

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROSS R. MASON,	§
	§ No. 539, 2005
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0311010381
	§
Plaintiff Below-	§
Appellee.	§

Submitted: February 24, 2006
Decided: May 23, 2006

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

ORDER

This 23rd day of May 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Ross R. Mason, filed an appeal from the Superior Court’s October 5, 2005 modified sentencing order. Because the sentencing order requires clarification, we remand this matter to the Superior Court for further proceedings consistent with this Order.

(2) In February 2004, Mason pleaded guilty to Burglary in the Second Degree and Distribution of a Controlled Substance Within 300 Feet of a Park. In connection with the guilty plea, the State dismissed five additional criminal charges against Mason. Mason was sentenced on the

burglary conviction to 6 years of Level V incarceration, to be suspended after 30 months for 3 years and 6 months at Level IV home confinement or work release, to be suspended in turn after 6 months for 2 years at decreasing levels of probation. He was sentenced on the distribution conviction to 2 years of Level V incarceration, to be suspended for 18 months at Level III probation.

(3) In August 2005, the Treatment Access Services Center (“TASC”) became involved in Mason’s case and initiated a review of his sentences. After a hearing, the Superior Court modified Mason’s burglary sentence to incorporate the Crest program into the Level IV portion of the sentence. The modified sentencing order imposes 6 years at Level V, to be suspended after 30 months for 4 years and 6 months at Level IV Crest, in turn to be suspended after successful completion of Crest for Level IV work release, in turn to be suspended after 6 months, to be followed by decreasing levels of supervision. Thus, under the modified order, Mason must complete Crest and serve 6 months at Level IV prior to flowing down to Level III probation. It is from this modified sentence that the instant appeal was taken.

(4) In this appeal, Mason claims that, by modifying his burglary sentence to include the Crest program, the Superior Court improperly

enhanced his sentence by one year. The State concedes that the Superior Court's modified order is ambiguous and, therefore, should be remanded to the Superior Court for clarification. Specifically, the State notes that it is not clear whether the Superior Court meant to substitute Crest for home confinement, as suggested by the notes on the modified order, or meant to add Crest to the Level IV portion of the sentence. The State also notes that it is not clear whether the Superior Court actually intended to increase Mason's total Level IV time from 3 years and 6 months to 4 years and 6 months.

(5) Upon a review of the sentencing orders at issue, we agree with the State that clarification of the Superior Court's intent is required in this case. The matter will, therefore, be remanded to the Superior Court for such clarification.

NOW, THEREFORE, IT IS ORDERED that this matter is REMANDED to the Superior Court for clarification of its modified sentencing order in accordance with this Order. Jurisdiction is not retained.

BY THE COURT:

/s/Henry duPont Ridgely
Justice