

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CORNELL HESTER,	§
	§ No. 775, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware, in and
	§ for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0912010604
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 9, 2011
Decided: March 29, 2011

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

ORDER

This 29th day of March 2011, 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, Cornell Hester, filed an appeal from the Superior Court’s November 29, 2010 order denying his October 12, 2010 and October 29, 2010 motions to reduce his sentence. 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 before us reflects that Hester was found guilty by a Superior Court jury of Burglary in the Second Degree, Unlawful Imprisonment in the Second Degree, Harassment, Malicious Interference, Offensive Touching, and two counts of Criminal Mischief. He was acquitted of the charge of Aggravated Menacing. Hester was sentenced as a habitual offender to a total of 14 years and 8 months of Level V incarceration, to be suspended after 12 years for probation. In addition to the instant appeal, Hester's direct appeal from his criminal convictions is currently pending in this Court in No. 587, 2010.

(3) In this appeal from the Superior Court's denial of his motions for sentence reduction, Hester claims that a) the trial judge was prejudiced against him; b) he was improperly ordered to undergo a mental health evaluation; c) he was improperly ordered to undergo domestic violence training; d) his sentence amounts to "cruel and unusual" punishment; e) there was insufficient evidence presented at trial to support his convictions; and f) his trial counsel provided ineffective assistance.

¹ Supr. Ct. R. 25(a).

(4) This Court will not interfere with the Superior Court's denial of a motion for sentence reduction unless it can be demonstrated that the sentence either exceeded the maximum sentence authorized by statute or was imposed on the basis of demonstrably false information or information lacking a minimum indicium of reliability.² Hester has presented no factual or legal support for a claim that his sentence exceeded the statutory maximum. Nor are his conclusory allegations concerning the Superior Court's motivations for sentencing him as it did adequate to support a claim that his sentences were imposed on the basis of false information.

(5) To the extent that Hester seeks to argue that his sentences are illegal, that claim, too, is without merit, since he has failed to demonstrate that his sentences a) exceed the statutory limits; b) violate double jeopardy; c) are internally contradictory or ambiguous; d) omit a statutorily-required term; e) are uncertain as to the substance of the sentences; or f) are sentences that the judgments of conviction did not authorize.³

(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.

² *Mayes v. State*, 604 A.2d 839, 842-43 (Del. 1992).

³ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

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/ Jack B. Jacobs
Justice