IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM SPICER,	§	
	§	No. 58, 2014
Defendant Below-	§	
Appellant,	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for Sussex County
	§	Cr. ID Nos. 0212011465
Plaintiff Below-	§	and 1105020617
Appellee.	§	

Submitted: May 30, 2014
Decided: June 18, 2014

Before **STRINE**, Chief Justice, **BERGER**, and **RIDGELY**, Justices

O R D E R

This 18th day of June 2014, upon consideration of the State's motion to remand and the appellant's response, it appears to the Court that:

(1) The appellant, William Spicer, filed this appeal from a Superior Court order, dated January 17, 2014, which sentenced him for violating probation associated with two different sentences ("the 2003 sentence" and "the 2011 sentence"). In his opening brief on appeal, Spicer argues that the Superior Court erred in finding him in violation of the 2011 sentence because the condition he was charged with violating—having contact with a minor—was permitted under the 2011 sentence as long as the minor's parent was present.

(2) The State has not filed an answering brief. Instead, the State has filed a motion to remand this case, conceding that the Superior Court erred in finding

Spicer guilty of a VOP with respect to the 2011 sentence because the State could not prove that the minor's parent was not present when Spicer had contact with the minor. The State requests that the VOP sentencing order on appeal be vacated and that the matter be remanded for resentencing for the VOP associated with the 2003 sentence only.

(3) Spicer has filed a response to the State's motion to remand. Spicer agrees that the VOP sentencing order on appeal must be vacated. Spicer requests, however, that the matter be remanded for an entirely new VOP hearing, in part, because the Superior Court erroneously found Spicer in violation of both the 2003 sentence and the 2011 sentence.

(4) The State did not file a reply to Spicer's response and, thus, has offered no objection to Spicer's request for a new VOP hearing. Under the circumstances, because the State concedes error as to both the VOP adjudication and the VOP sentence, we conclude that a remand for a new VOP hearing is appropriate.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is VACATED. This matter is REMANDED for further proceedings consistent with this Order. Jurisdiction is not retained.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice