

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE L. JENKINS,	§	
	§	No. 13, 2001
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in and
v.	§	for Sussex County in PS95-04
	§	0153R1.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	Def. ID No. 9504000994

Submitted: May 10, 2001

Decided: June 14, 2001

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

**ORDER**

This 14<sup>th</sup> day of June 2001, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) On August 14, 1995, Jenkins pleaded guilty in the Superior Court to Burglary in the First Degree. In exchange for Jenkins' guilty plea, the State entered a *nolle prosequi* on four related charges. After a presentence investigation, the Superior Court sentenced Jenkins to five years at Level V, suspended after three years, for one year at Level III and one year at Level II probation.

(2) Since his original conviction and sentence in 1995, Jenkins has been convicted four times of violation of probation (“VOP”).<sup>1</sup> Jenkins’ latest VOP conviction on July 21, 2000, was based upon his July 2000 guilty plea in the Court of Common Pleas for Escape in the Third Degree<sup>2</sup> as well as his admission at the VOP hearing that he had tested positive for cocaine. As a result of the July 2000 VOP conviction, the Superior Court sentenced Jenkins to the remaining two years of his original Level V imprisonment, with credit for time served, suspended upon successful completion of the Key Program, for Level IV Home Confinement/Work Release.

(3) On October 18, 2000, Jenkins filed a *pro se* motion for postconviction relief in the Superior Court. Jenkins alleged that the arrest that led to his Court of Common Pleas conviction was illegal, and that the original 1995 Superior Court sentence had lapsed on October 6, 2000. By

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<sup>1</sup>*State v. Jenkins*, Del. Super., Cr.A. No. PS95-04-0153, Lee, J. (June 30, 1998); *State v. Jenkins*, Del. Super., Cr.A. No. PS95-04-0153, Lee, J. (April 27, 1999); *State v. Jenkins*, Del. Super., Cr.A. No. PS95-04-0153, Stokes, J. (Dec. 17, 1999); and *State v. Jenkins*, Del. Super., Cr.A. No. PS95-04-0153, Stokes, J. (July 21, 2000).

<sup>2</sup>*State v. Jenkins*, Del. CCP, Cr.A. No. MS00-07-1031CR, Beauregard, J. (July 13, 2000).

order dated December 13, 2000, the Superior Court denied Jenkins' motion for postconviction relief. This appeal followed.

(4) On appeal, Jenkins does not appear to address either of the issues that he raised in his postconviction motion. Thus, those claims are deemed waived and abandoned for purposes of this appeal.<sup>3</sup> Instead, Jenkins appears to argue that, as a result of a Superior Court sentence modification order dated January 12, 2001, he has completed his July 2000 VOP sentence.

(5) It is manifest on the face of Jenkins' opening brief that this appeal is without merit. Jenkins cannot, in this appeal from the December 2000 denial of postconviction relief, raise claims stemming from the Superior Court's January 2001 sentence modification order. Moreover, Jenkins has provided no factual support for his claim that, as a result of the January 2001 sentence modification order, he has completed his July 2000 VOP sentence. The Superior Court's January 2001 sentence modification order placed Jenkins at Level V for 18 months, effective July 21, 2000, and suspended the balance of Level V upon successful completion of the Key Program. Jenkins has not alleged, nor does the record suggest, that he has completed the Key

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<sup>3</sup>See *Somerville v. State*, Del. Supr., 703 A.2d 629, 631 (1997); *Murphy v. State*, Del. Supr., 632 A.2d 150, 1152 (1993).

Program. Accordingly, it does not appear that Jenkins has completed the July 2000 VOP sentence, as modified by the Superior Court's sentence modification order of January 12, 2001.

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

BY THE COURT:

s/Joseph T. Walsh  
Justice