

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE,	)	
	)	
v.	)	ID No. 1901005656
	)	
SHA'MIR SUDER,	)	
	)	
Defendant.	)	
	)	

Date Submitted: February 25, 2024  
Date Decided: March 21, 2024

**ORDER**

Upon consideration of Defendant Sha'mir Suder's ("Suder") Motion for Sentence Modification ("Motion"),<sup>1</sup> Superior Court Criminal Rule 35(b), statutory and decisional law, and the record, **IT APPEARS THAT:**

(1) On July 22, 2019, Suder pled guilty to Assault First Degree (IN19-08-0087-W) and Possession of a Firearm During the Commission of a Felony ("PFDCF") (IN19-02-0088-W).<sup>2</sup> On November 8, 2019, Suder was sentenced as follows: for Assault First Degree, 25 years at Level V, suspended after 2 years at Level V for 6 months at Level IV, followed by 18 months at Level III; for PFDCF, 10 years at Level V.<sup>3</sup>

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<sup>1</sup> D.I. 42. Although Suder states that his letter is to let the Court know he is "putting in a commutation," his letter requests a sentence modification.

<sup>2</sup> D.I. 20.

<sup>3</sup> D.I. 34.

(2) Suder filed the instant Motion on February 28, 2024.<sup>4</sup> Suder claims he has completed the minimum mandatory portion of his sentence, and he asks the Court to discharge the remaining time on his sentence for probation.<sup>5</sup> In support of his Motion, Suder states he has learned from his prior actions and is no longer involved in gang activity.<sup>6</sup>

(3) Superior Court Criminal Rule 35(b) governs motions for modification of sentence.<sup>7</sup> The purpose of Rule 35(b) is to “provide a reasonable period for the Court to consider alteration of its sentencing judgments.”<sup>8</sup> Rule 35(b) contains procedural bars for timeliness and repetitiveness.<sup>9</sup> Under Rule 35(b), the “[C]ourt may reduce a sentence of imprisonment on a motion made within 90 days after the sentence was imposed” and will consider untimely motions “only in extraordinary circumstances or pursuant to 11 *Del. C.* § 4217.”<sup>10</sup> Furthermore, the Court cannot modify the minimum mandatory portion of a sentence.<sup>11</sup>

(4) Suder’s Motion is procedurally barred. His Motion is untimely since it was filed over four years after his sentencing—well past the 90-day deadline.<sup>12</sup> The

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<sup>4</sup> D.I. 42.

<sup>5</sup> D.I. 42.

<sup>6</sup> *Id.*

<sup>7</sup> Super. Ct. Crim. R. 35(b).

<sup>8</sup> *State v. Remedio*, 108 A.3d 326, 331 (Del. Super. 2014).

<sup>9</sup> Super. Ct. Crim. R. 35(b).

<sup>10</sup> *Id.*

<sup>11</sup> 11 *Del. C.* § 4204(d); D.I. 27.

<sup>12</sup> D.I. 27. Suder’s sentence does not fall under 11 *Del. C.* § 4217.

Court does not find any “extraordinary circumstances” exist to warrant an extension of the 90-day deadline.<sup>13</sup> Therefore, the Court finds the sentence is appropriate for all the reasons stated at the time of sentencing.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Sha’mir Suder’s Motion for Sentence Modification is **DENIED**.

**IT IS SO ORDERED.**

/s/ Jan R. Jurden  
Jan R. Jurden, President Judge

cc: Original to Prothonotary  
Erika R. Flaschner, DAG  
Sha’mir Suder (SBI # 00795035)

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<sup>13</sup> See *State v. Redden*, 111 A.3d 602, 607 (Del. Super. 2015) (explaining that extraordinary circumstances must specifically justify the delay, be beyond the movant’s control, and *be the reason the movant was prevented from timely filing*) (emphasis added).