

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERRON JOHNSON,	§
	§ No. 553, 2009
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0611015876
Plaintiff Below-	§
Appellee.	§

Submitted: March 12, 2010

Decided: May 18, 2010

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

**ORDER**

This 18<sup>th</sup> day of May 2010, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Jerron Johnson, filed this appeal from his Superior Court sentence for a violation of probation (VOP). We find no merit to the issues Johnson raises on appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Johnson pled guilty on August 9, 2007 to one count of second degree burglary. The Superior Court immediately sentenced him to five years at Level V imprisonment to be suspended after serving one year for eighteen months at Level III probation. On March 4,

2009, during his probationary term, Johnson was arrested on new criminal charges<sup>1</sup> and, as a result, also was charged with a VOP. The Superior Court found Johnson guilty of the VOP charge on April 29, 2009 and sentenced him to four years at Level V incarceration to be suspended after serving three years for one year at Level III probation.

(3) In his opening brief on appeal, Johnson argues that the Superior Court erred in holding his VOP hearing before a judge who was not the original sentencing judge. Johnson also contends that his VOP sentence was an abuse of discretion. We disagree.

(4) A probationer is not entitled to a hearing before a specific judge.<sup>2</sup> Johnson received a prompt VOP hearing before a judge of the Superior Court, which satisfied the due process requirements of Superior Court Criminal Rule 32.1.<sup>3</sup> Moreover, the Superior Court's VOP sentence did not exceed the term that was suspended on Johnson's original sentence.<sup>4</sup> Accordingly, the VOP sentence was legal, and we find no abuse of the Superior Court's discretion.

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<sup>1</sup> Johnson pled guilty to possession with intent to deliver heroin on June 16, 2009.

<sup>2</sup> *Mayfield v. State*, 2003 WL 1711946 (Del. Mar. 28, 2003).

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

<sup>4</sup> *Pavulak v. State*, 880 A.2d 1044, 1045-46 (Del. 2005).

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice