

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM T. BALL,	§
	§
Defendant Below-	§ No. 466, 1999
Appellant,	§
	§
v.	§ Court Below— Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr.A. Nos. S94-03-0601, 0602
Plaintiff Below-	§
Appellee.	§ Def. ID No. 9403012300

Submitted: February 25, 2000

Decided: March 31, 2000

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

ORDER

This 31st day of March 2000, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) On June 13, 1994, the defendant-appellant, William T. Ball ("Ball"), pleaded guilty to one count of Second Degree Burglary and one count of Theft of a Firearm. In exchange for his guilty plea, the State entered a *nolle prosequi* on three related charges. After a presentence investigation, Ball was sentenced on the burglary offense to four years at Level V, with credit for time served, suspended after nine months for six months at a Level IV halfway house, followed by two years and six months

at Level III probation. On the theft offense, Ball was sentenced to one year at Level V, suspended for one year of probation.¹

(2) Ball has been convicted five times of violation of probation (“VOP”).² Most recently, on September 24, 1999, Ball was adjudged guilty of VOP and was sentenced on the burglary offense to two years at Level V, with credit for time served. That sentence was ordered suspended, and Ball was discharged from probation. On the theft offense,

¹ *State v. Ball*, Del. Super. Ct., Cr.A.Nos. S94-03-0601I, 0602I, Graves, J. (July 22, 1994) (ORDER).

² *State v. Ball*, Del. Super. Ct., Cr.A.Nos. S94-03-0601I, 0602I, Graves, J. (Mar.31, 1995) (ORDER) (finding Ball guilty of VOP and imposing sentence; for burglary: three years at Level V with credit for time served, suspended for six months at Level IV work release, followed by two years and six months at Level III; for theft: one year at Level V, suspended for probation); *State v. Ball*, Del. Super., Ct. Cr.A.Nos. S94-03-0601I, 0602I, Graves, J. (Aug. 9, 1996) (ORDER) (finding Ball guilty of VOP and imposing sentence; for burglary: three years at Level V; suspended after six months for three months at Level IV work release, followed by two and a half years at Level III; for theft: one year at Level V suspended for probation); *State v. Ball*, Del. Super. Ct., Cr.A.Nos. S94-03-0601I, 0602I, Graves, J. (Jan. 29, 1997) (ORDER) (amending August 1996 sentence; for burglary: striking the Level IV work release portion and imposing three months at Level IV home confinement followed by two and a half years at Level II; for theft: as previously imposed); *State v. Ball*, Del. Super. Ct., Cr.A.Nos. S94-03-0601I, 0602I, Graves, J. (Dec. 19, 1997) (ORDER) (finding Ball guilty of VOP and imposing sentence; for burglary: two years and six months at Level V with credit for time served, suspended for seven months at Level IV residential substance abuse treatment program; upon successful completion of the program, the balance of Level IV suspended for six months of Level IV or III aftercare followed by 12 months probation at Level III; for theft: one year at Level V sentence suspended for probation); *State v. Ball*, Del. Super. Ct., Cr.A.Nos. S94-03-0601I, 0602I, Graves, J. (Mar. 20, 1998) (finding Ball guilty of VOP and imposing sentence; for burglary: two years and three months at Level V with credit for time served; upon successful completion of the New Hope or Key Program, the balance of Level V sentence suspended for six months at Level IV or III aftercare, followed by 24 months of decreasing levels of supervision; for theft: one year at Level V suspended for probation).

Ball was sentenced to one year at Level V, suspended after six months for ten months at Level III. This appeal followed.

(3) In his one-page opening brief on appeal, Ball briefly raises three issues: (1) unspecified abuse of discretion by the trial judge; (2) a sentence “outside [the] guidelines”; and (3) “judge or department did not give me time credited.” Although it is not clear, Ball appears to be complaining about the September 24, 1999 probationary sentence that he received for the burglary offense. That sentence, however, was discharged, and thus any complaint Ball now has about that sentence is moot.³

(4) Upon review of the Superior Court record in this matter, it appears that Ball has filed numerous letters asking that the Superior Court review and correct his Department of Correction sentence status sheet. According to Ball, the sentence status sheet is in error.⁴ To the extent Ball may be seeking, in this appeal, this Court’s review of the sentence status sheet, Ball has invoked the wrong procedural measure. Ball should

³ See *Gural v. State*, Del. Supr., 251 A.2d 344, 345 (1969) (dismissing appeal on grounds of mootness); *Harvey v. State*, Del. Supr., No. 339, 1996, Berger, J., 1996 WL 585912 (Oct. 7, 1996) (ORDER).

⁴ The sentence status sheet is attached to this Order as Exhibit A.

commence an action in the Superior Court to compel the correction of the sentence status sheet, if indeed the sentence status sheet is in error.

(5) It is manifest on the face of Ball's opening brief that this appeal is without merit. The issues raised in the appeal are clearly controlled by settled Delaware law. To the extent the issues on appeal implicate the exercise of judicial discretion, there was no abuse of discretion.

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

BY THE COURT:

s/Joseph T. Walsh
Justice