

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WINFRED O. BROWN, SR.,	§
	§
Defendant Below-	§ No. 178, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0305001486
Plaintiff Below-	§
Appellee.	§

Submitted: June 17, 2004  
Decided: September 13, 2004

Before **STEELE**, Chief Justice, **HOLLAND**, and **JACOBS**, Justices.

**ORDER**

This 13<sup>th</sup> day of September 2004, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Winfred Brown, Sr., filed this appeal from the Superior Court's denial of his motion for correction of sentence. The State of Delaware has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Brown's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Brown was arrested in May 2003 and indicted in August 2003 along with several codefendants on fourteen criminal charges, including drug trafficking and weapon offenses. With the assistance of legal counsel, Brown pled guilty in February 2004 to one count of trafficking cocaine and one count of possession of a firearm during the commission of a felony. In exchange for his guilty plea, the State dismissed the remaining charges. The Superior Court immediately sentenced Brown, in accordance with the State's sentencing recommendation to a total period of forty years at Level V imprisonment to be suspended after a minimum mandatory term of six years, followed by a year and a half of decreasing levels of supervision. Brown did not file a direct appeal. Instead, he filed a motion for correction of sentence in April 2004, which the Superior Court denied. This appeal followed.

(3) In his opening brief on appeal, Brown essentially contends that it was illegal for the State to indict him, and the Superior Court to sentence him, pursuant to the drug trafficking law that existed at the time of his arrest in May 2003 rather than the law as it was amended in June 2003. According to Brown, House Bill 210, which increased the weight of cocaine necessary for a charge of trafficking from 5 grams to 10 grams, prohibited the State

from charging him in August 2003 with trafficking for possessing 5.43 grams of cocaine.<sup>1</sup>

(4) This Court, however, already has rejected the argument that H.B. 210 could be applied retroactively to criminal conduct occurring before its effective date.<sup>2</sup> Accordingly, we find no error in the Superior Court's denial of Brown's motion for correction of sentence. Brown entered a knowing, intelligent, and voluntary guilty plea and was sentenced in accordance with the law and the terms of his plea agreement.

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>1</sup> See H.B. 210 (codified at 16 Del. C. § 4753A(a)(2)a).

<sup>2</sup> *Ismaaeel v. State*, Del. Supr., No. 17, 2004, Steele, C.J. (July 9, 2004), *aff'g*, 840 A.2d 644 (Del. Super. 2004).