

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERMAINE HOWARD,	§
	§
Defendant Below,	§
Appellant,	§ No. 69, 2002
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware in and
STATE OF DELAWARE	§ for New Castle County
	§ Cr. ID. No. 9812004444
Plaintiff Below,	§
Appellee.	§

Submitted: September 24, 2002

Decided: October 2, 2002

Before WALSH, HOLLAND, and BERGER, Justices.

ORDER

This 2nd day of October 2002, upon consideration of the briefs of the parties it appears that:

(1) In this appeal from the Superior Court the appellant, Jermaine Howard (“Howard”), contends that the Superior Court erred in determining that he violated his probation and in not giving Howard credit for time served in the Boot Camp Program operated by the Department of Correction. We find no merit to either contention and affirm.

(2) Although Howard claims that he was not fully informed of the nature of the violations in advance of the hearing, Howard, represented by counsel, did not

complain of lack of knowledge of the specifics of the probation violations and was able to dispute the merits of the violations claims. Thus, Howard is unable to establish that he was prejudiced by the lack of advance knowledge of the specific nature of the violations.

(3) Howard next claims that the Superior Court, in sentencing him for probation violation, did not give him credit for the time that he spent in Boot Camp. The Superior Court's sentencing decision was mandated by the provisions of 11 *Del. C.* § 6712 which provides that no credit time shall be given for any time spent in Boot Camp, in the event of a violation of the conditions of the terms of the defendant's post boot camp supervision. Although Howard claims that the statute is unconstitutional, we note that Howard's entry in the boot camp was voluntary and he was charged with knowledge of the consequences of his failure to complete his probation. In *Whitner v. State*, 762 A.2d 18 (Del. 2000) this Court recognized the application of the forfeiture provisions of 11 *Del. C.* § 6712. Although we did not address the constitutionality of the statute, given the voluntary nature of participation in the program, we fail to understand how its application can be considered arbitrary or a denial of equal protection. All offenders are treated equally under the statute and Howard makes no claim that he was accorded separate and unjustified treatment by the Superior Court.

Accordingly, we find his claim of unconstitutionality completely lacking in merit.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is,

AFFIRMED.

BY THE COURT:

s/ Joseph T. Walsh
Justice