

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL BROWN,	§
	§
Defendant Below-	§ No. 459, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID. 0102011905
Plaintiff Below-	§
Appellee.	§

Submitted: September 25, 2006
Decided: November 16, 2006

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

ORDER

This 16th day of November 2006, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Michael Brown, filed this appeal from the Superior Court's denial of his motion for correction of illegal sentence. In his opening brief, Brown asserts that the Superior Court's sentence for his violation of probation was illegal because it exceeded the recommended sentence contained in the SENTAC sentencing guidelines.

(2) The State has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Brown's opening

brief that his appeal is without merit. The State asserts that a trial court's departure from the sentencing guidelines is no basis for relief on appeal if the sentence is otherwise within the statutorily-authorized range of sentences.

(3) After careful consideration of appellant's opening brief and the State's motion to affirm, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's order dated July 27, 2006. An upward departure from the sentencing guidelines does not make a sentence illegal and does not provide any basis for relief on appeal.* Accordingly, the Superior Court did not err in denying Brown's motion for correction of illegal sentence.

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

BY THE COURT:

/s/ Randy J. Holland
Justice

* *Siple v. State*, 701 A.2d 79, 82-83 (Del. 1997).