

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDUARDO A. GRIFFITH,	§
	§
Defendant Below,	§ No. 81, 2023
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 2108016001 (K)
	§
Appellee.	§

Submitted: November 17, 2023

Decided: January 3, 2024

Before **VALIHURA, TRAYNOR, and LEGROW**, Justices.

ORDER

After consideration of the parties’ briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Eduardo A. Griffith, filed this appeal from the Superior Court’s denial of his motion for correction of illegal sentence. For the following reasons, we affirm the Superior Court’s judgment.

(2) In March 2022, a grand jury indicted Griffith for multiple weapon and traffic offenses. On September 14, 2022, Griffith pleaded guilty to possession of firearm ammunition by a person prohibited (“PABPP”) in exchange for dismissal of the remaining charges. The plea agreement originally reflected that Griffith was pleading guilty to possession of a firearm by a person prohibited (“PFBPP”), but that

language was stricken out and replaced with PABPP. The parties requested immediate sentencing and recommended a sentence of three to eight years of Level V incarceration, suspended after three years for six months of Level IV Department of Correction discretion, followed by one year of Level III GPS.

(3) After accepting Griffith's guilty plea, the Superior Court sentenced Griffith to eight years of Level V incarceration, suspended after three years for six months of Level IV Department of Correction discretion, followed by one year of Level III GPS. Griffith did not appeal, but did file an unsuccessful motion for sentence modification.

(4) On January 31, 2023, Griffith filed a motion for correction of illegal sentence under Superior Court Criminal Rule 35(a). He argued that the plea paperwork incorrectly stated that there was a three-year minimum mandatory sentence for PABPP and that his three-year minimum mandatory sentence for PABPP was illegal. The Superior Court denied the motion, finding that the parties had recommended the sentence imposed. Griffith filed a motion for reargument, which the Superior Court denied. This appeal followed.

(5) We review the denial of a motion for sentence correction for abuse of discretion.¹ We review questions of law *de novo*.² A sentence is illegal if it exceeds

¹ *Fountain v. State*, 2014 WL 4102069, at *1 (Del. Aug. 19, 2014).

² *Id.*

statutory limits, violates double jeopardy, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to its substance, or is a sentence that the judgment of conviction did not authorize.³ On appeal, Griffith argues that his PABPP sentence is illegal because there is no minimum mandatory sentence for PABPP.

(6) Although Griffith is correct that there is no minimum mandatory sentence for PABPP, the Superior Court did not in fact impose a minimum mandatory sentence for his PABPP conviction. The sentencing range for PABPP, a class D felony, is zero to eight years of Level V incarceration.⁴ Section 1448 contains minimum mandatory sentences for possession of a firearm or destructive weapon by a person prohibited, but not for PABPP.⁵

(7) As Griffith emphasizes, the plea paperwork incorrectly refers to a three-year minimum mandatory sentence for PABPP. The Superior Court caught the mistake during the plea colloquy and asked the parties if the language related to the original plea for PFBPP. Griffith's counsel confirmed that it did and that PABPP

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

⁴ 11 *Del. C.* § 1448(c) (defining possession of firearm or firearm ammunition as a class D felony); 11 *Del. C.* § 4205(b)(4) (providing that the sentence for a class D felony is up to eight years of Level V incarceration).

⁵ 11 *Del. C.* § 1448(e)(1) (establishing minimum mandatory sentences for possession of a firearm or destructive weapon for people with previous violent felony convictions).

was a class D felony. The Superior Court judge and Griffith then had the following exchange:

The Court: So you understand, sir, that you—going through the initial offer in the case, it looked like that had a minimum mandatory offense. This offense you’re pleading to has a potential for up to eight years in prison, but it does not carry minimum mandatory time.

The Defendant: Yes, Your Honor.

The Court: And you understand, sir, that the Court’s not bound by your sentencing agreement with the State.

The Defendant: Yes, Your Honor.⁶

(8) After completing the plea colloquy, accepting Griffith’s plea as knowing and voluntary, and giving the parties the opportunity to address sentencing, the Superior Court sentenced Griffith to eight years of Level V incarceration, suspended after three years for decreasing levels of supervision. This sentence did not exceed statutory limits, violate double jeopardy, or omit a term required to be imposed by statute. Nor was it ambiguous with respect to the time and manner in which it was to be served, internally contradictory, uncertain as to its substance, or unauthorized by the judgment of conviction. The sentence was not illegal and the Superior Court did not err in denying the motion for correction of illegal sentence.

⁶ Sept. 14, 2022 Tr. at 6.

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

BY THE COURT:

/s/ Gary F. Traynor
Justice