

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DWIGHT J. SNEAD,	§
	§ No. 245, 2011
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware, in and
	§ for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0911012680
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 16, 2011

Decided: July 27, 2011

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

ORDER

This 27th day of July 2011, 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) The defendant-appellant, Dwight J. Snead, filed an appeal from the Superior Court’s April 28, 2011 violation of probation (“VOP”) sentencing order. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court’s judgment on the ground that it is manifest on

the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) The record before us reflects that, in August 2010, Snead pleaded guilty to two counts of Criminal Impersonation and one count of Receiving Stolen Property. He was sentenced to a total of 3 years of Level V incarceration, with credit for 4 months and 28 days previously served, to be suspended for 4 months at Level IV and 1 year at Level III probation. A number of special conditions were imposed, including obtaining a high school diploma or G.E.D., obtaining employment and numerous conditions relating to Snead's history of impersonating firefighters. Snead also was ordered to undergo a mental health evaluation.

(3) In April 2011, Snead was found to have committed a VOP. Following a VOP hearing on April 28, 2011, he was sentenced to a total of 3 years at Level V, with credit for 5 months and 14 days previously served, to be suspended for 60 days at Level IV VOP Center, to be followed by 1 year at Level III probation. Snead has appealed from that sentencing order.

(4) In this appeal, Snead raises five claims that may fairly be summarized as follows: a) he should be examined by a psychologist to determine his eligibility for Mental Health Court; b) the evidence presented

¹ Supr. Ct. R. 25(a).

at the VOP hearing was insufficient to support the finding of a VOP; and c) he was sentenced for the VOP only because of the notoriety of his case.

(5) The record before us reflects that a) a psychological evaluation was, in fact, ordered by the Superior Court; b) Snead failed to obtain the transcript of the VOP hearing, precluding appellate review of his claims;² and c) Snead has presented no factual or legal support for his claim that the Superior Court imposed his sentence on an improper basis. We, therefore, conclude that Snead's claims are without merit.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

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/ Jack B. Jacobs
Justice

² *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987).