

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RAPHUS ELEY,	§
	§ No. 151, 2006
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 9906016291
Plaintiff Below-	§
Appellee.	§

Submitted: July 31, 2006
Decided: September 26, 2006

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

ORDER

This 26th day of September 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, Raphus Eley, filed this appeal from the Superior Court's denial of his motion for correction of sentence under Superior Court Criminal Rule 35(a). The State has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of Eley's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Eley was sentenced in December 1999 on charges that included third degree burglary and theft. This Court affirmed his

convictions on appeal.¹ Since then, Eley has been found in violation of his probation several times. In February 2006, he filed a motion for correction of sentence under Superior Court Criminal Rule 35(a) alleging that his sentence was illegal because his separate convictions on charges of burglary and theft violated double jeopardy principles. The Superior Court denied his motion.

(3) After careful consideration of the parties' respective positions on appeal, we find it manifest that the judgment of the Superior Court must be affirmed. It is well-settled that the limited purpose of a motion under Rule 35(a) is to permit correction of an illegal sentence.² It is not a means for a defendant to attack the legality of his convictions or to raise allegations of error occurring in the proceedings leading to the judgment of conviction.³ Accordingly, we find no error in the Superior Court's denial of Eley's motion for correction of sentence because the issue raised therein was not the proper subject of a motion under Rule 35(a).

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/Henry duPont Ridgely
Justice

¹ *Eley v. State*, 2000 WL 1887919 (Del. Dec. 20, 2000).

² *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

³ *Id.*