

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PHIL JONES,	§
	§
Defendant Below-	§ No. 524, 1999
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN97-05-1762
Plaintiff Below-	§
Appellee.	§

Submitted: February 16, 2000

Decided: April 14, 2000

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

ORDER

This 14th day of April 2000, upon consideration of the parties' briefs, it appears to the Court that:

(1) The defendant-appellant, Phil Jones, filed this appeal from an order of the Superior Court dated September 22, 1999, denying his motion for correction of sentence under Superior Court Criminal Rule 35(a). We find no merit to Jones' appeal. Accordingly, we affirm the Superior Court's judgment.

(2) Jones pled guilty in 1997 to maintaining a vehicle and conspiracy second degree. The plea agreement provided, among other things, that Jones was to receive drug treatment while in custody. On July 8, 1997, the Superior Court sentenced Jones in accordance with his plea agreement to three years

imprisonment at Level V on the maintaining a vehicle charge and to two years at Level V, suspended after successful completion of the Key program for two years at Level III supervision on the conspiracy charge. Jones did not appeal his sentences or convictions.

(3) Instead, in September 1997, Jones filed a motion for modification of sentence, which the Superior Court denied. In September 1998, Jones filed another motion for modification of sentence, which the Superior Court also denied. After receiving a letter from Jones' trial attorney, the Superior Court modified Jones' sentence in April 1999 to provide for his participation in the Key program while incarcerated on the maintaining a vehicle charge. In July 1999, Jones filed a motion for correction of sentence pursuant to Superior Court Criminal Rule 35(a), which the Superior Court denied. Jones filed another motion for correction of sentence in September 1999. The Superior Court denied that motion as time-barred and, alternatively, as lacking merit.

(4) Rule 35(a) permits the Superior Court to correct an illegal sentence "at any time."¹ Rule 35(a) affords relief, however, only when the sentence imposed exceeds the statutorily-authorized limits.² In Jones' case, his sentence was well within the statutorily authorized limits. Accordingly, the Superior

¹*Brittingham v. State*, Del.Supr., 705 A.2d 577, 578 (1998).

²*Id.* (citation omitted).

Court did not abuse its discretion in denying Jones' motion to correct an illegal sentence under Rule 35(a).

(5) In fact, Jones' contentions are more in the nature of a motion for correction of a sentence imposed in an illegal manner, which must be filed within 90 days after sentencing. Jones argues that neither the original sentence nor the clarification of the sentence by the Court were in compliance with his plea agreement. Jones contends that he was not informed of the treatment requirement in his sentence, and thus he should have been allowed to withdraw his plea.

(6) Upon consideration of the entire record, we find it manifest that the judgment of the Superior Court should be affirmed. The Superior Court did not err or abuse its discretion by treating Jones' motion as a motion to correct a sentence imposed in an illegal manner, which was required to be filed within 90 days after sentencing. Moreover, the Superior Court did not err in holding that Jones' motion lacked merit because the drug treatment requirement was reflected in Jones' plea agreement.

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

BY THE COURT:

s/Joseph T. Walsh
Justice