

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAMON JONES,	§
	§
Defendant Below-	§ No. 191, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0210011973
Plaintiff Below-	§
Appellee.	§

Submitted: July 30, 2004
Decided: September 20, 2004

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

ORDER

This 20th day of September 2004, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Damon Jones, filed this appeal from the Superior Court's denial of his motion for correction of sentence. Jones contends that the Superior Court erred in sentencing him to the more severe penalty in effect at the time of the commission of his crime rather than the more lenient penalty in effect at the time of his sentencing. This issue has been raised and

rejected in several recent appeals.¹ We again find no merit to the argument. Accordingly, we affirm the Superior Court's judgment below.

(2) The record reflects that Jones was arrested in October 2002 and indicted the next month on numerous drug charges, including trafficking in cocaine (over 100 grams). In July 2003, Jones pled guilty to the lesser included offense of trafficking in cocaine (5 to 50 grams) and use of a vehicle for keeping a controlled substance. In accordance with the plea agreement, the Superior Court sentenced Jones to the recommended minimum mandatory sentence of three years at Level V incarceration on the trafficking charge and three years at Level V, suspended after two years, on the other charge. Thereafter, Jones filed several unsuccessful motions in Superior Court seeking to modify his sentence.

(3) In his opening brief on appeal, Jones essentially contends that it was illegal for the Superior Court to sentence him pursuant to the drug trafficking statute that existed at the time of his arrest in 2002 rather than the law as it was amended in June 2003² before he was sentenced. This Court, however, already has rejected the argument that H.B. 210 could be applied

¹ See, e.g., *Ismaaeel v. State*, Del. Supr., No. 17, 2004, Steele, C.J. (June 25, 2004), *aff'g*, 840 A.2d 644 (Del. Super. 2004); *Brown v. State*, Del. Supr., No. 178, 2004, Jacobs, J. (Sept. 13, 2004).

² See H.B. 210 (codified at 16 Del. C. § 4753A(a)(2)(a), which among other things, reduced the length of minimum mandatory prison time for trafficking).

retroactively to criminal conduct occurring before its effective date.³ Accordingly, we find no error in the Superior Court's denial of Jones's motion for correction of sentence. Jones 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/ Myron T. Steele
Chief Justice

³ *Ismaaeel v. State*, Del. Supr., No. 17, 2004, Steele, C.J. (July 9, 2004), *aff'g*, 840 A.2d 644 (Del. Super. 2004).