

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES JONES,	§	
	§	No. 205, 2004
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware,
v.	§	in and for New Castle County
	§	in IN01-01-1082.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	Def. ID No. 0012003111

Submitted: July 6, 2004
Decided: October 7, 2004

BEFORE **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 7th day of October 2004, upon consideration of the appellant's opening brief and the State of Delaware's motion to affirm, it appears to the Court that:

(1) The appellant, Charles Jones, filed this appeal from the Superior Court's denial of his motion for modification 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 Jones' opening brief that this appeal is without merit. We agree and affirm.

(2) In December 2001, Jones pleaded guilty in the Superior Court to Trafficking in Cocaine (5 to 50 grams) and Possession of a Firearm During the Commission of a Felony. The Superior Court immediately sentenced Jones, on the drug trafficking offense, to fifteen years at Level V suspended, after serving a minimum mandatory three-year term of imprisonment, for probation.

(3) In 2003, the General Assembly amended the drug trafficking statute to, in part, reduce to two years the three-year minimum mandatory prison term that had applied to Jones.¹ Thereafter, Jones requested a sentence modification, claiming that the ameliorative sentencing provisions of the amended statute should apply retroactively to his sentence.

(4) By order dated April 15, 2004, the Superior Court denied Jones' request for a sentence modification. Relying on the January 13, 2004 decision in *State v. Ismaaeel*, the Superior Court ruled that the ameliorative sentencing provisions of the amended drug trafficking statute did not apply retroactively to Jones' sentence.² This appeal followed.

¹See House Bill 210, 74 Del. Laws, Ch. 106 (2003) (codified as Del. Code Ann. tit. 16, § 4753A(a)(2)(a)).

²See *State v. Ismaaeel*, 820 A.2d 644 (Del. Super. 2004) (concluding that H.B. 210 applied only to offenses committed after June 30, 2003, the effective date of the legislation).

(5) By Order dated July 9, 2004, this Court affirmed the Superior Court's judgment in *State v. Ismaaeel*, thereby rejecting the argument that the amended drug trafficking statute could be applied retroactively.³ Accordingly, we find no error in the Superior Court's denial of Jones' motion for modification of sentence.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

³*Ismaaeel v. State*, 2004 WL 1587040 (Del. Supr.).