

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMIE MIFFLIN,	§
	§
Defendant Below-	§ No. 570, 2013
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID 1101000090
	§
Plaintiff Below-	§
Appellee.	§

Submitted: February 4, 2014
Decided: March 18, 2014

Before **HOLLAND**, **BERGER** and **RIDGELY**, Justices.

ORDER

This 18th day of March 2014, upon consideration of the appellant’s opening brief and the State’s motion to affirm, it appears to the Court that:

(1) The defendant-appellant, Jamie Mifflin, filed this appeal from the Superior Court’s decision sentencing him for his second violation of probation (VOP). The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Mifflin’s opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that, in May 2011, Mifflin pled guilty to a fifth offense of Driving Under the Influence. The Superior Court sentenced him to three years at Level V incarceration, with credit for 124 days previously served, to

be suspended after serving nine months at Level V incarceration for one year at the Level IV Crest Program, to be suspended upon the successful completion of the Crest Program for the balance to be served at Level III Aftercare. After the Superior Court sentenced Mifflin for his first VOP in August 2012, this Court remanded Mifflin's sentence to the Superior Court to give Mifflin proper credit for all time served. Following the remand, the Superior Court corrected Mifflin's sentence, effective August 2, 2012, to impose one year and ten months at Level V incarceration, to be suspended upon successful completion of the Level V Key Program for decreasing levels of supervision.

(3) On September 20, 2013, the Superior Court sentenced Mifflin for his second VOP to eight months at Level V incarceration with no probation to follow. Mifflin does not contest the violation. Nonetheless, he filed this appeal arguing that, by sentencing him to all of the remaining time left on his Level V sentence, the Superior Court failed to credit him with all of the good time he previously earned while at Level V incarceration. According to Mifflin, the Superior Court should have applied his previously earned credits and ordered his release date to be November 12, 2013.

(4) We find no merit to Mifflin's contention. Upon finding a defendant guilty of a VOP, the Superior Court is authorized to reimpose any previously

suspended prison term.¹ Moreover, a defendant in the custody of the Department of Correction (DOC) who is convicted of any crime or is found in violation of any DOC rules during the term of his sentence is subject to forfeiture of all good time accrued before the date of the new offense.²

(5) In this case, Mifflin admitted that he signed himself out of the Crest Program after only one day because he believed that he did not have enough time remaining on his sentence in order to complete the Crest Program. Under these circumstances, the Superior Court's finding of a VOP is clearly supported by the record. Moreover, Mifflin's VOP sentence properly credited him with Level V time he served while awaiting entrance into the Key Program, as well as the time he spent in the Key Program and the time he was held at Level V pending resolution of his VOP. Mifflin's contention that he was improperly denied good time credit is simply wrong.³

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

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ *Gamble v. State*, 728 A.2d 1171, 1172 (Del. 1999).

² DEL. CODE ANN. tit. 11, § 4382(a), (b) (2007).

³ *See Nardini v. Willin*, 245 A.2d 164, 165-66 (Del. 1968).