

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BOBBY MONROE,	§	
	§	
Defendant Below-	§	No. 407, 2003
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	Cr. A. Nos. IN97-10-1920
	§	IN97-07-0321
Plaintiff Below-	§	
Appellee.	§	

Submitted: January 16, 2004
Decided: February 24, 2004

Before **BERGER, STEELE** and **JACOBS**, Justices

ORDER

This 24th day of February 2004, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Bobby Monroe, filed an appeal from the Superior Court's July 11, 2003 order denying his motion for correction of sentence pursuant to Superior Court Criminal Rule 35(a). We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In January 2002, Monroe pleaded guilty to Burglary in the Third Degree and Attempted Felony Theft. He was sentenced to 3 years incarceration at Level V on the burglary conviction and 2 years incarceration at Level V on the attempted theft conviction. The Superior Court also sentenced him to a period of 6

months probation. In June 2003, Monroe filed a motion to correct his sentence, which was summarily denied by the Superior Court.

(3) In this appeal, Monroe claims that the Superior Court abused its discretion by relying on his past criminal history and numerous charges that were dismissed by the State in imposing sentence. Monroe asks that his sentence be corrected to 4 years and 6 months of Level V time, followed by 6 months of probation.

(4) Rule 35(a) permits the Superior Court to correct an illegal sentence “at any time.” The purpose of Rule 35 is to permit correction of an illegal sentence, not to re-examine errors occurring at the trial or other proceedings prior to the imposition of sentence.¹ A sentence is illegal when it exceeds the statutorily authorized limits or violates double jeopardy.² A sentence also is illegal if it is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to its substance, or is not authorized by the judgment of conviction.³

(5) Monroe does not contend that his sentences exceed the statutorily authorized limits, violate double jeopardy, or are ambiguous or contradictory. All

¹ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

² *Id.*

³ *Id.*

of Monroe's claims regarding his sentences implicate the proceedings leading up to the imposition of the sentences. As such, he is not entitled to relief pursuant to Rule 35(a). The record, moreover, does not reflect any abuse of discretion on the part of the Superior Court judge, who was authorized to take into account evidence of other crimes in sentencing Monroe.⁴

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

BY THE COURT:

/s/ Myron T. Steele
Justice

⁴ *Mayes v. State*, 604 A.2d 839, 844-45 (Del. 1992).