

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL D. GLENN,	§
	§ No. 230, 2003
Defendant Below-	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware,
v.	§ in and for New Castle County
	§ Cr.A. Nos. IN01-09-0886, -0890
STATE OF DELAWARE,	§ and IN01-05-2093
	§ Cr. ID 0103008294 and
Plaintiff Below-	§ 0108021782
Appellee.	§

Submitted: June 13, 2003

Decided: July 21, 2003

Before **VEASEY**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This 21st day of July 2003, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The defendant-appellant, Michael Glenn, filed this appeal from the Superior Court's denial of his motion for correction of sentence under Superior Court Criminal Rule 35(a). The State has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of Glenn's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Glenn pled guilty in April 2002 to two counts of Forgery and one count of Identity Theft in the Second Degree. In

exchange for his agreement to plead guilty as an habitual offender, the State agreed to dismiss forty-one other charges. Glenn filed a direct appeal and raised several challenges to his habitual offender sentence. We affirmed the Superior Court's judgment.¹ During the pendency of his direct appeal, Glenn filed a motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The Superior Court denied the motion without prejudice in light of Glenn's pending appeal and instructed Glenn to refile his motion after the direct appeal was resolved. Instead, Glenn filed a motion seeking correction of his sentence under Superior Court Criminal Rule 35(a), which the Superior Court denied. This appeal followed.

(3) In his opening brief on appeal, Glenn asserts that the Superior Court abused its discretion when it refused to address the claims of ineffective assistance counsel raised in his motion for correction of sentence. The State argues in opposition that claims of ineffective assistance of counsel are not properly considered as part of a motion for correction of sentence.

(4) The State's position is supported by this Court's precedent. The limited purpose of a motion under Rule 35(a) is to permit correction of

¹ *Glenn v. State*, Del. Supr., No. 276, 2002, Steele, J. (Jan. 16, 2003).

an illegal sentence.² It is not a means for a defendant to attack the legality of his conviction or to raise allegations of error occurring in the proceedings leading to the judgment of conviction.³ Accordingly, we find no error in the Superior Court's denial of Glenn's motion for correction of sentence because the issues raised therein, asserting ineffective assistance of counsel, were not the proper subject of a motion under Rule 35(a).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

³ *Id.*