

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES A. MANLEY,	§
	§
Defendant Below-	§ No. 420, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0509011563
Plaintiff Below-	§
Appellee.	§

Submitted: May 25, 2007
Decided: August 6, 2007

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

ORDER

This 6th day of August 2007, after careful consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant, James Manley, filed this appeal from the Superior Court's denial of his motion for correction of sentence. We find no merit to the appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Manley pled guilty in June 2006 to attempted first degree assault, attempting to remove a firearm from the possession of a police officer, and misdemeanor theft. The Superior Court sentenced him to a total period of twelve years at Level V imprisonment to be suspended after serving five years for two concurrent terms of probation.

Manley did not appeal. Instead, in July 2006, he filed a motion seeking correction of his sentence pursuant to Superior Court Criminal Rule 35(a). Manley argued that his sentence was illegal because it exceeded the presumptive sentence contained in the sentencing guidelines. He also argued that the sentence was illegal because the guilty plea form did not set forth the presumptive sentence under the guidelines and because the sentencing judge offered no explanation for deviating from the presumptive sentence.

(3) After careful consideration of the parties' respective positions on appeal, we find it manifest that the Superior Court's denial of Manley's motion must be affirmed. First, it is well-established that a deviation from the sentencing guidelines offers no basis to challenge the legality of a sentence.¹ Moreover, Manley's complaint that the guilty plea agreement did not set forth the presumptive sentence is not a matter that can properly be raised in the context of a motion for correction of illegal sentence.² Finally, Manley's complaints regarding his arrest were never raised to the Superior Court³ and were waived by his entry of a plea of guilty.⁴

¹ *Siple v. State*, 701 A.2d 79, 82-83 (Del. 1997).

² *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998) (holding that Rule 35(a) is not a means to review errors alleged to have occurred prior to the imposition of sentence).

³ *See* Del. Supr. Ct. R. 8 (2007).

⁴ *See Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988).

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

BY THE COURT:

/s/Henry duPont Ridgely
Justice