

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JUAN MORALES,	§	
	§	No. 383, 2008
Defendant Below,	§	
Appellant,	§	
	§	Court Below: Superior Court
v.	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	
	§	Cr. No. 0701014173
Plaintiff Below,	§	
Appellee.	§	

Submitted: May 21, 2009
Decided: August 7, 2009

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

ORDER

This 7th day of August, 2009, on consideration of the briefs of the parties, it appears to the Court that:

1) Juan J. Morales appeals from a Superior Court decision finding him guilty of violating probation. He argues that his conviction was unlawful because, at the time the VOP report was filed and at the time of the VOP hearing, Morales had completed his period of probation. Morales' appeal lacks merit as a matter of fact and law.

2) Morales appears to argue that, because the Superior Court sentenced him to 6 months of probation on July 16, 2007, his probationary sentence expired on

January 16, 2008. Since the conduct that led to his VOP took place in May 2008, he contends that he was not on probation. The problem with this argument is that Morales overlooks the time he was serving on other charges.

3) In December 2006, the Family Court convicted Morales of two counts of harassment. He was sentenced to 6 months at Level V suspended for 12 months at Level III on each count. On February 5, 2007, the Family Court found Morales guilty of violating probation and sentenced him to 1 year at Level V, suspended for 1 year at Level IV, suspended for Level III upon successful completion of the Crest program. Morales did not complete his Family Court Level IV sentence until November 30, 2007. As a result, his 6 month sentence in Superior Court did not begin until the Family Court VOP sentence had been completed and, therefore, did not expire until May 30, 2008.

4) On May 6, 2008, Morales tested positive for cocaine, and on May 24-27, 2008, Morales failed to appear at scheduled probation appointments. On May 28, 2008, Morales was arrested for violating probation. At a VOP hearing on July 10, 2008, Morales admitted that he had violated his probation, and the Superior Court found him guilty. Because Morales committed the violations and was arrested before

his probation expired, the Superior Court had jurisdiction to find him guilty even though the hearing on the VOP took place after his probation expired.¹

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

¹*Tiller v. State*, 257 A.2d 385 (Del. 1969); *Haines v. State*, 2002 WL 243324 (Del. Supr.).