

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONALD SEENEY,	§	
	§	No. 207, 2004
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware,
v.	§	in and for New Castle County
	§	in IN97-10-0017.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	Def. ID No. 9709019709

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, Ronald Seeney, 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 Seeney’s opening brief that this appeal is without merit. We agree and affirm.

(2) In February 1998, Seeney pleaded guilty, pursuant to Superior Court Criminal Rule 11(e)(1)(c), to Possession with Intent to Deliver Cocaine.¹ In accordance with the plea agreement, the State agreed to recommend fifteen years at Level V, the minimum mandatory term for a subsequent offender, and the Superior Court ordered a pre-sentence investigation. On May 1, 1998, the Superior Court sentenced Seeney to thirty years at Level V, fifteen years of which was minimum mandatory.²

(3) In October 2003, Seeney filed a motion for modification of sentence. Seeney sought a sentence modification on the basis that House Bill 210 had reduced the fifteen-year minimum mandatory prison term that had applied to Seeney.

(4) By order dated April 15, 2004, the Superior Court denied Seeney's sentence modification motion. Relying on its January 13, 2004 decision in *State v. Ismaaeel*, the Court concluded that the ameliorative sentencing provisions of House Bill 210 did not apply retroactively to Seeney's sentence.³ This appeal followed.

¹Del. Code Ann. tit. 16, § 4751.

²Del. Code Ann. tit 16, § 4763(a)(3).

³*See 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 sentencing law could be applied retroactively.⁴ Accordingly, we find no error in the Superior Court's denial of Seeney's 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

⁴*Ismaaeel v. State*, 2004 WL 1587040 (Del. Supr.).