

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES E. ROGERS,	§
	§ No. 251, 2007
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0407026328
	§
Plaintiff Below-	§
Appellee.	§

Submitted: February 8, 2008  
Decided: March 7, 2008

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 7<sup>th</sup> day of March 2008, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, James E. Rogers, filed an appeal from the Superior Court's April 18, 2007 order denying his motion for modification of his VOP sentence. We find no merit to the appeal. Accordingly, we affirm.

(2) The record reflects that, in August 2004 and September 2004, the grand jury indicted Rogers on 17 separate criminal offenses. In November 2004, Rogers pleaded guilty to Burglary in the Second Degree, Possession of Drug Paraphernalia, Offensive Touching, Aggravated

Menacing, and Terroristic Threatening. The remaining charges on both indictments were dismissed. Rogers was sentenced to a total of 7 years and 30 days of Level V incarceration, to be suspended after serving 15 months.

(3) The record reflects that, in March 2006, Rogers was found to have committed a VOP by not abiding by the conditions of his supervision. He was sentenced to 3 years and 30 days at Level V, which was suspended. The record further reflects that, on March 28, 2007, Rogers pleaded guilty to Criminal Impersonation. Additional charges of Assault in the Third Degree, Malicious Interference, and Menacing were dismissed as part of the plea agreement. For his second VOP as a result of this new charge, Rogers was sentenced to 3 years and 30 days at Level V, to be suspended after serving 3 years. Thereafter, Rogers filed a motion for modification of his VOP sentence, which the Superior Court denied.

(4) In this appeal, Rogers claims that his VOP sentence should be reduced because a) he has not picked up any new charges; b) he did not report to his probation officer because he was visiting his girlfriend at a hospice; c) he has a good job to go to when released; and d) both his parents are ill and he must take care of them.

(5) Delaware law provides that, once a defendant violates the terms of his probation, the Superior Court has the authority to require the

defendant to serve the original sentence imposed.<sup>1</sup> Contrary to Rogers' allegations, he did pick up a new charge of Criminal Impersonation, which served as one of the grounds for his second VOP. Moreover, while Rogers alleges that he did not report to his probation officer because he was visiting his girlfriend, one of the conditions of his probation was to have no contact with his girlfriend. In the absence of any evidence of an abuse of discretion on the part of the Superior Court in denying Rogers' motion for modification of his VOP sentence, we conclude that this appeal is without merit.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

---

<sup>1</sup> *State v. Sloman*, 886 A.2d 1257, 1260 (Del. 2005) (citing Del. Code Ann. tit. 11, § 4334(c)).