

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GUANGO CORREA,	§
	§ No. 301, 2007
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 0205013182
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 4, 2007
Decided: November 20, 2007

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

ORDER

This 20th day of November 2007, upon consideration of the appellant's opening brief and the appellant's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Guango Correa, filed an appeal from the Superior Court's May 22, 2007 order denying his repetitive motion for sentence modification. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit. We agree and AFFIRM.

(2) In November 2002, Correa pleaded guilty to Assault in the Second Degree. He was sentenced to 5 years of Level V incarceration, to be suspended after 2 years for 2 years and 9 months of decreasing levels of supervision. Correa was found to have committed violations of probation (“VOPs”) in April 2005 and July 2006.¹ In May 2007, Correa filed a motion to modify his July 2006 VOP sentence. The Superior Court denied the motion on the ground that it was repetitive.²

(3) Under Rule 35(b), repetitive requests for sentence modification will not be considered. The Superior Court docket reflects that Correa unsuccessfully moved to modify his sentence not only in May 2007, but also in March and April 2007. Under these circumstances, there was no abuse of discretion on the part of the Superior Court in denying Correa’s May 2007 motion for sentence modification as repetitive.

(4) It is manifest on the face of the opening brief that this 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.

¹ The Superior Court docket reflects that Correa was found to have committed another VOP in October 2007.

² Super. Ct. Crim. R. 35(b).

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/ Myron T. Steele
Chief Justice