IN THE SUPREME COURT OF THE STATE OF DELAWARE

TIMOTHY C. SANTEE,	§	
	§	
Defendant Below-Appellant,	§	No. 111, 2013
	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for Sussex County
	§	Cr. ID 0912012441
Plaintiff Below-Appellee.	§	
	§	

Submitted: June 11, 2013
Decided: June 28, 2013

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

O R D E R

This 28th day of June 2013, 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 defendant-appellant, Timothy Santee, filed this appeal from the Superior Court's sentence for a violation of probation (VOP). The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Santee's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Santee pled guilty on March 16, 2010 to one count of Robbery in the First Degree. In exchange for his guilty plea, the State dismissed several other charges. The Superior Court immediately sentenced him

to a total period of fifteen years at Level V incarceration, with credit for time served, to be suspended after serving three years and successful completion of the Key Program for eighteen months at Level IV residential drug treatment to be followed by decreasing levels of supervision. In February 2013, Santee was charged with violating the terms of his probation. On March 5, 2013, the Superior Court held a hearing on the VOP charge. Santee was found in violation and was sentenced to eleven years at Level V incarceration, with credit for time served, suspended immediately for eighteen months at Level IV residential drug treatment, to be suspended upon successful completion of drug treatment for five years at Level III probation.[1] This appeal followed.

(3) In his two-page opening brief on appeal, Santee argues that his violation was unfair and was written out of spite by a counselor against whom Santee had filed a grievance several days earlier. Santee also asserts that his sentence is unjust because he was days away from successfully completing Level IV treatment, and the Superior Court unfairly reimposed the entire eighteen month Level IV portion of his sentence.

(4) With respect to his sentencing claim, the Superior Court was authorized to impose any period of incarceration up to and including the balance of

[1] Additionally, the Superior Court sentenced Santee for violating probation with respect to an earlier, unrelated sentence in Cr. ID 080027966. For that VOP, the Superior Court sentenced Santee to seven years at Level V incarceration, to be suspended immediately for eighteen months at Level III probation.

the Level V time remaining to be served on Santee's original sentence.[2] In this case, the Superior Court suspended all of the Level V time remaining on Santee's sentence and ordered him to serve eighteen months at Level IV residential drug treatment followed by probation. This sentence was well within statutory limits, was not excessive, and in no way reflects a closed mind by the sentencing judge.[3]

(5) Santee's other claim is that the violation charge was not fair and was motivated out of spite by a counselor against whom Santee had filed a grievance. We are unable to review this claim, however, because Santee failed to order and provide this Court with a copy of the transcript from his VOP hearing.[4] As the Court has held many times, 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.[5]

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

BY THE COURT:

/s/ Carolyn Berger
Justice

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[2] 11 Del. C. § 4334(c) (2007).
[3] *See Weston v. State*, 832 A.2d 742, 746 (Del. 2003).
[4] *See Hawkins v. State*, 2010 WL 3341578 (Del. Aug. 25, 2010) (holding that failure to provide transcript of VOP hearing precludes review of argument on appeal).
[5] *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987).