

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RECARDO B. WEATHERSPOON,	§
	§ No. 336, 2006
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0001003156
Plaintiff Below-	§
Appellee.	§

Submitted: August 21, 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 appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The defendant-appellant, Recardo Weatherspoon, 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 Weatherspoon's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Weatherspoon pled guilty and was sentenced in June 2000 on two counts of delivery of cocaine and two counts of conspiracy. Weatherspoon's plea agreement acknowledged that he was an habitual offender. Pursuant to the plea agreement, the Superior Court immediately sentenced Weatherspoon as an habitual offender, pursuant to 11 Del. C. § 4214(a), to thirteen years at Level V incarceration followed by probation. Since then, Weatherspoon has filed several unsuccessful motions for modification of sentence or postconviction relief. In May 2006, Weatherspoon filed a motion for correction of sentence under Superior Court Criminal Rule 35(a) alleging that his sentence was illegal because his status as an habitual offender was not properly established. 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.<sup>1</sup> It is not a means for a defendant to attack the legality of his convictions or to raise allegations

---

<sup>1</sup> *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

of error occurring in the proceedings leading to the judgment of conviction.<sup>2</sup> Weatherspoon pled guilty as an habitual offender. To the extent he could have challenged his status, that contention should have been raised prior to the entry of his guilty plea. Accordingly, we find no error in the Superior Court's denial of Weatherspoon'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/ Myron T. Steele  
Chief Justice

---

<sup>2</sup> *Id.*