

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LUTHER FOREHAND,	§
	§ No. 147, 2022
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 2009006411 (N)
STATE OF DELAWARE,	§
	§
Appellee.	§
	§

Submitted: May 18, 2022
Decided: June 22, 2022

Before **SEITZ**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

ORDER

After careful consideration of the opening brief, the motion to affirm, and the record on appeal, the Court concludes that the judgment of the Superior Court should be affirmed on the basis of the Superior Court’s April 13, 2022, order denying the appellant’s motion for reduction or modification of sentence. The Superior Court sentenced the appellant for possession of a deadly weapon by a person prohibited to fifteen years of imprisonment, suspended after ten years for the balance to be served at Level IV DOC Discretion, suspended after six months for eighteen months of Level III probation. Under 11 *Del. C.* § 1448(c), possession of a deadly weapon by a person prohibited is a Class C felony if the defendant is eligible for sentencing under 11 *Del. C.* § 1448(e)(1)c. The appellant concedes that he was eligible for

sentencing under 11 *Del. C.* § 1448(e)(1)c. The defendant was therefore subject to a sentencing range between ten years¹ and fifteen years of imprisonment.² The Superior Court did not abuse its discretion by denying the appellant’s motion to modify his sentence to eliminate the Level IV and Level III periods.³

NOW, THEREFORE, IT IS ORDERED that the Motion to Affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Karen L. Valihura
Justice

¹ See 11 *Del. C.* § 1448(e)(1)c (requiring a “minimum sentence” of “[t]en years at Level V”).

² See 11 *Del. C.* § 4205(b)(3) (providing a sentencing range for a Class C felony of “up to 15 years to be served at Level V”).

³ See *Gladden v. State*, 2020 WL 773290 (Del. Feb. 17, 2020) (“We review the Superior Court’s denial of a motion for sentence modification for abuse of discretion.”).