

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JONATHAN D. KELLAM,	§	
	§	No. 306, 2001
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County, in
	§	VS97-07-0719-05.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Def. ID No. 9706012440
Appellee.	§	

Submitted: October 16, 2001
Decided: December 7, 2001

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

ORDER

This 7th day of December 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) In November 1997, the appellant, Jonathan, D. Kellam, pleaded guilty in the Superior Court to Unlawful Sexual Contact in the Second Degree. The Superior Court sentenced Kellam to three years at Level V, suspended for three years at Level III probation.

(2) Since his original conviction and sentence in 1997, Kellam has been convicted five times of violation of probation (“VOP”). Most recently, on June 15, 2001, Kellam was adjudged guilty of VOP and was sentenced to three years at Level V, suspended after successful completion of the Key Program, for six months at Level IV home confinement, followed by three years at Level III probation. This appeal followed.

(3) In his opening brief on appeal, Kellam argues that it was improper to charge him with VOP in June 2001, when he had previously experienced administrative delay when trying to enroll for court-ordered home confinement.¹ Kellam also argues that his probation officer, who testified at the June 2001 VOP hearing, was “prejudiced” against him.

(4) It is manifest on the face of Kellam’s opening brief that this appeal is without merit. The transcript of the June 2001 VOP hearing reflects that Kellam admitted that he violated a condition of his probation when he drank two beers on June 6, 2001 and smoked marijuana on June 5, 2001.² Moreover, Kellam admitted that he failed to report to house arrest as directed.

¹*See State v. Kellam*, Del. Super., VS97-07-0719-04, Stokes, J. (Feb. 16, 2001) (sentencing Kellam to Level V for three years, suspended for one year at Level IV home confinement, followed by two years at Level III).

²*Id.* Kellam’s previous sentence included “zero tolerance” for drugs and alcohol.

As a result of Kellam's admissions, there was no error in the Superior Court's conclusion that Kellam was guilty of having violated his probation.

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/ E. Norman Veasey
Chief Justice