

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN A. HUMPHRIES, III	§
	§
Defendant Below-	§ No. 621, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0411015567
Plaintiff Below-	§
Appellee.	§

Submitted: April 13, 2007

Decided: April 26, 2007

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

ORDER

This 26th day of April 2007, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The defendant-appellant, John Humphries, filed this appeal from the Superior Court's denial of his motion for modification of sentence. The record reflects that Humphries pled no contest in November 2005 to attempted second degree assault and manufacturing an explosive device. He was immediately sentenced on both charges to a total period of sixteen years imprisonment, suspended after serving four years for probation. In October 2006, Humphries filed a motion requesting a reduction of his sentence based on his efforts at rehabilitation and his father's ill health. The Superior Court

denied Humphries's motion. We find no error; thus we affirm the Superior Court's judgment on appeal.

(2) Superior Court Criminal Rule 35(b) provides that the Superior Court will consider a motion for reduction of sentence that is filed more than 90 days after sentencing "only in extraordinary circumstances or pursuant to 11 Del. C. § 4217."¹ The Superior Court did not abuse its discretion in deciding that neither Humphries' rehabilitative efforts nor his father's declining health constitute "extraordinary circumstances" to warrant a modification of Humphries' sentence.²

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ Del. Super. Ct. Crim. R. 35(b). Section 4217 of Title 11 of the Delaware Code, which permits the Department of Correction to request a modification of sentence on a defendant's behalf, is inapplicable in Humphries's case.

² See *Allen v. State*, 2002 WL 31796351 (Del. Dec. 11, 2002) (holding that a commendable prison record does not constitute extraordinary circumstances).