

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|--------------------------------|
| GREGORY DICKSON, | § |
| | § No. 170, 2014 |
| Defendant Below- | § |
| Appellant, | § |
| | § |
| v. | § Court Below—Superior Court |
| | § of the State of Delaware, |
| STATE OF DELAWARE, | § in and for New Castle County |
| | § Cr. ID 0808020674 |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: June 4, 2014
Decided: July 23, 2014

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

ORDER

This 23rd day of July 2014, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Gregory Dickson, filed this appeal from the Superior Court's order denying his motion for modification of sentence. The State has a filed a motion to affirm the judgment below on the ground that it is manifest on the face of Dickson's opening brief that his appeal is without merit. We agree and affirm.

(2) Dickson pled guilty in February 2009 to one count of Rape in the Second Degree. In exchange for his plea, the State dismissed three other felony charges. The Superior Court sentenced Dickson as a habitual offender to forty

years at Level V incarceration. This Court affirmed the Superior Court's judgment on direct appeal.¹

(3) On January 14, 2014, Dickson filed a motion for modification of sentence asserting that he was making rehabilitative progress. For that reason, he requested the Superior Court to suspend his forty-year sentence after thirty years and successful completion of a GED high school diploma and several programs for various levels of probation. The Superior Court denied Dickson's motion by order dated March 14, 2014. This appeal followed.

(4) Dickson raises no cognizable argument in his opening brief asserting any error by the Superior Court in its March 14, 2014 order denying his motion for modification of sentence. Accordingly, any claim of error as to that order is deemed to be waived.² The only issue Dickson raises in his opening brief contends that the Superior Court should have allowed him to withdraw his guilty plea. Dickson did not raise this issue in his motion for modification of sentence and, thus, the Superior Court did not consider this claim below. Accordingly, we do not consider his argument in this appeal.³ Moreover, the issue of whether Dickson entered a knowing and voluntary guilty plea is a claim that was raised and rejected

¹ *Dickson v. State*, 2010 WL 537731 (Del. Feb. 16, 2010).

² *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

³ Del. Supr. Ct. R. 8 (2014).

by this Court on Dickson's direct appeal.⁴ Under the circumstances, we find no basis to overturn the Superior Court's judgment on appeal.

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

BY THE COURT:

/s/ Leo E. Strine, Jr.

Chief Justice

⁴ *Dickson v. State*, 2010 WL 537731, at *2.