

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DWAYNE CROPPER,	§
	§ No. 369, 2006
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 9601010152
Plaintiff Below-	§
Appellee.	§

Submitted: August 16, 2006

Decided: October 2, 2006

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

ORDER

This 2nd day of October 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, Dwayne Cropper, 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 Cropper's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Cropper was sentenced as an habitual offender in February 1999 following his convictions for attempted first degree murder and possession of a deadly weapon during the commission of a felony. His convictions and sentences were affirmed on direct appeal.¹ Since then, Cropper has filed several unsuccessful petitions seeking various forms of postconviction relief.²

(3) In June 2006, Cropper filed his latest petition, which requested that the Superior Court correct his illegal sentence pursuant to Delaware Superior Court Criminal Rule 35(a). Cropper asserted that his sentence was illegal because two of his prior felony convictions, which were considered by the Superior Court in sentencing him as an habitual offender, were not valid predicate felonies under 11 Del. C. § 4214(b). Thus, Cropper argued, his habitual offender sentence was illegal. The Superior Court summarily denied Cropper's motion, and this appeal followed.

(4) Contrary to Cropper's assertion, the record reflects that he was sentenced as an habitual offender pursuant to the provisions of 11 Del. C. § 4214(a), *not* § 4214(b). Any felony conviction can qualify as a predicate

¹ *Cropper v. State*, 2000 WL 139992 (Del. Jan. 21, 2000).

² *See, e.g., Cropper v. State*, 2001 WL 1636542 (Del. Dec. 10, 2001).

felony under § 4214(a).³ Accordingly, there was no merit to Cropper's assertion that his prior felony convictions were not listed as predicate felonies under § 4214(b). Thus, the Superior Court did not err in summarily denying his motion for correction of sentence.

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/ Myron T. Steele
Chief Justice

³ *Parker v. State*, 2000 WL 1152406 (Del. July 26, 2000).