

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                      |                                |
|----------------------|--------------------------------|
| CHRISTOPHER DESMOND, | §                              |
|                      | § No. 240, 2005                |
| Defendant Below-     | §                              |
| Appellant,           | §                              |
|                      | §                              |
| v.                   | § Court Below—Superior Court   |
|                      | § of the State of Delaware,    |
| STATE OF DELAWARE,   | § in and for New Castle County |
|                      | § Cr. ID 91009844DI            |
| Plaintiff Below-     | §                              |
| Appellee.            | §                              |

Submitted: January 27, 2006

Decided: March 27, 2006

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

**ORDER**

This 27<sup>th</sup> day of March 2006, upon consideration of the parties' briefs and the record below, it appear to the Court that:

(1) The appellant, Christopher Desmond, filed this appeal from the Superior Court's denial of his motion for correction of an illegal sentence pursuant to Superior Court Criminal Rule 35(a). We find no merit to the issue raised in Desmond's appeal. Accordingly, we affirm the judgment of the Superior Court.

(2) The record reflects that Desmond was convicted in 1992 of ten counts of first degree robbery, ten counts of possession of a deadly weapon during the commission of a felony, and related offenses. Among other things,

the Superior Court sentenced Desmond to five years at Level V incarceration for each of the ten robbery convictions. In his motion for correction of sentence, Desmond argued that the robbery sentences are illegal because the Superior Court improperly enhanced each sentence based on Desmond's allegedly perjurious testimony. The Superior Court denied Desmond's motion on the ground that his robbery sentences fell within the then-existing statutory range of sentences for class B felonies<sup>1</sup> and, further, that ample evidence existed in the record for the trial court to conclude that Desmond had perjured himself at trial.<sup>2</sup>

(3) The Court has carefully considered the parties' respective positions on appeal. We find it manifest that the judgment of the Superior Court should be affirmed on the basis of, and for the reasons set forth in, the Superior Court's well-reasoned order dated May 13, 2005.

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>1</sup> See 11 *Del. C.* § 832(a) (Interim Supp. 1989) (defining first degree robbery as a class B felony); 11 *Del. C.* § 4205(b)(2) (Interim Supp. 1989) (providing for a 2 to 20 year sentencing range for class B felonies).

<sup>2</sup> Compare *Fuller v. State*, 860 A.2d 324 (Del. 2004) (vacating enhanced sentences due to lack of sufficient competent evidence in the record that defendant had suborned a witness' allegedly perjurious testimony).