

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STANLEY BLUE,	§
	§
Defendant Below-	§ No. 213, 2013
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID Nos. 1205015960
Plaintiff Below-	§ 1206011393 and 1210002931
Appellee.	§

Submitted: June 25, 2013

Decided: July 15, 2013

Before **HOLLAND**, **BERGER**, and **JACOBS**, Justices.

ORDER

This 15th day of July 2013, upon consideration of appellant’s opening brief and the State’s motion to affirm, it appears to the Court that:

(1) The appellant, Stanley Blue, filed this appeal from a Superior Court judgment denying his motion for modification of sentence. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Blue’s opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that, in November 2013, Blue pled guilty to Robbery in the Second Degree, Possession of a Deadly Weapon During the Commission of a Felony, Assault in the Second Degree, and Failure to Verify Address (Registered Sex Offender). Blue’s guilty plea resolved three different sets

of charges. In exchange for his plea, the State agreed to dismiss additional criminal charges and to recommend a sentence of eight years at Level V incarceration on the remaining charges. Blue agreed that he qualified to be sentenced as a habitual offender. The Superior Court ordered a presentence investigation. On February 8, 2013, the Superior Court granted the State's motion to declare Blue a habitual offender and sentenced Blue on his charges to a total period of twelve years at Level V incarceration to be followed by decreasing levels of supervision. Blue did not file a direct appeal from his sentence.

(3) Instead, on March 11, 2013, Blue filed a motion to amend his sentence on the grounds that he was entitled to a sentence of no more than eight years pursuant to his plea agreement. On March 22, 2013, the Superior Court denied Blue's motion on the ground that his sentence was appropriate for the reasons stated at his sentencing and that Blue had provided no additional information to warrant a sentence modification.

(4) Blue now appeals the Superior Court's denial of his motion for sentence modification. In his opening brief on appeal, Blue asks this Court to honor his "original plea agreement" because the sentencing judge "breached [the] contract."

(5) We find no merit to this appeal. In exchange for Blue's guilty plea, the prosecuting attorney agreed to recommend a sentence of eight years at Level V

incarceration. Blue does not argue that the prosecutor failed to make the agreed-to sentence recommendation. Accordingly, there is no support for Blue's argument that "the State" breached the plea agreement. In fact, Blue suggests that the sentencing judge should have been bound by the prosecutor's sentence recommendation. Blue's argument, however, is contrary to law¹ and is contrary to his signed acknowledgment on the guilty plea form that no one had promised him what his sentence would be. Blue's plea agreement, in fact, reflects his understanding that the Superior Court had discretion to impose up to a sentence of life imprisonment plus an additional term of years. After careful consideration of the parties' respective positions on appeal, we find no abuse of the Superior Court's discretion in denying Blue's motion for modification of sentence.

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

BY THE COURT:

/s/ Carolyn Berger
Justice

¹ Del. Super. Ct. Crim. R. 11(e)(B) (2013) (providing that the attorney general, as part of a plea agreement, may agree to make a sentence recommendation "with the understanding that such recommendation or request shall not be binding upon the court").