

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,

v.

DARNELL D. MARTIN,

Defendant.)

) ID No. 1702005493

) Cr. A. Nos. IN17-02-1754 & 55.

Submitted: October 9, 2019

Decided: October 11, 2019

ORDER DENYING MOTION FOR CREDIT TIME

This 11th day of October, 2019, upon consideration of the Defendant Darnell D. Martin's *pro se* Motion for Credit Time (D.I. 58-59), the State's response thereto (D.I. 61), and the record in this matter, it appears to the Court that:

(1) On January 9, 2018, following a bench trial, Darnell Martin was convicted of drug dealing and another related charge. He was immediately sentenced to serve, *inter alia*, a 25-year term of imprisonment suspended after two years for 18 months of supervised probation. The two years of unsuspended imprisonment was a statutory minimum term of incarceration the imposition of which was required and could not be suspended.¹ The

¹ DEL. CODE ANN. tit. 16, § 4752(2) (2016) (drug dealing a tier 2 quantity of marijuana with an aggravating factor is a class B felony); *id.* at tit. 11, §§ 4205(b)(2) & (d) (sentence "[f]or a class B felony [is] not less than 2 years . . . [and any] minimum, mandatory, mandatory minimum or minimum mandatory sentence [] required by subsection (b) of [§ 4205] . . . shall not be subject to suspension by the court").

effective date of Martin's sentence was January 9, 2018, because he was at liberty until his conviction and sentencing.²

(2) Martin filed a direct appeal to the Delaware Supreme Court. His convictions and sentence were affirmed.³ And so, now Martin is pursuing postconviction relief via a separate application.⁴

(3) Martin previously filed an unsuccessful motion for sentence reduction under Superior Court Criminal Rule 35(b).⁵ Martin also previously filed an unsuccessful state petition for a writ of habeas corpus.⁶

(4) Martin's present motion, filed from prison, asks the Court to "grant[] him an additional 2 days previously served."⁷ Martin alleges he was held in police custody for two days when he was first arrested and before he made bail.⁸ But Martin provides no evidentiary support for this contention

² See Sentencing Order, *State v. Darnell D. Martin*, I.D. No. 1702005493 (Del. Super. Ct. Jan. 9, 2018).

³ *Martin v. State*, 2018 WL 4959037 (Del. Oct. 12, 2018).

⁴ D.I. 39-44.

⁵ *State v. Martin*, 2019 WL 1126059 (Del. Mar. 12, 2019).

⁶ D.I. 53-57.

⁷ Def. Mot. at 2.

⁸ *Id.* at 1-2.

and there is nothing on the face of the record that reveals this alleged two-day term of “incarceration.”

(5) Martin’s is a motion seeking application of the statute that requires credit for “any period of actual incarceration” previously served on a given charge when determining the termination date of an inmate’s sentence for that charge.⁹

(6) But Martin is no longer held at Level V; the incarcerative portion of his sentence terminated on September 25, 2019.¹⁰ Thus, any application of credit time to diminish his prison time now is moot.¹¹

(7) Martin is now serving a term of probation, however.¹² So if he is correct in his assertions (*i.e.*, that he has some unaccounted-for previous “period of incarceration”) and his calculations (*i.e.*, that is a two-day period),

⁹ DEL. CODE ANN. tit. 11, § 3901(c) (2016):

Any period of actual incarceration of a person awaiting trial, who thereafter before trial or sentence succeeds in securing provisional liberty on bail, shall be credited to the person in determining the termination date of sentence.

¹⁰ D.I. 61.

¹¹ See, e.g., *Gural v. State*, 251 A.2d 344 (Del. 1969) (adopting and applying the “collateral consequences” rule: “the satisfaction of the sentence renders the case moot unless, in consequence of the conviction or sentence, the defendant suffers collateral legal disabilities”).

¹² See Sentencing Order, at 1 (providing that Martin must serve an 18-month probated term); see also D.I. 61 (confirming that Martin is now serving that probated term).

and if he violates his probation, the maximum Level V term Martin could face would be diminished by the two additional days he sought here.¹³ That is how, when, and the only way he *might* receive credit for time he believes he is due. But that calculation simply is not yet—and hopefully never will be—a matter ripe for determination by the Court.

(8) **NOW, THEREFORE, IT IS ORDERED** that Darnell D. Martin's motion for credit time is **DENIED** as **MOOT**.

SO ORDERED this 11th day of October, 2019.

A handwritten signature in black ink, appearing to read 'Paul R. Wallace', written over a horizontal line.

Paul R. Wallace, Judge

Original to Prothonotary

cc: Timothy G. Maguire, Deputy Attorney General
Gregory E. Smith, Deputy Attorney General
Benjamin S. Gifford, IV, Esquire
Mr. Darnell Martin, *pro se*

¹³ See DEL. CODE ANN., tit. 11, § 4334(c) (2016); *Pavulak v. State*, 880 A.2d 1044, 1046 (Del. 2005); *Gamble v. State*, 728 A.2d 1171, 1172 (Del. 1999).