 year incarceration at Level V, to be suspended for 1 year of probation.

(3) In January 2002, Jackson was found to have violated his probation in connection with his 1998 convictions. He was sentenced to a total of 7 years incarceration at Level V, with credit for 16 months previously served.³ The judgment of the Superior Court was affirmed by this Court on direct appeal.⁴

¹SUPR. CT. R. 25(a).

²*Jackson v. State*, Del. Supr., No. 385, 1998, Berger, J. (May 26, 1999).

³A review of the VOP hearing transcript reflects that, in sentencing Jackson, the Superior Court inadvertently transposed the criminal action numbers for the robbery conviction and the cocaine possession conviction.

⁴*Jackson v. State*, Del. Supr., No. 31, 2002, Walsh, J. (Sept. 16, 2002).

(4) In this appeal, Jackson claims that the 5-year Level V VOP sentence imposed in January 2002 in connection with his 1998 conviction for cocaine possession was enhanced in violation of his constitutional rights because his original sentence for cocaine possession was only 1 year at Level V.

(5) Jackson's claim is without merit. The record does not reflect any error or abuse of discretion on the part of the Superior Court in sentencing Jackson. The record reflects only that the Superior Court inadvertently transposed the criminal action numbers for Jackson's robbery and cocaine possession convictions at the January 10, 2002 VOP hearing⁵ and that the Superior Court properly used its authority to correct the error in its October 30, 2002 order denying Jackson's motion for reduction/modification of sentence.⁶

(6) It is manifest on the face of the State of Delaware's opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

⁵That error, in turn, is reflected on the Superior Court sentencing orders entered on the same date.

⁶SUPER. CT. CRIM. R. 36.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.⁷

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁷Jackson's motion to strike the State's motion to affirm as a non-conforming document, which was filed on December 16, 2002, is denied as meritless.