

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT BENSON,	§	
	§	No. 142, 2003
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. I.D. No. 0204003341
Plaintiff Below,	§	
Appellee.	§	

Submitted: February 10, 2004
Decided: March 30, 2004

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

ORDER

This 30th day of March, 2004, on consideration of the briefs of the parties, it appears to the Court that:

1) Robert Benson appeals from his convictions, following a jury trial, of three counts of first degree robbery, three counts of aggravated menacing, six counts of possession of a weapon during the commission of a felony, conspiracy and related charges. Benson argues that the three counts of aggravated menacing and the related three possession counts merged into the three counts of first degree robbery.

2) In *Poteat v. State*,¹ this Court addressed the exact same argument advanced by Benson's codefendant. The State agrees with Benson that *Poteat*, which holds that the aggravated menacing and related possession charges are merged into the crime of first degree robbery, controls this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgments of the Superior Court are REVERSED and this matter is remanded for further proceedings in accordance with the *Poteat* decision.

BY THE COURT:

/s/ Carolyn Berger
Justice

¹840 A.2d 599 (Del. 2003).