

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                     |                                |
|---------------------|--------------------------------|
| STATE OF DELAWARE,  | §                              |
|                     | § No. 214, 2006                |
| Plaintiff Below-    | §                              |
| Appellant,          | §                              |
|                     | § Court Below—Superior Court   |
| v.                  | § of the State of Delaware     |
|                     | § in and for New Castle County |
| STEPHANIE Y. WALLS, | § Cr.A. Nos. IN01-04-0533      |
|                     | § IN00-09-2077                 |
| Defendant Below-    | §                              |
| Appellee.           | §                              |

Submitted: August 25, 2006

Decided: October 17, 2006

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

**ORDER**

This 17<sup>th</sup> day of October 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The plaintiff-appellant, the State of Delaware, filed an appeal from the Superior Court's March 31 and April 3, 2006 orders modifying the Level V sentence of the defendant-appellee, Stephanie Y. Walls. Under the particular circumstances of this case, and in the interest of justice, we affirm the Superior Court's judgment.

(2) In December 2002, Walls was found guilty by a Superior Court jury of Assault by Abuse or Neglect and Endangering the Welfare of a

Child.<sup>1</sup> On the assault conviction, she was sentenced to 10 years of Level V incarceration, to be suspended after 4 years for probation. On the endangering conviction, she was sentenced to 2 years of Level V incarceration, to be suspended after 6 months for probation. Walls' convictions and sentences were affirmed by this Court on direct appeal.<sup>2</sup>

(3) Since being imprisoned, Walls has filed a total of four motions requesting modification of her Level V sentence. Each time, the State has opposed the motion on the ground that Superior Court Criminal Rule 35(b) does not permit modification of Walls' sentence. In its April 7, 2003 order denying Walls' first motion, the Superior Court noted that "the court will retain jurisdiction. [The defendant] may re-file when she has served 2 years." The Superior Court also denied Walls' next two motions and, each time, retained jurisdiction to consider any subsequent motions.

(4) Walls filed her fourth, and final, motion in October 2005. On March 31, 2006, the Superior Court issued a written decision granting the motion. In its decision, the Superior Court stated the following: ". . . [W]hen [the court] sentenced Ms. Walls, . . . the sentencing guidelines recommended a two year prison sentence for the lead charge and up to six

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<sup>1</sup> The evidence was that Walls, a foster mother with a long history of exemplary service to the Department of Family Services, had, in an uncharacteristic moment of frustration, violently shaken and dropped a 2½ month-old infant in her care, causing permanent injuries.

<sup>2</sup> *Walls v. State*, Del. Supr., No. 69, 2003, Steele, J. (Oct. 6, 2003).

months on the companion [charge]. Considering everything, the court imposed a four year sentence on the lead charge . . . . [Walls' motion] does not fall under Rule 35(b). . . . [F]rom the time it considered the first motion, . . . , the court expressly anticipated this proceeding. For jurisdictional purposes, the court has treated this sentence as subject to further consideration. In effect, the earlier denials were without prejudice.” The Superior Court, thus, relied upon its “inherent authority” to modify its sentences, rather than its statutory authority under Rule 35(b), to modify Walls' sentence.<sup>3</sup>

(5) On April 3, 2006, the Superior Court issued a follow-up order modifying Walls' sentences by reducing her Level V time by three months. All other aspects of her sentences were to remain the same. The State filed a motion in the Superior Court requesting that the order be stayed pending review in this Court. The Superior Court denied the motion. The State did not appeal from that order and did not file a motion for stay in this Court. The record reflects that Walls has now been released from prison pursuant to the Superior Court's order and is now serving Level III probation.

(5) The Superior Court in this case retained jurisdiction to modify Walls' sentence based upon its inherent authority to modify a sentence, and

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<sup>3</sup> *Sloman v. State*, 886 A.2d 1257, 1265 (Del. 2005).

did not rely upon Rule 35(b).<sup>4</sup> We have concluded that, under the particular circumstances presented here, and in the interest of justice, the Superior Court's decision to reduce Walls' Level V time by three months did not constitute an abuse of discretion and, therefore, we affirm the Superior Court's orders.

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>4</sup> Id.