

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN R. DRAYER, JR.,	§	
	§	No. 472, 2004
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware, in and
v.	§	for Sussex County in Cr.A. No.
	§	VS97-06-0646-01.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Def. ID No. 9605014843
Appellee.	§	

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

Submitted: May 3, 2005
Decided: July 21, 2005

ORDER

This 21st day of July 2005, upon consideration of the appellant’s opening brief and the State’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) On June 30, 1997, John R. Drayer, Jr. pleaded no contest to Reckless Endangering in the First Degree. Drayer was immediately sentenced to five years at Level V, suspended for three years at Level II probation.

(2) On November 25, 1997, a capias issued for Drayer’s arrest for violation of probation (VOP). The capias remained outstanding until October 7, 2002, when Drayer was returned to Delaware. At a VOP hearing held on

October 18, 2002, Drayer was found in violation of his probation and was sentenced to three years at Level V, suspended after four months for sixty days at Level IV VOP Center. On appeal from the VOP conviction, this Court affirmed the Superior Court's judgment.¹

(3) On September 13, 2004, Drayer moved for correction of an illegal sentence pursuant to Superior Court Criminal Rule 35(a). By order dated September 27, 2004, the Superior Court denied the motion after concluding that Drayer had not raised a basis to correct his sentence. This appeal followed.

(4) On appeal, Drayer appears to seek review of the entire course of the criminal proceedings against him. For instance, Drayer appears to claim that: (1) he is innocent; (2) his attorney was ineffective; (3) he was harassed and entrapped by police; (4) the prosecutor engaged in misconduct; (5) the plea agreement was invalid; (6) his constitutional rights were violated; and (7) he was illegally detained.

(5) The limited purpose of Superior Court Criminal Rule 35(a) "is to permit correction of an illegal sentence, not to reexamine [alleged] errors occurring at the trial or other proceedings prior to the imposition of sentence."²

¹*Drayer v. State*, 2003 WL 21692215 (Del. Supr.).

²*Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998) (quoting *Hill v. United States*, 368 U.S. 424, 430 (1962)).

To the extent Drayer's claims are decipherable, they appear fundamentally directed to the validity of his convictions rather than to the legality of his sentences. As such, Drayer's claims are not properly raised in a motion for correction of an illegal sentence pursuant to Superior Court Criminal Rule 35(a), as the Superior Court properly determined.

(6) It is manifest on the face of Drayer's opening brief that this appeal is without merit. The issues presented on appeal are controlled by settled Delaware law. To the extent that judicial discretion is implicated, clearly 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/ Myron T. Steele
Chief Justice