

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID No. 76000001DI
)
 WALTER STOKES,)
)
 Defendant.)

Date Submitted: October 12, 2020
Date Decided: October 22, 2020

ORDER

Upon consideration of Defendant’s Motion for Correction of Illegal Sentence,¹ Defendant’s Motion to Amend Sentence Pursuant to Criminal Rule 35(a)² as amended,³ the State’s response,⁴ Superior Court Criminal Rule 35, statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

1. On March 31, 1977, a jury convicted Defendant of First Degree Murder, First Degree Robbery, First Degree Conspiracy, and two counts of Possession of a Deadly Weapon During the Commission of a Felony (“PDWDCF”).⁵

2. On June 1, 1977, Defendant was sentenced as follows: for First Degree Murder, natural life without benefit of parole; for First Degree Robbery, 3 years at Level V with credit for 128 days previously served; for First Degree Conspiracy, 1

¹ D.I. 89.
² D.I. 88.
³ D.I. 91.
⁴ D.I. 92.
⁵ D.I. 10.

year at Level V; for the first count of PDWDCF; 5 years at Level V; and for the second count of PDWDCF; 5 years at Level V.⁶

3. On June 21, 1977, Defendant appealed his conviction and sentence to the Supreme Court of Delaware.⁷ In its May 9, 1979 opinion, the Supreme Court reversed Defendant's conviction for First Degree Robbery and its accompanying PDWDCF charge.⁸ But the Supreme Court found "no other reversible error"⁹ and expressly affirmed Defendant's conviction for First Degree Murder, First Degree Conspiracy, and one count of PDWDCF.¹⁰

4. On May 25, 1979, this Court modified Defendant's sentence to accord with the Supreme Court's opinion.¹¹ Defendant's sentence was corrected as follows: for First Degree Murder, natural life without benefit of parole; for First Degree Conspiracy, 1 year at Level V; for the first count of PDWDCF; 5 years at Level V; and for the second count of PDWDCF.¹²

5. On June 23, 2020, Defendant filed a Motion for Correction of Illegal Sentence.¹³ On July 8, 2020, Defendant filed a Motion to Amend Sentence Pursuant

⁶ D.I. 18.

⁷ D.I. 20; *Stokes v. State*, 402 A.2d 376 (Del. 1979).

⁸ *Stokes*, 402 A.2d at 382.

⁹ *Id.*

¹⁰ *Id.*

¹¹ D.I. 32.

¹² *Id.*

¹³ D.I. 89.

to Criminal Rule 35(a).¹⁴ On October 5, 2020, Defendant filed a “Motion to Amend and Leave of Court,” in which he supplemented the arguments he made in his July 8, 2020 Motion.¹⁵

6. In the instant Motions, Defendant essentially argues that because the Supreme Court reversed his First Degree Robbery conviction, it was illegal for this Court to resentence him to First Degree Conspiracy and First Degree Murder.¹⁶ As noted above, however, the Supreme Court expressly affirmed Defendant’s convictions for First Degree Conspiracy and First Degree Murder:

Accordingly, we reverse the conviction of the defendant for First Degree Robbery with its accompanying charge of Possession of a Deadly Weapon During the Commission of felony. However, **finding no other reversible error, we affirm the conviction of the defendant for Murder in the First Degree, First Degree Conspiracy,** and one count of Possession of a Deadly Weapon During the Commission of a Felony.¹⁷

7. Accordingly, for the reasons stated above, this Court finds that 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.**

¹⁴ D.I. 88.

¹⁵ D.I. 91.

¹⁶ D.I. 88, 89, 91.

¹⁷ *Stokes*, 402 A.2d at 382 (emphasis added).

Jan R. Jurden

Jan R. Jurden, President Judge

Original to Prothonotary:

cc: Matthew B. Frawley, DAG
Walter Stokes (SBI# 0087540)