

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DOUGLAS JAMES,	§
	§
Defendant Below-	§ No. 440, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 93009386DI
Plaintiff Below-	§
Appellee.	§

Submitted: March 16, 2005

Decided: April 25, 2005

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

ORDER

This 25th day of April 2005, upon consideration of the opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The defendant-appellant, Douglas James, filed this appeal from the Superior Court's denial of his motion for correction of sentence. The State has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of James' opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that James pled guilty in January 1994 to second degree murder and possession of a deadly weapon during the

commission of a felony. The terms of the plea agreement, as well as the transcript of the guilty plea hearing, reflect that James agreed to a total sentence of 25 years without benefit of any reduction.¹ In accordance with that agreement, the Superior Court sentenced James to thirteen years at Level V imprisonment, suspended after ten years for probation, on the murder charge. On the weapon offense, the Superior Court sentenced James to fifteen years at Level V imprisonment.

(3) In July 2004, James filed a motion to correct his sentence, asserting that the sentence imposed for the weapon offense was outside of the sentencing guidelines and thus violated his Sixth Amendment rights as set forth in the United States Supreme Court's decisions in *Apprendi v. New Jersey*² and *Blakely v. Washington*.³ The Superior Court denied James' motion. This appeal followed.

(4) It is well-established that appellate review of a criminal sentence is limited in Delaware, with few exceptions, to a determination that the sentence is within the statutory limits.⁴ In this case, James' 15-year sentence on the weapon charge fell within the statutory range of authorized

¹ See DEL. SUPER. CT. CRIM. R. 11(e)(1)(C) (deleted effective July 1, 2001).

² 530 U.S. 466 (2000).

³ 124 S.Ct. 2531 (2004)

⁴ See *Siple v. State*, 701 A.2d 79, 82-83 (Del. 1997).

sentences.⁵ Moreover, James agreed to the imposition of a 15-year sentence on the weapon charge, as reflected in his guilty plea colloquy. Neither *Apprendi* nor *Blakely* impacts the outcome in James' case given the voluntary and nonbinding nature of Delaware's sentencing guidelines⁶ and James' knowing and voluntary agreement to a sentence in excess of those guidelines.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁵ 11 *Del. C.* § 4205(b)(2) (establishing a sentencing range of 2 to 20 years for class B felonies).

⁶ *Accord Bengel v. State*, 2004 WL 2743431 (Del. Nov. 12, 2004).