

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEENAN E. BACON,	§
	§
Defendant Below-	§ No. 239, 2007
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for County
	§ Cr. ID 0512011932
Plaintiff Below-	§
Appellee.	§

Submitted: July 2, 2007
Decided: September 7, 2007

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This 7th day of September 2007, upon consideration of the appellant’s opening brief, the State’s motion to affirm, and the record below, it appears to the Court:

(1) The appellant, Keenan Bacon, filed this appeal from the Superior Court’s denial of his motion for correction of sentence. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Bacon’s opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Bacon pled guilty in April 2006 to manslaughter, possession of a firearm during the commission of a felony,

and third degree assault. In June 2006, the Superior Court sentenced Bacon on the manslaughter charge to twenty-five years at Level V imprisonment, to be suspended after serving fifteen years for decreasing levels of supervision. On the weapon charge, Bacon was sentenced to five years at Level V imprisonment. On the assault charge, Bacon was sentenced to one year at Level V imprisonment to be suspended for one-year probation.

(3) Bacon did not file an appeal from his sentence. Instead, in October 2006, his counsel filed a motion for reduction of sentence, which the Superior Court denied. Bacon did not appeal. Instead, in April 2007, he filed a motion for correction of illegal sentence. Bacon argued that his sentence was illegal because it exceeded the presumptive sentence set forth in the SENTAC sentencing guidelines. The Superior Court summarily denied Bacon's motion on the ground that the sentence was not illegal because it fell within the statutory range of authorized sentences. This appeal followed.

(4) After careful consideration of Bacon's opening brief and the State's motion to affirm, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's well-reasoned decision dated April 18, 2007. The Superior Court did not err in concluding that Bacon's sentence, which fell within the statutory range of authorized

sentences, was not illegal.¹ The Superior Court’s upward departure from the sentencing guidelines does not make Bacon’s sentence “illegal” under Superior Court Criminal Rule 35(a).²

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

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998) (holding, in relevant part, that a sentence is “illegal” when it exceeds the statutorily-authorized limits).

² *See Colon v. State*, 900 A.2d 635, 638 n.11 (Del. 2006).