

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |                              |
|--------------------|------------------------------|
| CARLA WESTON,      | §                            |
|                    | §                            |
| Defendant Below-   | § No. 599, 2016              |
| Appellant,         | §                            |
|                    | §                            |
| v.                 | § Court Below—Superior Court |
|                    | § of the State of Delaware   |
| STATE OF DELAWARE, | §                            |
|                    | § Cr. ID 1510005516          |
| Plaintiff Below-   | §                            |
| Appellee.          | §                            |

Submitted: February 13, 2017

Decided: March 27, 2017

Before VALIHURA, VAUGHN, and SEITZ, Justices.

**ORDER**

This 27<sup>th</sup> day of March 2017, after careful consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appear to the Court that:

(1) The appellant, Carla Weston, filed this appeal from the Superior Court's order sentencing her for a violation of probation (VOP). The State of Delaware has filed a motion to affirm the Superior Court's judgment on the ground that it is clear on the face of Weston's opening brief that her appeal is without merit. We agree and affirm.

(2) The record reflects that Weston pled guilty on April 25, 2016 to one count of Aggravated Possession of a Controlled Substance. In exchange

for her plea, the State dismissed three other charges. The Superior Court sentenced Weston to one year at Level V incarceration, suspended for one year at Level II probation. In October 2016, Weston was charged with a VOP. She failed to appear for her scheduled VOP hearing, and a *capias* was issued. On November 22, 2016, the Superior Court held a hearing and found Weston in violation of the terms of her probation. The Superior Court sentenced her to one year at Level V, suspended for one year at Level III probation. This is Weston's appeal from that sentence.

(3) Weston filed a single-paragraph letter, which was deemed to be her opening brief on appeal. In the letter, she contends that she feels targeted by her probation officer because of her significant other. She requests either that another probation officer be assigned to her case or that she be discharged from probation as unimproved. Weston does not challenge the Superior Court's finding that she violated the terms of her probation. The State has moved to affirm the Superior Court's judgment.

(4) After careful consideration, we find no basis to reverse the Superior Court's judgment in this case. In Delaware, once a violation of probation is established, the sentencing court has discretion to require the probationer to serve the original sentence imposed or any lesser sentence.<sup>1</sup>

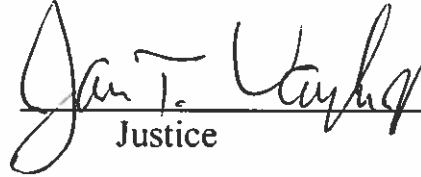
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<sup>1</sup> *Pavulak v. State*, 880 A.2d 1044, 1045-46 (Del. 2005).

If the sentence is within statutory limits, the sentence will not be disturbed on appeal unless the defendant can establish that the sentencing judge relied on impermissible factors or exhibited a closed mind.<sup>2</sup> In this case, the sentence was well within the legal limits, and Weston does not contend that the judge relied on impermissible factors or had a closed mind in sentencing her.

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

BY THE COURT:

  
Justice

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<sup>2</sup> *Weston v. State*, 832 A.2d 742, 746 (Del. 2003).