IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	)	
	)	
	)	
v.	)	Case ID No.: 1710006719
	)	
	)	
CLARENCE M. CHARLES	)	
	)	
Defendant.	)	

ORDER

AND NOW TO WIT, this 21st day of April, 2020,[1] upon consideration of Clarence M. Charles' ("Defendant") Motion for Modification of Sentence under Superior Court Criminal Rule 35, the sentence imposed upon the Defendant, and the record in this case, it appears to the Court that:

1. On October 25, 2017, Defendant pled guilty to Conspiracy to Commit Racketeering and Drug Dealing.[2] On May 7, 2018, Defendant was sentenced to a total of twenty years at Level V, suspended after four years of minimum mandatory Level V; two years for Conspiracy to Commit Racketeering and two years for Drug

[1] The United States of America and the State of Delaware declared states of emergency due to COVID-19. As a result, per Administrative Directives of the Supreme Court of the State of Delaware and the national and local states of emergency, all non-essential criminal matters were stayed. *See* Administrative Order No. 4 Extension of Judicial Emergency (Del. Apr. 14, 2020); *see also* Standing Order No. 6 Concerning COVID-19 Precautionary Measures (Del. Super. Ct. Apr. 15, 2020).

[2] Case Review/Plea Hearing: Pled Guilty/Sentenced, *State of Delaware v. Clarence M. Charles,* Crim. ID No. 1710006719, D.I. 21 (Del. Super. Ct. May 7, 2018) [hereinafter "Def.'s Plea"].

Dealing, followed by transitioning levels of probation, including six months at Level IV DOC Discretion.[3]

2. On December 23, 2019, Defendant filed this motion and a supplemental letter dated February 12, 2020.[4] Defendant asks that the Court modify his sentence from Level IV DOC Discretion to Home Confinement and consider placing him into the Key/Crest Program while at Level V. In support, he asks the Court to consider several certificates of completion while incarcerated,[5] and that he has a "stable home environment and a high likelihood of employment . . . to be back to work as a flagger with Highway Traffic Control, his employer prior to incarceration."[6] He also notes that the health of his elderly parents as a basis to allow him to serve the Level IV portion at a stable home environment.[7]

3. Defendant's sentence was imposed pursuant to a Plea Agreement. After an appropriate colloquy, the Court addressed Defendant in open court pursuant

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[3] For the Racketeering charge, Defendant received ten years at Level V, suspended after two years, (minimum mandatory) for the balance at Level IV DOC Discretion suspended after six months, for eighteen months at Level III probation. For Drug Dealing, Defendant received ten years at Level V, suspended after two years (minimum mandatory) for eighteen months at Level III. Sentence: ASOP Sentence Order Signed and Filed 5/9//2018, *State of Delaware v. Clarence M. Charles*, Crim. ID No. 1710006719, D.I. 22 (Del. Super. Ct. May 7, 2018).
[4] *See* Defendant's Motion for Modification of Sentence, *State of Delaware v, Clarence M. Charles*, Crim. ID No. 1710006719, D.I. 26 (Del. Super. Ct. Dec. 23, 2019) [hereinafter "Def.'s Mot."]; *see also* Defendant's Supplemental Letter for Consideration with Motion, *State of Delaware v, Clarence M. Charles*, Crim. ID No. 1710006719, D.I. 27 (Del. Super. Ct. Feb. 12, 2020) [hereinafter "Def.'s Letter."].
[5] *See* Def.'s Letter at page 1.
[6] *See* Def.'s Mot. at 3.
[7] *Id.*

to Superior Court Criminal Rule 11(c)(1) and determined he understood the nature of the charge to which the plea was offered, the mandatory minimum penalty provided by law and the maximum statutory penalties, including up to fifty years of incarceration. Defendant fully acknowledged in open court that the range of possible penalties included the minimum sentence imposed by the Court in this case.

4. Under Superior Court Criminal Rule 35(b), "[t]he Court may . . . reduce the . . . term or conditions of partial confinement or probation, at any time."[8] The Court commends Defendant for improving his education and for taking advantage of the programs available to him. But this Court has already tailored the current sentence consistent with his request.

5. First, as to the request to place him at Key/Crest, this Court has already considered a prior request from Defendant's fiancée.[9] This Court reiterates that it defers to DOC to determine the appropriateness of placement at Key/Crest. Notably, on May 9, 2018, this Court noted in Defendant's sentence that DOC may make an appropriate determination as to whether Defendant should be enrolled into the Key/Crest Program.

6. Second, as to the request to modify the Level IV sentence to home confinement, the current sentence is flexible to allow DOC to determine whether

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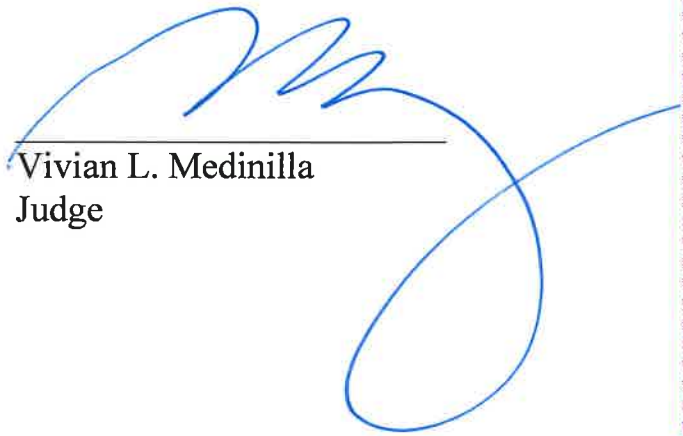
[8] DEL. SUPER. CT. CRIM. R. 35(b).
[9] *See* Letter from Court to Defendant, *State of Delaware v. Clarence M. Charles*, Crim. ID No. 1710006719, D.I. 25 (Del. Super. Ct. May 30, 2018).

home confinement is an appropriate placement, and DOC is to make this administrative decision in the first instance. If it determines that Home Confinement is not appropriate, it will then determine if Work Release is an appropriate placement. The Court will not modify the Order to make it less flexible.

IT IS SO ORDERED that Defendant's Motion for Modification is **DENIED.**



Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Department of Justice
Investigative Services
Defendant