

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRIGADIER RIDLEY,	§
	§ No. 740, 2010
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 9903009487
Plaintiff Below-	§
Appellee.	§

Submitted: June 8, 2012
Decided: July 20, 2012

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

ORDER

This 20th day of July 2012, upon consideration of the parties' briefs, supplemental memoranda, and the record below, it appears to the Court that:

(1) The appellant, Bridagier Ridley, filed this appeal from a Superior Court order, dated November 18, 2010, sentencing him for a violation of probation (VOP). After receiving several extensions of time, Ridley filed his opening brief on appeal on August 9, 2011, which raised two issues. First, he argued that the Superior Court erred in refusing to allow him to speak at the VOP hearing. Second, he contended that his probation officer was biased and imposed unreasonable conditions for his probation. After the State filed its answering brief, the matter was submitted for decision on October 28, 2011.

(2) Upon review, this Court determined that it needed to review the transcript of the VOP hearing in order to conduct its appellate review, although the Superior Court had denied Ridley's earlier request for preparation of the transcript at State expense. The matter was remanded for preparation of the transcript. The matter was returned from remand with a letter from the Superior Court judge acknowledging that the transcript reflected that the judge had refused to allow Ridley to address the court at the VOP hearing. The parties were directed to file supplemental memoranda.

(3) In its answering supplemental memoranda, the State concedes that the Superior Court erred in not allowing Ridley to personally address the court at the VOP hearing and acknowledges that the matter must be remanded for a "supplemental" VOP hearing to allow Ridley to address the Superior Court. The State contends, however, that its evidence was sufficient to sustain the VOP finding and that this Court should affirm the VOP and not require the State to resubmit its evidence on remand.

(4) We disagree. While a VOP hearing is not a criminal trial, a probationer is entitled to some minimal protections afforded by the Due Process Clause of the Fourteenth Amendment, including the opportunity to be heard in person and to present evidence in defense of the VOP charge.¹ In this case, the

¹ *Perry v. State*, 741 A.2d 359, 362-63 (Del. 1999).

State admits that Ridley was denied minimal due process. Accordingly, fundamental fairness requires that the Superior Court's judgment be vacated and the matter remanded for an entirely new VOP hearing so that the Superior Court, as the neutral fact-finder, may consider all of the evidence presented in a fair and impartial manner.

NOW, THEREFORE, IT IS ORDERED that the Superior Court's judgment is hereby VACATED. This matter is REMANDED for new proceedings consistent with this Order.

BY THE COURT:

/s/ Carolyn Berger
Justice