

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTOINE T. JONES,	§	
	§	No. 486, 2002
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County in
	§	Cr. ID No. 9910007197
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: November 13, 2002
Decided: February 14, 2003

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

ORDER

This 14th day of February 2003, upon consideration of the appellant's opening brief and appendix and the State of Delaware's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The appellant, Antoine T. Jones, filed this appeal from the Superior Court's order denying his motion for modification of sentence. The State has filed a motion to affirm on the ground that it is manifest on the face of Jones' opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that Jones was charged with Possession with Intent to Deliver Cocaine, Conspiracy in the Second Degree, Possession of Drug

Paraphernalia, Resisting Arrest, and Possession of Cocaine. On March 30, 2000, Jones pleaded guilty, pursuant to Superior Court Criminal Rule 11(e)(1)(C), to Possession of Cocaine, Conspiracy in the Second Degree, Possession of Drug Paraphernalia, and Resisting Arrest. The Superior Court sentenced Jones to a total of six years at Level V, pursuant to title 11, section 4204(k) of the Delaware Code, followed by six months at Level III. Jones did not appeal.

(3) In June 2000, Jones moved for a modification of his sentence. Jones claimed that his sentence was excessive and outside the Truth-in-Sentencing guidelines. Moreover, Jones alleged that his attorney had been ineffective. The Superior Court denied his motion. Jones did not appeal.

(4) In August 2000, Jones moved for correction of an illegal sentence. Jones again claimed that the sentence was excessive. Jones also claimed that no one had explained to him “what a 4204(k) sentence meant.” The Superior Court denied his motion. Jones did not appeal.

(5) In July 2002, Jones again moved for a modification of his sentence. Jones asserted that, while incarcerated, he had completed several programs. Furthermore, Jones explained that his parents recently had been involved in automobile accidents, and that they needed his financial and emotional support. Jones

asserted that these facts constituted exceptional circumstances that warranted a sentence modification under Superior Court Criminal Rule 35(b).

(6) By order dated July 29, 2002, the Superior Court denied Jones' motion on the ground that he had not established extraordinary circumstances to overcome the ninety-day limitation period in Superior Court Criminal Rule 35(b). This appeal followed.

(7) Superior Court Criminal Rule 35(b) provides that the Superior Court may consider a motion to reduce a sentence only if such motion is made within ninety days after the sentence is imposed or upon a showing of extraordinary circumstances. The Superior Court may not consider repetitive requests for reduction of sentence.

(8) We find no abuse of discretion in the Superior Court's denial of Jones' motion for modification of sentence. Jones' motion was repetitive and filed well beyond the ninety-day time limit of Superior Court Criminal Rule 35(b). Jones did not establish extraordinary circumstances sufficient to overcome the time bar.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele

Justice