

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY MORROW,	§
	§ No. 65, 2010
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0807003344
	§
Plaintiff Below-	§
Appellee.	§

Submitted: September 24, 2010
Decided: November 22, 2010

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

ORDER

This 22nd day of November 2010, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) In February 2009, the defendant-appellant, Anthony Morrow, pleaded guilty to Robbery in the First Degree, Assault in the Second Degree and Conspiracy in the Second Degree. On the robbery conviction, Morrow was sentenced to 5 years at Level V, to be suspended after 3 years for decreasing levels of supervision. On the assault conviction, he was sentenced to 5 years at Level V, to be suspended after 1 year for Level III probation. On the conspiracy conviction, he was sentenced to 1 year at Level V, to be suspended for 1 year at Level II probation.

(2) Morrow did not file a direct appeal of his convictions, but instead filed a motion to correct sentence pursuant to Superior Court Criminal Rule 35. Specifically, Morrow requested additional credit for Level V time served. The Superior Court denied the motion. Morrow then filed a second Rule 35 motion, this time arguing that his sentence was illegal. In an order dated January 22, 2010, the Superior Court denied the motion on the ground that the effective date in the sentencing order gave Morrow all the Level V credit to which he was entitled. Morrow then filed this appeal from that order.

(3) The record before us reflects that, following the filing of Morrow's opening brief on appeal, the Superior Court, on the State's motion, corrected the effective date of Morrow's sentences. Apparently now satisfied with his sentence, Morrow filed a notice in this Court on June 8, 2010, which stated that the "matter has been corrected already."

(4) On June 9, 2010, the Clerk of the Court sent a letter to Morrow acknowledging receipt of his letter and asking that he file a voluntary dismissal by June 23, 2010. Briefing was stayed pending receipt of Morrow's voluntary dismissal. However, Morrow did not respond to the Clerk's request for a voluntary dismissal, necessitating the filing of the State's answering brief.

(5) The docket reflects that Morrow has not filed a reply brief in response to the State's answering brief, which was filed on July 29, 2010. Nor has Morrow

contested the State's representation that his appeal is now moot because the Superior Court has corrected his sentencing order in the manner he requested. We have reviewed the record before us carefully and agree with the State that Morrow's claim is now moot and this matter should, therefore, be dismissed.

NOW, THEREFORE, IT IS ORDERED that this appeal is hereby DISMISSED as moot.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice