

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JULIAN BODNARI,	§	
	§	No. 163, 2016
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware
v.	§	
	§	Cr. ID No. 9909027880
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: May 18, 2016

Decided: July 18, 2016

Before **STRINE**, Chief Justice; **VAUGHN**, and **SEITZ**, Justices.

ORDER

This 18th day of July 2016, it appears to the Court that:

(1) The appellant, Julian Bodnari, filed this appeal from the Superior Court’s order dated March 4, 2016 denying his motion for resentencing. The State 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. We agree and affirm.

(2) Bodnari was sentenced in 2003 for convictions of Trafficking in Cocaine, Possession with Intent to Deliver Cocaine (“PWITD”), Possession of a Firearm during the Commission of a Felony (“PFDCF”), and other offenses. Bodnari was sentenced to the following consecutive terms of Level V

incarceration: Trafficking in Cocaine—fifteen years; PWITD—fifteen years; PFDCF—three years. On direct appeal, this Court affirmed Bodnari’s convictions and sentences, and in 2006, the Court affirmed the Superior Court’s denial of Bodnari’s motion for postconviction relief.¹

(3) Bodnari filed a “motion for resentencing under House Bill 312” asking the Superior Court resentence him to concurrent terms of imprisonment under a 2014 amendment of 11 *Del. C.* § 3901(d).² By order dated March 4, 2016, the Superior Court denied the motion on the basis that the amendment to section 3901(d) was not intended to have retroactive effect.

(4) The amendment of section 3901(d), which gives judges the discretion to impose concurrent terms of imprisonment for certain crimes, does not apply retroactively to sentences imposed before July 9, 2014, the effective date of the amendment.³ Bodnari was sentenced in 2003. The Superior Court did not err when denying Bodnari’s motion for resentencing.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Justice

¹ *Bodnari v. State*, 2003 WL 22880372 (Del. Dec. 3, 2003); *State v. Bodnari*, 2005 WL 589932 (Del. Super. Feb. 28, 2005), *aff’d*, 2006 WL 155237 (Del. Jan. 18, 2006).

² See 11 *Del. C.* § 3901 (governing term of imprisonment) (Supp. 2016).

³ *Fountain v. State*, ___ A.3d ___, 2016 WL 2927750, at *4-5 (Del. May 16, 2016).