

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PRENTICE L. TRIPLETT,	§
	§ No. 542, 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 Nos. 0510016383
	§ 0401014078
Plaintiff Below-	§
Appellee.	§

Submitted: March 14, 2008

Decided: March 27, 2008

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 27th 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, Prentice L. Triplett, filed an appeal from the Superior Court's September 20, 2007 order denying his motion for sentence modification pursuant to Superior Court Criminal Rule 35(b). We find no merit to the appeal. Accordingly, we affirm.

(2) In April 2004, Triplett pleaded guilty to Possession of Heroin Within 1,000 Feet of a School. He was sentenced to 5 years of Level V incarceration, to be suspended upon successful completion of the Key Program for 18 months at Level III probation. In July, September, and October 2004, and in March 2005,

Triplett filed motions for sentence modification, all of which were denied by the Superior Court.

(3) In December 2005, Triplett was found to have committed a violation of probation (“VOP”) as a result of his arrest for additional drug offenses. He was sentenced to 4 years at Level V, to be suspended after 3 years for 1 year at Level IV. In January 2006, Triplett pleaded guilty to Trafficking in Heroin. He was sentenced on that charge to 6 years at Level V, to be suspended after 3 years for 18 months at Level III probation.

(4) Between February 2006 and July 2007, Triplett filed three motions for sentence modification and one motion for postconviction relief. The Superior Court denied all the motions except one.¹

(5) In this appeal from the Superior Court’s denial of his latest motion for sentence modification, Triplett claims that the Superior Court abused its discretion when it refused to allow him to enter a drug aftercare program rather than be returned to the general inmate population following his completion of the Level V Greentree substance abuse program.

(6) Rule 35(b) provides that the Superior Court may reduce a sentence of imprisonment on a motion made within 90 days after the sentence is imposed. The Superior Court is permitted to consider an application made more than 90 days

¹ On May 24, 2006, the Superior Court granted Triplett’s request for TASC monitoring regarding his trafficking sentence.

after the imposition of sentence only in “extraordinary circumstances” or pursuant to an application made by the Department of Correction pursuant to Del. Code Ann. tit. 11, § 4217.

(7) Triplett concedes that his Rule 35(b) motion was filed more than 90 days after his VOP and trafficking sentences were imposed and was, therefore, untimely.² However, he argues that his successful completion of the Greentree program should be sufficient to demonstrate “extraordinary circumstances” under Rule 35(b), particularly given the Department of Correction’s reluctance to request sentence modifications on behalf of inmates at the Delaware Correctional Center pursuant to Del. Code Ann. tit. 11, § 4217.

(8) While participation in rehabilitative programs is commendable, it is well-settled that such participation, in and of itself, is insufficient to merit substantive review of an untimely motion for sentence reduction.³ We, therefore, conclude that the Superior Court correctly denied Triplett’s Rule 35(b) motion on the ground of untimeliness.

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

BY THE COURT:

/s/Henry duPont Ridgely
Justice

² Triplett’s VOP sentence was imposed on December 8, 2005 and his trafficking sentence was imposed on January 13, 2006. Triplett did not file his Rule 35(b) motion until July 31, 2007.

³ See, for example, *Ketchum v. State*, Del. Supr., No. 631, 2001, Berger, J. (June 10, 2002).