

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALEXIS NICHOLS,	§
	§
Defendant Below-	§ No. 88, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 9512007450
Plaintiff Below-	§
Appellee.	§

Submitted: October 11, 2006
Decided: December 11, 2006

Before **HOLLAND, BERGER,** and **JACOBS,** Justices.

ORDER

This 11th day of December 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, Alexis Nichols, filed this appeal from the Superior Court’s denial of his motion for correction of an illegal sentence. Nichols argued that his sentence for first degree assault is illegal because the underlying conviction was not supported by the evidence. The State has filed a motion to affirm the judgment below on the ground that it is manifest

on the face of Nichols' opening brief that his appeal is without merit. We agree and affirm.¹

(2) It is well-established that the grounds for a motion seeking correction of an illegal sentence under Superior Court Criminal Rule 35(a) must be limited to alleged errors with the sentence itself, e.g., the sentence exceeds the statutory limits or the sentence violates double jeopardy. A motion under Rule 35(a) is not an appropriate means to argue alleged errors in the underlying conviction.²

(3) Accordingly, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned decision dated January 17, 2006. The Superior Court did not err in concluding that Nichols' sentence was not illegal and that the relief sought by Nichols' could only be pursued through a motion for postconviction relief under Superior Court Criminal Rule 61.

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

BY THE COURT:

/s/ Carolyn Berger
Justice

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

² *Id.*