

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RUSSELL D. BALKO,	§
	§ No. 346, 2016
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID 1405012254
Plaintiff Below-	§
Appellee.	§

Submitted: August 15, 2016
Decided: September 8, 2016

Before **HOLLAND, VALIHURA**, and **VAUGHN**, Justices.

ORDER

This 8th day of September 2016, upon consideration of the opening brief and the State’s motion to remand, it appears to the Court that:

(1) The appellant, Russell Balko, filed this appeal from the Superior Court’s order, dated June 16, 2016, denying his motion for correction of an illegal violation of probation (“VOP”) sentence. Balko argues in his opening brief that the probationary period imposed by the Superior Court exceeded the maximum period of probation allowed under Delaware law.

(2) The State filed a motion to remand this appeal, conceding that the Superior Court’s VOP sentence is improper. The State requests that this

matter be remanded to the Superior Court to resentence Balko for the VOP associated with his Receiving Stolen Property conviction. Balko did not file a response to the State's motion. The Court agrees that Balko's VOP sentence is improper and that this matter should be remanded for resentencing.

NOW, THEREFORE, IT IS ORDERED that the unopposed motion to remand is GRANTED. The matter is REMANDED to the Superior Court for further proceedings consistent with this Order. Jurisdiction is not retained.

BY THE COURT:

/s/ Karen L. Valihura
Justice