

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DOUGLAS BARRETT,	§	
	§	No. 431, 2013
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1009013741
Appellee.	§	

Submitted: May 9, 2014
Decided: July 21, 2014

Before **STRINE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 21st day of July 2014, upon consideration of the briefs and supplemental memoranda of the parties and the Superior Court record, it appears to the Court that:

(1) On February 8, 2011, the appellant, Douglas Barrett, pled guilty to a drug-related offense and was sentenced to three years at Level V suspended for twelve months at Level III. On June 22, 2011, Barrett was found guilty of his second violation of probation (VOP) and was sentenced to two years, eleven months and twenty-three days at Level V suspended for the same period of time at Level IV CREST, a substance abuse treatment

program, suspended upon successful completion of the program for twelve months at Level III.

(2) On March 28, 2013, Barrett filed a motion for correction of sentence seeking credit for time served at a Level IV VOP Center. By order dated July 26, 2013, the Superior Court ruled that Barrett was “entitled to credit for time served in [the] VOP Center” but was “not entitled to credit for time spent in L4 treatment, e.g., CREST, even if CREST shares space at [the] VOP Center.”

(3) Barrett filed an appeal from the Superior Court’s denial of credit for time served in the CREST program at the VOP Center. On appeal, we are constrained to find that the Superior Court’s denial of credit for time served was an abuse of discretion.

(4) A defendant is entitled to Level V credit for time served at a Level V facility and at a Level IV VOP Center.¹ Credit for time served at a Level V facility includes any time spent in a substance abuse treatment program while at that facility and should also include any time spent in a substance abuse treatment program while at a Level IV VOP Center.²

¹ *Anderson v. State*, 2006 WL 3931460 (Del. Dec. 5, 2006).

² *See, e.g., Mifflin v. State*, 2014 WL 1092283 (Del. Mar. 18, 2014) (affirming VOP sentence giving credit for time spent at a Level V substance abuse treatment program).

NOW, THEREFORE IT IS ORDERED that the Superior Court judgment is REVERSED and this case is REMANDED to the Superior Court for correction of sentence.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice