

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER RUFF	§	No. 561, 2012
	§	
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court of
v.	§	the State of Delaware in and for
	§	Sussex County
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1204010531
Appellee.	§	

Submitted: December 21, 2012  
Decided: March 5, 2013

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

**O R D E R**

This 5<sup>th</sup> day of March 2013, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) On July 16, 2012, the appellant, Christopher Ruff, pled guilty in the Superior Court to two class A misdemeanors, Criminal Trespass in the First Degree<sup>1</sup> and Misdemeanor Theft.<sup>2</sup> The maximum sentence for a class A misdemeanor is one year at Level V.<sup>3</sup> In this case, the Superior Court

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<sup>1</sup> Del. Code Ann. tit. 11, § 823 (2010).

<sup>2</sup> Del. Code Ann. tit. 11, § 841 (2010 & Supp. 2013).

<sup>3</sup> Del. Code Ann. tit. 11, § 4206(a) (2010).

sentenced Ruff to a total of two years at Level V suspended for two years at Level III.

(2) On September 19, 2012, Ruff was charged by administrative warrant in the Superior Court with having violated his probation (“VOP”). On September 28, 2012, the Superior Court adjudged Ruff guilty of VOP and resentenced him to a total of one year and eight months at Level V suspended for one year at Level IV and eight months at Level III. This appeal followed.

(3) On appeal, Ruff complains that the administrative warrant that led to his Superior Court VOP conviction also led to his conviction of VOP in the Court of Common Pleas. Ruff’s complaint provides no basis for relief. The same administrative warrant may result in the revocation of probation in unrelated criminal cases.<sup>4</sup>

(4) On a VOP, the Superior Court has the authority to require that the defendant serve the entire balance of any Level V sentence that was

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<sup>4</sup> See *United States v. Dees*, 467 F.3d 847, 853-54 (3rd Cir. 2006) (holding that revocation of three terms of supervised release and subsequent imposition of three consecutive sentences based on same conduct did not violate double jeopardy where each revocation penalty was attributable to separate underlying conviction); *State v. Dorsey*, 1995 WL 862118 (Del. Super.) (quoting *United States v. Clark*, 984 F.2d 319, 320-21 (9th Cir. 1993) when holding that double jeopardy was not implicated when the same violation triggered revocation of both probation and parole imposed in unrelated criminal cases, *aff’d*, 1996 WL 265992 (Del. Supr.).

suspended for probation.<sup>5</sup> In this case, it is clear that the VOP sentence imposed on September 28, 2012 was properly within statutory limits and did not exceed the total period of Level V time originally imposed on July 16, 2012.<sup>6</sup> Ruff's claim that the sentence is "harsh" is without merit.

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>5</sup> Del. Code Ann, tit. 11, § 4334(c) (2010 & Supp. 2013). *Sample v. State*, 2012 WL 193761 (citing *Gamble v. State*, 728 A.2d 1171, 1172 (Del. 1999)).

<sup>6</sup> See *Mayes v. State*, 604 A.2d 839, 842 (Del. 1992) (holding that, absent a showing of an illegal sentence or an abuse of the sentencing court's discretion, appellate review of a sentence generally ends upon a determination that the sentence is within statutory limits).