IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL RAILFORD,	§	
	§	
Defendant Below-Appellant,	§	No. 417, 2013
	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for Sussex County
	§	Cr. ID 93S05231DI
Plaintiff Below-Appellee.	§	
	§	

Submitted: November 22, 2013
Decided: January 2, 2014

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

O R D E R

This 2nd day of January 2014, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Michael Railford, filed this appeal from the Superior Court's denial of his motion for modification of sentence. We find no abuse of the Superior Court's discretion. Accordingly, we affirm.

(2) The record reflects that Railford was convicted in 1994 of Attempted Murder in the First Degree, Robbery in the First Degree, two counts of Unlawful Sexual Intercourse in the First Degree, and multiple other related felonies. Railford was sentenced to more than sixty years in prison. This Court affirmed all but one of Railford's convictions on direct

appeal.[1] Since that time, Railford has filed multiple unsuccessful motions seeking postconviction relief and modification of his sentence. In his fourth and most recent motion for modification of sentence, Railford asserted that he has liver cancer, which is incurable. He requested the Superior Court to modify his sentence to allow for his immediate release in order to receive medical treatment.

(3) Superior Court Criminal Rule 35(b) provides that a motion for modification of sentence that is not filed within 90 days of sentencing will only be considered in extraordinary circumstances or pursuant to 11 Del. C. § 4217, which permits a sentence modification if the Department of Correction certifies that an inmate has a serious medical illness and that release of the inmate shall not constitute a substantial risk to the community or the inmate.[2] While unfortunate, Railford's medical condition alone does not constitute extraordinary circumstances, since Railford offered no evidence that the DOC medical staff was not providing adequate care. Moreover, the DOC has not made the required certification under § 4217. In the absence of such certification, we find no abuse of the Superior Court's discretion in denying Railford's motion.[3]

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[1] *Railford v. State*, 1995 WL 466393 (Del. July 28, 1995).

[2] Del. Super. Ct. Crim. R. 35(b) (2013).

[3] *See Hubbard v. State*, 2011 WL 5009772 (Del. Oct. 20, 2011).

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

BY THE COURT:

/s/ Carolyn Berger
Justice