

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEROME D. CLARK,	§
	§
Defendant Below-	§ Nos. 350, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0103004655
Plaintiff Below-	§
Appellee.	§

Submitted: March 22, 2006

Decided: May 31, 2006

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

**ORDER**

This 31<sup>st</sup> day of May 2006, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

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

(2) In April 2002, Clark pled guilty to once count of possession of cocaine within 1000 feet of a school. The Superior Court sentenced him to

four years at Level V imprisonment, to be suspended after serving two years for probation. Thereafter, he was found in violation of his probation on two separate occasions. At the most recent VOP hearing in June 2005, the Superior Court revoked Clark's probation and sentenced him to two years imprisonment, suspended after 18 months imprisonment to be followed by a discharge from probation as unimproved.

(3) Clark did not appeal from the Superior Court's VOP sentence. Instead, he filed a motion for correction of sentence claiming that the original sentence imposed in July 2002 exceeded the sentence authorized by statute. According to Clark, possession of cocaine within 1000 feet of a school is a class G felony for which the authorized sentencing range is zero to two years imprisonment. Thus, Clark asserts that the Superior Court's original four-year sentence is illegal.

(4) Clark's argument is simply wrong. Pursuant to 16 Del. C. § 4767(a)(1), the authorized sentence for a conviction of possession of cocaine within 1000 feet of a school is up to thirty years imprisonment. Thus, the Superior Court's original sentence was authorized by statute, and the Superior Court did not err in denying Clark's motion for correction of sentence.

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice