

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|------------------------------|
| STEVEN M. HUBBLE, | § |
| | § No. 498, 2012 |
| Defendant Below- | § |
| Appellant, | § |
| | § Court Below—Superior Court |
| v. | § of the State of Delaware |
| | § in and for Sussex County |
| STATE OF DELAWARE, | § Cr. ID No. 91S00228DI |
| | § |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: May 10, 2013
Decided: June 12, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 12th day of June 2013, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The defendant-appellant, Steven M. Hubble, filed an appeal from the Superior Court’s May 14, 2012 order denying the Board of Parole’s request for sentence modification pursuant to Del. Code Ann. tit. 11, §4217. We find no merit to the appeal. Accordingly, we affirm.

(2) The record reflects that, in December 1991, Hubble pleaded guilty to Murder in the Second Degree as a lesser-included offense of Murder in the First Degree, and Possession of a Deadly Weapon During the Commission of a Felony. He was sentenced to twenty years of Level V

incarceration on the murder conviction and to ten years at Level V followed by six months of Level II probation on the weapon conviction.

(3) On April 26, 2012, the Board of Parole filed a letter with the Superior Court requesting that Hubble's sentence be modified pursuant to Section 4217 in accordance with the request of the Department of Correction. The Board of Parole requested that Hubble's Level V sentence be suspended for time served, to be followed by nine months of Level IV Work Release, in turn to be followed by community supervision. The reasons cited by the Board of Parole were Hubble's rehabilitative efforts and the fact that he was no longer a danger to the community. The Department of Justice opposed the request. On May 14, 2012, the Superior Court denied the Board of Parole's request. This appeal followed.

(4) In his appeal, Hubble claims that the Superior Court abused its discretion when it denied the Board of Parole's request that his sentence be modified.

(5) Section 4217(b) provides that the Superior Court "may" modify a sentence based upon a showing of "good cause" and certification that the defendant does not constitute a "substantial risk to the community." Under §4217(c), "good cause" may include "exceptional rehabilitation of the offender." Section 4217(e) provides that the Superior Court "may in its

discretion grant or deny the application for modification of sentence.” This Court will not reverse a discretionary decision such as the Superior Court’s denial of a recommendation for sentence modification by the Board of Parole unless such denial was based upon unreasonable or capricious grounds.¹

(6) In this case, the record reflects that, in considering whether to grant the Board of Parole’s request, the Superior Court had evidence before it reflecting that the crimes of which Hubble was convicted were particularly violent in nature. Moreover, Hubble had been given the benefit of a thirty-year period of incarceration instead of life in prison under his plea agreement with the State. The Superior Court noted that, while Hubble had participated in prison programs, that participation did not rise to the level of “good cause” under the statute. Under these circumstances, we cannot conclude that there was any abuse of discretion on the part of the Superior Court in denying the request of the Board of Parole for a modification of Hubble’s sentence. Therefore, the Superior Court’s judgment must be affirmed.

¹ *Zimmerman v. State*, 628 A.2d 62, 65 (Del. 1993).

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

BY THE COURT:

/s/ Randy J. Holland
Justice