

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID No. 0310020476
)
 JESSE J. CARTER,)
)
 Defendant.)

Date Submitted: July 20, 2020
Date Decided: September 29, 2020

ORDER

Upon consideration of Defendant’s Motion for Modification of Sentence (“Motion”),¹ Superior Court Criminal Rule 35, statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

1. On March 10, 2004, the Defendant pled guilty to three counts of Robbery First Degree and one count of Possession of Firearm During Commission of Felony (“PFDCF”).² By Order issued on April 30, 2004, effective on October 26, 2003, the Defendant was sentenced as follows: for the first count of Robbery First Degree, IN03-11-0298 5 years at Level V; for the second count of Robbery First Degree, IN03-11-0299, 5 years at Level V; for the third count of Robbery First Degree, IN03-12-0227, 5 years at Level V, suspended after 4 years, for 6 months at Level IV Work Release, and 6 months at Level III, hold at Level V until space is

¹ D.I. 25.

² D.I. 7.

available at Level IV; for PFDCF, IN03-12-0228, 7 years at Level V.³

2. On July 20, 2020, Defendant filed this Rule 35 Motion asking the Court to give him “90 days level 5 and suspend the level 4 conditions . . . and any level 5 Your Honor deems appropriate to suspend to level 4.” In support of his Motion, Defendant explains that “COVID-19 is causing serious problems with inmate[s] being able to reach level 4[,] resulting in overcrowding conditions.” Defendant also notes that he is not from Delaware.

3. This is Defendant’s third motion for modification of his sentence.⁴ The Court does not consider repetitive requests for sentence modification.⁵ “A motion is ‘repetitive’ as that term is used in Rule 35(b) when it is preceded by an earlier Rule 35(b) motion, even if the subsequent motion raises new arguments. Rule 35(b) does not set forth any exception to the repetitive motion bar.”⁶ Because this Motion is repetitive, it is procedurally barred.

4. The sentence is appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the Court that would warrant a reduction or modification of this sentence.

5. Accordingly, for the reasons stated above, this Court finds the

³ D.I. 8. Defendant was also sentenced to pay fines and restitution. *Id.*

⁴ Defendant filed his first Motion for Modification of Sentence on June 2, 2004; the Court denied that motion on July 7, 2004. D.I. 9, 12. Defendant filed his second Motion for Modification of Sentence on March 27, 2019; the Court denied that motion on June 19, 2019. D.I. 23, 24.

⁵ Super. Ct. Crim. R. 35(b).

⁶ *State v. Culp*, 152 A.3d 141, 144 (Del. 2016) (citation omitted).

Defendant has not demonstrated cause for the relief sought in the Rule 35 Motion.

NOW, THEREFORE, for the foregoing reasons, the Defendant's Rule 35 Motion is **DENIED**.

/S/ Jan R. Jurden
Jan R. Jurden, President Judge

Original to Prothonotary:

cc: A.J. Roop, Esq., DAG
Jesse J. Carter (SBI# 00516667)