IN THE SUPREME COURT OF THE STATE OF DELAWARE

JASON A. TURNER,	§	
	§	No. 512, 2013
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware,
v.	§	in and for New Castle County
	§	
STATE OF DELAWARE,	§	Cr. ID 1105020650
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: April 4, 2014
Decided: May 30, 2014

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

O R D E R

This 30th day of May 2014, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The defendant-appellant, Jason Turner, appeals from the Superior Court's sentence for his fourth violation of probation ("VOP"). Turner argues on appeal that the Superior Court refused to allow him to present evidence contesting the violation charge. We are unable to review Turner's contention, however, because he failed to provide the Court with transcripts. Accordingly, we affirm.

(2) The record reflects that Turner pled guilty on June 14, 2011 to one count of Possession with Intent to Deliver Marijuana ("PWID"). The

Superior Court sentenced Turner, effective May 25, 2011, to a total period of five years at Level V incarceration, suspended immediately for six months at Level IV Home Confinement, followed by one year at Level III probation. On September 7, 2011, the Superior Court found Turner in violation of the conditions of his home confinement and sentenced him, effective August 24, 2011, to five years at Level V incarceration (with credit for twenty-four days served), suspended immediately for decreasing levels of supervision. After pleading guilty to a separate criminal charge of Escape After Conviction, Turner was found guilty of his second violation of probation and was sentenced on November 8, 2011 to five years at Level V incarceration (with credit for twenty-one days served) to be suspended after serving two months in prison for one year of Level III probation. The probation on his PWID sentence was ordered to run concurrently with the probation on his Escape sentence.

(3) In March 2013, Turner was charged with violating the probation associated with both of his sentences. As to his PWID sentence, the Superior Court sentenced Turner to five years at Level V incarceration (with credit for eighty-one days previously served), suspended entirely for the Level IV Crest Program. Upon successful completion of Crest, the balance of the sentence was suspended for one year at Level III Crest Aftercare. In

August 2013, Turner was charged with his fourth VOP. The Superior Court sentenced him, effective August 29, 2013, to three years at Level V incarceration, to be suspended after serving one year in prison for one year at Level III probation.[1] Turner now appeals.

(4) In his opening brief on appeal, Turner claims that the Superior Court abused its discretion when it refused to consider his arguments challenging the testimony of the Crest Program's representative that he had a behavior problem. Turner argues that these allegations are unsupported by any disciplinary reports in the record.

(5) Unfortunately, we are unable to review Turner's claim. Despite this Court's instructions to do so, Turner failed to order and provide this Court with a copy of the transcript from his VOP hearing and sentencing. The failure to include adequate transcripts of the proceedings, as required by the rules of the Court, precludes appellate review of a defendant's claims of error in the proceedings below.[2]

(6) To the extent that Turner's appeal can be construed as a challenge to the Superior Court's sentence, we find no merit to that contention. Once the Superior Court found that a VOP was established, it

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[1] The Superior Court discharged him as unimproved from his Escape After Conviction Sentence.

[2] *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987).

was authorized to require Turner to serve the entire length of his suspended prison term.[3] Accordingly, the Superior Court, as a matter of law, could have sentenced Turner to serve the remaining term of his original sentence, which was more than four years. The Superior Court, however, imposed only three years at Level V incarceration to be suspended after serving one year in prison for one year at Level III probation. The Superior Court's sentence was legal on its face. Thus, without more, we find no error or abuse by the Superior Court in this case.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

[3] *Gamble v. State*, 728 A.2d 1171, 1172 (Del. 1999).