

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE, )  
 )  
 v. ) ID No. 2101005153  
 )  
 NIGEL RANSOME, )  
 )  
 Defendant. )

Date Submitted: October 7, 2022  
Date Decided: November 22, 2022

**ORDER**

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

(1) On April 6, 2022, Defendant pled guilty to Carrying a Concealed Deadly Weapon (“CCDW”) and Burglary Second Degree.<sup>1</sup> The State moved to have Defendant declared a habitual offender under 11 *Del. C.* § 4214(d) on July 29, 2022.<sup>2</sup> The Court granted the motion,<sup>3</sup> and by Order dated August 5, 2022,<sup>4</sup> effective

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<sup>1</sup> D.I. 14.

<sup>2</sup> D.I. 16.

<sup>3</sup> D.I. 17. The State’s motion was supported by proof of Defendant’s two prior Title 11 felony convictions, which qualified Defendant for habitual offender status under 11 *Del. C.* § 4214(d). D.I. 16.

<sup>4</sup> D.I. 16.

January 12, 2021, Defendant was sentenced as follows: as to CCDW, 8 years at Level V;<sup>5</sup> and as to Burglary Second Degree, 8 years at Level V, suspended after 18 months for 1 year at Level III.<sup>6</sup> Because the Court declared Defendant a habitual offender, Defendant's CCDW sentence for 8 years at Level V unsuspended is mandatory pursuant to 11 *Del. C.* § 4214(d).<sup>7</sup>

(2) In the instant Motion, Defendant asks the Court to suspend 3 years of his 8-year sentence on the CCDW charge.<sup>8</sup> In support of this request, Defendant cites his obligations as a sole provider for his family, his rehabilitation efforts, his pending employment upon release, and his expressions of remorse.<sup>9</sup>

(3) Superior Court Criminal Rule 35(b) governs motions for modification of sentence. "Under Rule 35(b), a motion for sentence modification must be filed within ninety days of sentencing, absent a showing of 'extraordinary circumstances.'"<sup>10</sup> Rule 35(b) also mandates that "[t]he [C]ourt *will not* consider

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.* Defendant was also sentenced to pay restitution in the amount of \$7424.91 to the victim.

<sup>7</sup> 11 *Del. C.* § 4214(d); 11 *Del. C.* § 1442; 11 *Del. C.* § 4205(b)(4).

<sup>8</sup> D.I. 20.

<sup>9</sup> *Id.*

<sup>10</sup> *Croll v. State*, 2020 WL 1909193, at \*1 (Del. Apr. 17, 2020) (TABLE) (affirming the Superior Court's denial of a motion for modification of sentence where the motion was repetitive and filed beyond the 90-day limit).

repetitive requests for reduction of sentence.”<sup>11</sup> The bar to repetitive motions has no exception.<sup>12</sup>

(4) This is Defendant’s first Rule 35(b) motion, and it was filed within 90 days<sup>13</sup> of the imposition of sentence, therefore, his motion is not procedurally barred under Rule 35(b). Rule 35 does not, however, give the Court authority to reduce or suspend the mandatory portion of a substantive statutory minimum sentence.<sup>14</sup> Pursuant to, 11 *Del. C.* § 4214(e), a sentence imposed under the section “shall be served in its entirety at full custodial Level V institutional setting” and shall not be suspended by the Court.<sup>15</sup>

(5) The Court sentenced Defendant as a habitual offender to the minimum mandatory required by statute on the CCDW charge. The Court has no authority to change or modify the mandatory portion of Defendant’s sentence under either Rule 35(b) or § 4214. Accordingly, Defendant’s 8-year Level V sentence for CCDW is mandatory, and therefore, the Court cannot reduce or modify these sentences.

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<sup>11</sup> Super. Ct. Crim. R. 35(b) (emphasis added).

<sup>12</sup> *See Culp*, 152 A.3d 141, 144 (Del. 2016); *State v. Redden*, 111 A.3d 602, 608–09 (Del. Super. 2015).

<sup>13</sup> Defendant filed the instant motion exactly 90 days after sentencing. Super. Ct. Civ. R. 6.

<sup>14</sup> *State v. Sturgis*, 947 A.2d 1087, 1092 (Del. 2008).

<sup>15</sup> 11 *Del. C.* § 4214(e)

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

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

Original to Prothonotary

cc: Nigel Ransome (SBI # 00944474)  
Jillian Schroeder, DAG