

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WINFRED O. BROWN, SR.,	§
	§
Defendant Below-	§ No. 217, 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: July 16, 2004
Decided: September 17, 2004

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

ORDER

This 17th 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 order, dated April 21, 2004, denying his motion for reduction 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 filed two separate motions in the Superior Court raising similar arguments in support of his request for either a sentence correction or sentence modification. The Superior Court denied Brown's motion for correction of sentence on April 7, 2004. We recently affirmed the Superior Court's decision by order dated September 13, 2004.¹

(3) The record reflects that Brown pled guilty in February 2004, with the assistance of legal counsel, 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 other 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.

(4) After careful consideration of the parties' respective positions, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's well-reasoned order dated April 21, 2004. It is clear that the Superior Court did not err in denying Brown's motion. Brown's sentence, which we already

¹ *Brown v. State*, Del. Supr., No. 178, 2004, Jacobs, J. (Sept. 13, 2004).

concluded was the result of a knowing and voluntary plea,² was a minimum mandatory term of incarceration and was not subject to correction or modification.³

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

² *Id.*

³ *See* 11 Del. C. § 1447A (3 year minimum mandatory sentence for possession of a firearm during the commission of a felony); 16 Del. C. § 4753A(2)a (3 year minimum mandatory sentence for trafficking).