

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY A. COOPER, JR.,	§
	§
Defendant Below-	§ No. 661, 2007
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0301018775
Plaintiff Below-	§
Appellee.	§

Submitted: May 9, 2008
Decided: August 4, 2008

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

ORDER

This 4th day of August 2008, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Anthony Cooper, filed this appeal from the Superior Court's denial of his motion for correction of sentence. We find no merit to Cooper's appeal. Accordingly, we affirm the judgment of the Superior Court.

(2) The record reflects that Cooper pled guilty in 2003 to one count each of Possession of a Deadly Weapon During the Commission of a Felony and Assault in the First Degree. The Superior Court sentenced him to a total period of fourteen years at Level V incarceration to be suspended after

serving eight years for two years of probation. This Court affirmed on appeal.¹ Thereafter, Cooper filed several unsuccessful postconviction petitions, including two unsuccessful motions for modification of sentence under Superior Court Criminal 35. In November 2007, Cooper filed his third motion under Rule 35. The Superior Court denied that motion, and this appeal followed.

(3) In his opening brief on appeal, Cooper argues that his 2003 sentence is illegal because it was based on a presentence investigation report and the Superior Court never established on the record that Cooper had reviewed the report with his counsel to determine its accuracy. We find no merit to Cooper's argument.

(4) A motion for correction of an illegal sentence under Rule 35(a) is very narrow in scope.² Rule 35(a) permits relief when "the sentence imposed exceeds the statutorily-authorized limits, [or] violates the Double Jeopardy Clause."³ Cooper does not, and could not, argue that his sentence exceeds the legal limits or violates double jeopardy principles. In fact, the substance of Cooper's argument is that his sentence was imposed in an illegal manner. Such an argument, however, must be raised within 90 days

¹ *Cooper v. State*, 2004 WL 1535802 (Del. June 30, 2004).

² *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

³ *Id.* (quoting *United States v. Pavlico*, 961 F.2d 440, 443 (4th Cir. 1992)).

of sentencing.⁴ Cooper's motion, however, was filed several years after his sentence was imposed. Accordingly, we find no error in the Superior Court's denial of the motion for correction of sentence.

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

BY THE COURT:

/s/ Randy J. Holland
Justice

⁴ See Del. Super. Ct. Crim. R. 35(a) (providing that a motion to correct a sentence imposed in an illegal manner must be filed within the time limit set forth in Rule 35(b), i.e., within 90 days of sentencing).