IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS WHITE,	§	
	§	No. 84, 2012
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	Cr. ID Nos. 1101008716
Plaintiff Below,	§	1103008710
Appellee.	§	

Submitted: June 19, 2012
Decided: September 12, 2012

Before **STEELE,** Chief Justice, **HOLLAND** and **JACOBS,** Justices.

O R D E R

This 12th day of September 2012, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) On November 28, 2011, the appellant, Thomas White, was arrested and charged with several drug offenses as well as second degree conspiracy and a traffic violation.[1] On November 29, 2011, White, who was

[1] Cr. ID No. 1111019885.

on probation at the time of his arrest, was charged with violating the terms of his probation for two prior drug-related convictions.[2]

(2) On February 1, 2012, the Superior Court conducted a contested violation of probation (VOP) hearing. At the conclusion of the hearing, the Superior Court found that White had violated the terms of his probation and sentenced him to an aggregate of three years at Level V followed by one year of Level III. This appeal followed.

(3) In his opening brief on appeal, White asserts that he was deprived of due process when the Superior Court found him guilty of VOP based on hearsay evidence alone and when the court violated Superior Court Criminal Rules 32.1 and 16. White also asserts that his defense counsel was ineffective when he failed to make objections to the evidence.

(4) After carefully considering the parties' positions on appeal and the Superior Court record, including the transcript of the February 1, 2012 VOP hearing, the Court concludes that White's evidentiary and due process claims are not supported by the record. Furthermore, the Court notes that White's guilty plea on May 29, 2012 to one of the drug-related charges

[2] Cr. ID Nos. 1103008710 (possession of schedule IV non-narcotic drug) and 1101008716 (maintaining a vehicle for keeping controlled substance).

arising from his November 28, 2011 arrest[3] renders moot his challenge to the Superior Court's finding on February 1, 2012 that he violated the terms of his probation.[4]

(5) To the extent White takes issue with his attorney's representation it is well-established that a claim of ineffective assistance of counsel will not be heard on appeal unless the claim has been raised in the trial court.[5] In this case, White's ineffective assistance of counsel claim was not raised in the Superior Court. Accordingly, we decline to consider the claim on appeal.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

[3] The Court takes judicial notice of the proceedings in *State v. White*, Del. Super., Cr. ID No. 1111019885. *See* docket at 10 (docketing of guilty plea and sentencing).
[4] *DeJesus v. State*, 977 A.2d 797, 799-80 (Del. 2009).
[5] *Duross v. State*, 494 A.2d 1265, 1266 (Del. 1985).