

IN THE SUPREME COURT OF THE STATE OF DELAWARE

REGGIE FOLKS,	§
	§ No. 190, 2007
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 90003056DI
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 3, 2007
Decided: June 12, 2007

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

ORDER

This 12th day of June 2007, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Reggie Folks, filed an appeal from the Superior Court's April 2, 2007 order denying his motion to correct an illegal sentence pursuant to Superior Court Criminal Rule 35(a). The plaintiff-appellee, the State of Delaware, has moved to affirm the judgment of the

Superior Court on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) In July 1990, Folks entered a plea of guilty to Robbery in the First Degree, Assault in the Second Degree, Robbery in the Second Degree, Felony Receipt of Stolen Property, and Attempted Burglary in the Third Degree. He was sentenced to a total of 39 years imprisonment. Since that time, Folks has moved unsuccessfully to withdraw his guilty plea, has unsuccessfully petitioned for federal habeas corpus relief, and has unsuccessfully moved for postconviction relief on multiple occasions.

(3) In this appeal, Folks claims that his sentence is illegal because it was enhanced based upon facts not admitted by him during the plea proceedings, thereby violating the constitutional principles set forth in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), *Blakely v. Washington*, 542 U.S. 296 (2004), and *Cunningham v. California*, 127 S. Ct. 856 (2007).

(4) It is well-established that appellate review of a criminal sentence is limited in Delaware, with few exceptions, to a determination that the sentence is within the statutory limits.² In this case, Folks presents no evidence that any of his sentences fall outside the statutory range of authorized sentences for his crimes. Moreover, none of the cases cited by

¹ Supr. Ct. R. 25(a).

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

Folks impacts the outcome of his case, given the voluntary and non-binding nature of Delaware's sentencing guidelines.³ Thus, the Superior Court properly denied Folks' Rule 35(a) motion for correction of an illegal sentence.

(5) It is manifest on the face of the opening brief that the appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/Henry duPont Ridgely
Justice

³ *Shabazz v. State*, Del. Supr., No. 545, 2004, Ridgely, J. (June 14, 2005).