

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HENRY W. GLANDING,	§
	§ No. 515, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 0105009486A
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 20, 2010
Decided: December 17, 2010

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 17th day of December 2010, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Henry W. Glanding, filed an appeal from the Superior Court’s July 22, 2010 order denying his motion for correction of illegal sentence pursuant to Superior Court Criminal Rule 35(a). The plaintiff-appellee, the State of Delaware, has moved to affirm the

Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) The record reflects that, in March 2002, a Superior Court jury found Glanding guilty of 15 counts of Possession of a Deadly Weapon By a Person Prohibited. He was sentenced to a total of 30 years at Level V, to be suspended after 15 years followed by 9 years of probation. This Court affirmed Glanding's convictions on direct appeal.² Thereafter, Glanding filed a Rule 61 motion for postconviction relief. This Court affirmed the Superior Court's denial of the motion.³

(3) In this appeal from the Superior Court's denial of his Rule 35(a) motion, Glanding claims that his convictions of 15 separate counts of Possession of a Deadly By a Person Prohibited violate the constitutional protection against double jeopardy and the multiplicity doctrine.

(4) A defendant may seek to correct an illegal sentence under Rule 35(a) only under a limited set of circumstances: a) if the sentence exceeds the statutorily-authorized limits; b) if the sentence violates double jeopardy; c) if the sentence is internally contradictory or ambiguous with respect to a

¹ Supr. Ct. R. 25(a).

² *Glanding v. State*, Del. Supr., No. 236, 2002, Holland, J. (Dec. 13, 2002).

³ *Glanding v. State*, Del. Supr., No. 631, 2005, Steele, C.J. (May 16, 2006).

material provision; or d) if the sentence omits a statutorily-required term.⁴

The purpose of a motion under Rule 35(a) is not to attack the legality of a defendant's conviction or to raise allegations of error in the proceedings leading to the judgment of conviction.⁵

(5) A conviction of Possession of a Deadly Weapon By a Person Prohibited requires proof beyond a reasonable doubt of the following elements: a) the defendant knew the location of the weapon; b) he had the ability to exercise dominion and control over the weapon; and c) he intended to guide the destiny of the weapon.⁶ The record reflects that the evidence presented by the State at Glanding's trial was sufficient to establish all three required elements with respect to each of the 15 weapons found in Glanding's truck and in his home.⁷ As for Glanding's claims of constitutional violations, this Court has repeatedly held that a defendant may be convicted of multiple deadly weapon or firearm possession charges when more than one weapon is present⁸ and that neither double jeopardy nor the

⁴ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

⁵ *Id.*

⁶ *Lecates v. State*, 987 A.2d 413, 426 (Del. 2009).

⁷ *Id.*

⁸ *Nance v. State*, 903 A.2d 283, 286-88 (Del. 2006).

multiplicity doctrine is implicated.⁹ As such, there is no merit to Glanding's claim that his sentences are illegal.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

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/ Myron T. Steele
Chief Justice

⁹ *Spencer v. State*, 868 A.2d 821, 822-25 (Del. 2005) (The double jeopardy clause protects against successive prosecutions for the same crime, multiple charges under separate statutes requiring proof of the same facts, and splitting a single offense into multiple charges. This latter prohibition is commonly referred to as the "multiplicity doctrine.")