

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEFFREY A. GRAY,	§
	§
Defendant Below-	§ No. 146, 2001
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN96-04-0729
Plaintiff Below-	§
Appellee.	§

Submitted: July 5, 2001
Decided: August 9, 2001

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices

ORDER

This 9th day of August 2001, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Jeffrey A. Gray, filed an appeal from the order of the Superior Court denying his motion for reduction/modification of sentence.¹ We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In this appeal, Gray claims that the Superior Court abused its discretion in denying his motion for reduction/modification of sentence. He

¹Super. Ct. Crim. R. 35(b).

contends that his participation in a number of rehabilitative programs as well as testimonials from prison personnel provide a sufficient basis for a reduction of his prison time.

(3) In April 1996, Gray was indicted on charges of Trafficking in Cocaine, Possession with Intent to Deliver a Narcotic Schedule II Controlled Substance, Possession of a Firearm During the Commission of a Felony and Possession of a Deadly Weapon by a Juvenile. Gray pleaded guilty to one count of Possession with Intent to Deliver a Narcotic Schedule II Controlled Substance.² The State entered nolle prosequis on the remaining charges in the indictment. Gray was sentenced to 3 years incarceration at Level V, to be suspended after 1 year for 2 years of Level II supervision.³

(4) Rule 35(b) provides that a motion for reduction of sentence made more than 90 days following sentencing will be considered by the Superior Court only in extraordinary circumstances. Gray's motion, filed well beyond

²Pursuant to Superior Court Criminal Rule 11(e) (1) (C).

³Gray began serving this sentence after serving time for a separate crime.

the 90-day limit, does not demonstrate the kind of extraordinary circumstances necessary to permit a reduction of his sentence.⁴

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

BY THE COURT:

s/ Joseph T. Walsh
Justice

⁴*Johnson v. State*, Del. Supr., No. 146, 1999, Hartnett, J., 1999 WL 652049 (Aug. 16, 1999) (ORDER).