

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JONATHAN S. HALL,	§
	§ No. 503, 2011
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware, in and
STATE OF DELAWARE,	§ for New Castle County
	§ Cr. ID Nos. 0901007769 and
Plaintiff Below-	§ 0905014917
Appellee.	§

Submitted: November 3, 2011

Decided: January 26, 2012

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 26th day of January 2012, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Jonathan Hall, filed this appeal from the Superior Court's denial of his motion seeking to compel the Department of Correction (DOC) to award him good time credit. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Hall's opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that Hall pled guilty on September 9, 2009 to third degree assault, possession of a deadly weapon by a person prohibited

(PDWPP), noncompliance with conditions of bond, and misdemeanor resisting arrest. The Superior Court sentenced Hall immediately, among other things, to three years at Level V, with credit for 114 days previously served, on the charge of PDWPP. Hall did not appeal. In December 2009, Hall moved for a modification of his sentence requesting the Superior Court to compel the DOC to award him good time against his PDWPP sentence. The Superior Court denied that motion. In February 2010, Hall filed a second motion for modification of sentence, which the Superior Court denied as repetitive and untimely. In June 2011, Hall again moved to compel the DOC to award him good time credit on his PDWPP sentence. The Superior Court denied that motion, and this appeal ensued.

(3) In his opening brief on appeal, Hall asserts that the Superior Court misinterpreted Sections 1448¹ and 4381² of Title 11 of the Delaware Code in denying his right to good time. Hall first contends that he was not sentenced pursuant to any statute that prohibited him from earning good time on his PDWPP sentence. Hall also argues that the 2010 amendment to the

¹ See DEL. CODE ANN. tit. 11, § 1448 (2007). Section 1448 sets forth the elements of the crime of possession of a deadly weapon by a person prohibited as well as the applicable sentencing provisions.

² See DEL. CODE ANN. tit. 11, § 4381 (2007). Section 4381 sets forth the provisions by which an inmate may diminish the length of his term of confinement by good time credits.

good time statute, 11 Del. C. § 4381, makes it clear that every sentence, including his, is eligible for an award of good time. We disagree.

(4) At the time Hall was sentenced in 2009, Section 4381(a) provided, in part, that, “All sentences imposed for any offenses other than a life sentence imposed pursuant to any provision of this Code may be reduced by earned good time....”³ Section 1448(e)(4), however, provided that no person convicted of PDWPP “shall be eligible for good time, parole or probation during the period of the sentence imposed.”⁴ Hall’s contention that he was not sentenced subject to 11 Del. C. § 1448(e)(4) is without merit because that subsection applies to all sentences imposed for a PDWPP conviction. Thus, at the time he was sentenced in 2009, Hall’s PDWPP sentence was not eligible for an award of good time.

(5) Moreover, the subsequent 2010 legislative amendment to the good time statute, 11 Del. C. § 4381, does not apply to Hall’s sentence. The 2010 amendment to Section 4381(a) allows good time to be earned on all sentences other than life sentences. However, Section 4381(b) specifically provides that the award “of good time credit set forth in subsection (a) ... will not apply to ... sentences imposed prior to the enactment of this

³*Id.* § 4381(a).

⁴*Id.* § 1448(e)(4).

statute.”⁵ Clearly, Hall’s sentence was imposed prior to the enactment of the statute. Accordingly, we find no error in the Superior Court’s denial of Hall’s motion to be awarded good time on his PDWPP sentence.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁵ DEL. CODE ANN. tit. 11, § 4381(b) (Supp. 2010).