

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMAL FERGUSON,	§
	§
Defendant Below-	§ No. 582, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr.A. Nos. IK01-01-0560
Plaintiff Below-	§ IK01-11-0052
Appellee.	§

Submitted: January 10, 2003

Decided: February 27, 2003

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices

**ORDER**

This 27<sup>th</sup> day of February 2003, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Jamal Ferguson, filed an appeal from the Superior Court's September 11, 2002 order denying his motion for sentence modification pursuant to Superior Court Criminal Rule 35(b). We find no merit to the appeal. Accordingly, we AFFIRM.

(2) On March 5, 2001, Ferguson was indicted on 3 drug charges and, on December 3, 2001, was indicted on 4 additional drug charges. On May 30, 2002, Ferguson pleaded guilty to one count of Attempted Possession with

Intent to Deliver Marijuana and one count of Maintaining a Dwelling for Keeping Controlled Substances. The remaining charges were dismissed. Ferguson was sentenced to a total of 7 years incarceration at Level V, to be suspended after 2 years for 2 years Level III probation, to be followed by an additional 2 years of Level II probation. While at Level V, Ferguson was to complete the Greentree drug program. Approximately 2 ½ months after his pleas were entered, Ferguson filed a motion for sentence modification in the Superior Court requesting that he be assigned to Level IV work release or home confinement following his completion of the Level V Greentree drug program.

(3) In this appeal, Ferguson claims that the Superior Court: a) abused its discretion by denying his motion for sentence modification; and b) prejudiced his ability to present his claim on appeal by rendering its decision on a pre-printed form.

(4) Ferguson's claim that the Superior Court abused its discretion by denying his motion is without merit. Ferguson received a substantial benefit from his May 30, 2002 plea agreement.<sup>1</sup> There is no evidence that his plea, entered only 2 ½ months before his motion was filed, was not entered

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<sup>1</sup>*Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988).

knowingly and voluntarily. Moreover, there is no evidence that the Superior Court's use of a pre-printed form to render its decision in any way prevented Ferguson from fully presenting his claims on appeal. Any alleged error on the part of the Superior Court was, thus, harmless.

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

BY THE COURT:

s/Joseph T. Walsh  
Justice