

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) I.D. No. 1412013291
)
 JAVON J. LEMONS,)
)
 Defendant.)

Date Submitted: July 11, 2022
Date Decided: August 2, 2022

**ORDER DENYING DEFENDANT’S MOTION
FOR MODIFICATION OF SENTENCE**

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

1. On September 16, 2015, Defendant pled guilty to Robbery First Degree, Possession of a Firearm During the Commission of a Felony, and Drug Dealing.¹ Defendant was sentenced to 15 years at Level V followed by decreasing levels of supervision and probation.²

¹ D.I. 9.

² D.I. 10. Defendant was sentenced as follows: for Robbery First Degree, IN14-12-1640, 15 years at Level V, suspended after 3 years at Level V for 2 years at Level IV DOC Discretion, suspended after 6 months, followed by 18 months at Level III, hold, at Level V until space is available at Level IV DOC Discretion; For Possession of a Firearm During the Commission of a Felony, IN14-12-1627, 6 years at Level V; For Drug Dealing, IN14-12-2492, 8 years at Level V, suspended for 18 months at Level III probation. The Level III probation is concurrent to any Level III under criminal action number IN14121640.

2. This is Defendant’s fifth motion for modification of sentence.³

3. Defendant filed the instant motion for modification of sentence on July 11, 2022.⁴ In this motion, he again asks the Court to modify the Level IV DOC Discretion portion of his sentence, in this instance to Level IV Work Release.⁵

4. Superior Court Criminal Rule 35 governs motions for modification of sentence. Under Rule 35(b), “[t]he Court may. . . reduce the . . . the term or conditions of partial confinement or probation, at any time.”⁶ The Court, however, will not consider repetitive requests for reduction or modification of sentence.⁷

5. As noted above, this is Defendant’s fifth motion for modification of his sentence and, as such, the motion is barred as repetitive.⁸ Defendant’s sentence is appropriate for all the reasons stated at the time of the sentencing. No additional information has been provided to the Court that would warrant a modification of this sentence.

³ The Court denied his previous four motions. *See* D.I. 13, D.I. 15, D.I. 18, D.I. 22.

⁴ D.I. 23.

⁵ *Id.* *See also* D.I. 21. Defendant previously requested that the Level IV DOC Discretion portion of his sentence be eliminated.

⁶ Super. Ct. Crim. R. 35(b).

⁷ Super. Ct. Crim. R. 35(b).

⁸ *See supra* note 3.

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant's Motion for Modification is **DENIED**.

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

cc: Original to Prothonotary
Annemarie H. Puit, DAG
Javon J. Lemons (SBI# 00485129)