

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TERRENCE L. JONES,	§	
	§	No. 127, 2012
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 9701006047
Appellee.	§	

Submitted: July 20, 2012  
Decided: October 17, 2012

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

**O R D E R**

This 17<sup>th</sup> day of October 2012, upon consideration of the parties' briefs on appeal and the Superior Court record, it appears to the Court that:

(1) In 1997, the appellant, Terrence L. Jones, was tried before a Superior Court jury on numerous criminal charges arising from a 1996 robbery. The jury found Jones guilty of Conspiracy in the Second Degree but was unable to reach a unanimous verdict on the remaining counts. After a second jury trial in 1998, Jones was found guilty of Robbery in the First Degree, two counts of Attempted Robbery in the First Degree, Burglary in the Second Degree, Assault in the Second Degree, five counts of Possession

of a Firearm During the Commission of a Felony (“PFDCF”), and Wearing a Disguise During the Commission of a Felony.

(2) Prior to sentencing on September 4, 1998, the Superior Court granted the State’s motion to declare Jones a habitual offender for each of the ten violent felony convictions.<sup>1</sup> Pursuant to title 11, section 4214(a) of the Delaware Code, the Superior Court then sentenced Jones to the statutory maximum for each of those convictions, *i.e.*, to twenty years each for one count of first degree robbery, two counts of attempted first degree robbery, and five counts of PFDCF, and to eight years each for one count of burglary in the second degree and one count of assault in the second degree. All total, Jones was sentenced to 176 years at Level V with twenty-one years minimum mandatory.

(3) On January 4, 2012, Jones filed a motion for correction of an illegal sentence under Superior Court Criminal Rule 35(a). By order dated February 13, 2012, the Superior Court denied the motion. This appeal followed.

(4) On appeal, Jones argues, as he did in the Superior Court, that the 176-year sentence should be reduced to a 45-year sentence under our

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<sup>1</sup> See Del. Code Ann. tit. 11, 4201(c) (designating violent felonies).

2003 decision in *Crosby v. State*.<sup>2</sup> Jones also argues, under *Crosby v. State*, that a sentence totaling 176 years constitutes cruel and unusual punishment under the Eighth Amendment.

(5) The Court can discern no apparent application of *Crosby v. State* in this case. In *Crosby v. State*, we concluded that a life sentence under then-extant section 4214(a) was to be considered as a fixed term of 45 years, and that a life sentence for second degree forgery violated the Eighth Amendment.<sup>3</sup> In this case, Jones was not sentenced to a life sentence nor was he sentenced for second degree forgery or any other non-violent felony under section 4214(a). Rather, in its discretion, the Superior Court elected under section 4214(a) not to impose a life sentence for any of the ten violent felony convictions and instead sentenced Jones to the statutory maximum for each of those convictions, as required by section 4214(a).<sup>4</sup>

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>2</sup> *Crosby v. State*, 824 A.2d 894 (Del. 2003).

<sup>3</sup> *Id.* at 896.

<sup>4</sup> Del. Code Ann. tit. 11, § 4214(a).