

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID No. 84000200DI
)
 DURWIN HARMON,)
)
 Defendant.)

Date Submitted: October 9, 2023
Date Decided: November 14, 2023

ORDER

Upon consideration of Defendant Durwin Harmon’s (“Harmon”) Letter Motion for Modification of Partial Confinement or Probation (“Motion”),¹ Superior Court Criminal Rule 35(b),² statutory and decisional law, and the record in this case,

IT APPEARS THAT:

(1) On August 8, 1984, Harmon was found guilty by jury trial of First Degree Kidnapping, First Degree Rape, First Degree Assault, First Degree Robbery, Possession of a Deadly Weapon by a Person Prohibited, and three counts of Possession of a Deadly Weapon during the Commission of a Felony.³ Harmon was sentenced to two life terms of imprisonment plus an additional twenty-four years.⁴

¹ D.I. 112. Mr. Harmon submitted a letter to the Court asking for his GPS to be removed. While he did not explicitly move under Rule 35(b), the Court reviews his motion as such.
² Super. Ct. Crim. R. 35(b).
³ D.I. 13.
⁴ D.I. 19.

Thirty-eight years of the sentence was mandatory.⁵ After serving 39 years, Harmon was released from Level V incarceration.⁶

(2) In the instant Motion, Harmon requests the removal of his GPS monitor requirement.⁷

(3) Rule 35(b) governs motions for modification or reduction of sentence.⁸ “A motion for modification of partial confinement or probation is not subject to the ninety-day limitation applicable to a motion for reduction of imprisonment.”⁹ Pursuant to 11 *Del. C.* § 4333, any probation or suspension of sentence may be terminated at the Court’s discretion.¹⁰

(4) The authority of the court to grant relief under Rule 35(b) is discretionary.¹¹ Rule 35(b) does not provide specific considerations the Court must consider, rather “the Court exercises broad discretion in determining whether a situation or set of individual factors can be viewed.”¹²

(5) In support of his Motion, Durwin cites hardships such as the inability to go on vacation with his family, the inability to swim or take a bath, the monthly

⁵ *Id.*

⁶ D.I. 112.

⁷ *Id.*

⁸ Super. Ct. Crim. R. 35(b).

⁹ *State v. Baily*, 2017 WL 8787504 at *1 (Del. Super. Ct. Oct. 3, 2017); *State v. Redden*, 111 A.3d 602, 609 (Del. Super. Ct. 2015).

¹⁰ *Id.*

¹¹ *Id.*

¹² *State v. Redden*, 111 A.3d 602, 609 (2015).

bill associated with the GPS monitor, and the requirement to attend a group session every week in which he has to pay for a lie detector test.¹³ The Court does not find these “hardships” warrant modification.

(6) The sentence is appropriate for all the reasons stated at sentencing.

NOW, THEREFORE, IT IS HEREBY ORDERED that Durwin Harmon’s Motion for Modification of Partial Confinement or Probation is **DENIED**.

/s/ Jan R. Jurden
President Judge

cc: Original to Prothonotary
Abigail E. Rodgers, Esq.
Durwin Harmon

¹³ D.I. 112.