

IN THE SUPREME COURT OF THE STATE OF DELAWARE

QUENTIN LEWIS,	§
	§ No. 137, 2023
Defendant Below,	§
Appellant,	§ Court Below–Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 1609008582 (S)
STATE OF DELAWARE,	§
	§
Appellee.	§

Submitted: September 18, 2023
Decided: December 4, 2023

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

ORDER

After consideration of the appellant’s opening brief, the appellee’s motion to affirm, and the Superior Court record, it appears to the Court that:

(1) The appellant, Quentin Lewis, appeals the Superior Court’s order sentencing him for a violation of probation (“VOP”). The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Lewis’s opening brief that his appeal is without merit. We agree and affirm.

(2) In March 2017, Lewis pleaded guilty to one count of failure to register as a sex offender and one count of first-degree assault. The Superior Court immediately sentenced Lewis as follows: for failure to register, to one year of Level V incarceration, no probation to follow; and for first-degree assault, to 25 years of

Level V incarceration, suspended after two years for decreasing levels of supervision. Lewis did not appeal his convictions or sentence.

(3) In November 2019, the Superior Court found that Lewis had violated the terms of his probation by, among other things, failing to complete a sex-offender treatment assessment. The Superior Court re-sentenced Lewis for assault¹ to 22 years of incarceration, suspended for two years of Level III (with GPS monitoring) probation. In March 2020, the Superior Court again found that Lewis had violated the terms of his probation by, among other things, failing to attend sex-offender group sessions. The Superior re-sentenced Lewis to 21 years and 11 months of incarceration, suspended for two years of Level III (with GPS monitoring) probation.

(4) In August 2020, the Superior Court found that Lewis had violated the terms of his probation for a third time and re-sentenced him to 21 years and 8 months of incarceration, suspended after one year and the successful completion of a Level V program (to be chosen at the discretion of the Department of Correction) for two years of Level III probation. In November 2021, the Superior Court found that Lewis had again violated the terms of his probation and re-sentenced him to 16 years and 2 months of incarceration, suspended for two years of Level III probation.

(5) In December 2022, Lewis's probation officer filed a VOP report alleging that Lewis had violated the terms of his probation for a fifth time because

¹ Lewis had completed his sentence for failure to register.

he had failed to comply with the special terms of his probation: specifically, Lewis had cut off his GPS-monitoring bracelet, failed to attend anger-management classes, and failed to attend sex-offender group meetings. Following a VOP hearing on January 26, 2023, the Superior Court found that Lewis had violated the terms of his probation and ordered a presentence investigation. On March 24, 2023, the Superior Court re-sentenced Lewis to 15 years and 8 months of incarceration, suspended after 18 months and the successful completion of the Transitions Sex Offender Program (the “Transitions Program”) for two years of Level III (with GPS monitoring) probation.² This appeal followed.

(6) In his opening brief on appeal, Lewis complains that he was unable to comply with the terms of his probation because they were too strict and argues that his probation officer’s recommendation that he receive sex-offender and anger-management treatment as part of both his Level V sentence and his Level III probationary sentence violates double-jeopardy principles. Because Lewis did not provide the Court with the transcripts of the January 26, 2023 VOP hearing or the March 24, 2023 sentencing hearing, we are unable to discern what objections, if any, Lewis made regarding the terms of his sentence. In any event, probation is an “act of grace,” and the Superior Court has broad discretion when deciding whether to

² The Superior Court’s original sentencing order did not give Lewis credit for all the time he had previously served. It was corrected on May 3, 2023.

revoke a defendant's probation.³ Specifically, the Superior Court need only be satisfied that "the conduct of the probationer has not been as good as required by the conditions of probation."⁴ Once the Superior Court determines that a defendant has violated the terms of his probation, the Superior Court may impose any period of incarceration up to and including the balance of Level V time remaining on the original sentence.⁵ Where, as here, the defendant admits that he violated the terms of his probation and the Superior Court imposes a sentence that does not exceed the balance of Level V time remaining on his sentence, the Superior Court's judgment must be affirmed.⁶

NOW, THEREFORE, IT IS HEREBY ORDERED that the motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

³ *Kurzmann v. State*, 903 A.2d 702, 716 (Del. 2006).

⁴ *Id.* (citation omitted).

⁵ 11 *Del. C.* § 4334(c); *Pavulak v. State*, 880 A.2d 1044, 1046 (Del. 2005).

⁶ To the extent that Lewis claims that his probation officer's recommendation ran afoul of the Double Jeopardy Clause, he is mistaken. The Double Jeopardy Clause protects a defendant from, among other things, receiving multiple sentences for the same offense. *Blake v. State*, 65 A.3d 557, 561 (Del. 2013). That protection is not implicated here. See *Franklin v. State*, 2021 WL 1961650, at *2 (Del. May 14, 2021) (rejecting the appellant's argument that Superior Court's sentence, which required the appellant to complete the Transitions Program, violated double-jeopardy principles because he had previously completed various sex-offender treatment programs).