

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES A. MAPP, JR.
(aka JAMES A. THOMAS),

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Appellee.

§

§ No. 382, 2023

§

§ Court Below–Superior Court
§ of the State of Delaware

§

§ Cr. ID No. 93K01153DI

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Submitted: December 11, 2023

Decided: February 20, 2024

Before **TRAYNOR**, **LEGROW**, and **GRIFFITHS**, Justices.

ORDER

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

(1) The appellant, James A. Mapp, Jr. (aka James A. Thomas), appeals the Superior Court’s denial of his motion for sentence modification. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Mapp’s opening brief that his appeal is without merit. We agree and affirm.

(2) In June 1993, Mapp pleaded guilty to one count of First Degree Unlawful Sexual Intercourse and one count of Second Degree Unlawful Sexual Intercourse. Following a presentence investigation, the Superior Court sentenced

Mapp to life in prison plus a term of years. Mapp did not appeal his convictions or sentence.

(3) Shortly after sentencing, Mapp, with the assistance of counsel, filed a timely motion for reduction of sentence under Superior Court Criminal Rule 35(b). The Superior Court denied the motion, and Mapp did not appeal.

(4) In July 1995, Mapp filed his first motion for postconviction relief. The Superior Court denied Mapp's motion, and the Delaware Supreme court affirmed the denial.

(5) Between 2013 and 2020, Mapp filed unsuccessful motions for sentence modification and correction of an illegal sentence. In 2021, Mapp filed a petition for a writ of habeas corpus, arguing that his sentence was disproportionate to his crimes and constituted cruel and unusual punishment in light of society's evolving standards of decency. The Superior Court denied the petition, holding that Mapp was legally detained. Mapp did not appeal.

(6) On September 14, 2023, Mapp filed a fourth motion for sentence modification. In support of his motion, Mapp argued, in part,¹ that the Superior Court should consider his untimely application to modify his sentence because extraordinary circumstances existed in the form of new scientific research and evolving societal views regarding life-without-parole sentences.

¹ Mapp's motion was ninety-five pages in length.

(7) “The merit of a [motion for] sentence modification under Rule 35(b) is directed to the sound discretion of the Superior Court.”² The Superior Court may consider a motion for modification filed more than ninety days after the defendant’s sentencing “only in extraordinary circumstances or pursuant to 11 *Del. C.* § 4217.”³ The Superior Court will not consider repetitive requests for modification.⁴ Using a pre-printed form, the Superior Court denied Mapp’s motion because: (i) the motion was not filed within ninety days of sentencing, and the Court did not find the existence of any “extraordinary circumstances;” and (ii) “the Court [would] not consider repetitive requests for reduction [or modification] of sentence.”⁵ This appeal followed.

(8) In his opening brief on appeal, Mapp contends that the Superior Court abused its discretion when it denied his motion because, he claims, the court did not consider his argument that extraordinary circumstances existed to excuse his untimely filed motion. Mapp appears to assume that the Superior Court’s use of a pre-printed form is evidence that the court did not consider his motion on its merits and somehow precludes his ability to present his argument on appeal. Mapp’s claim is without merit.

² *Rondon v. State*, 947 A.2d 1123, 2008 WL 187964, at *1 (Del. Jan. 15, 2008) (TABLE).

³ Del. Super. Ct. Crim. R. 35(b).

⁴ *Id.*; *State v. Culp*, 152 A.3d 141, 144 (Del. 2016) (“Rule 35(b) does not set forth any exception to the repetitive motion bar.”).

⁵ State’s Mot. to Affirm, Ex. A.

(9) As we have previously held under similar circumstances, the pre-printed order issued by the Superior Court in this case adequately set forth the court's reasoning for denying Mapp's motion and allows for appellate review.⁶ Moreover, the Superior Court did not abuse its discretion when it denied Mapp's motion for sentence reduction: Mapp's motion did not set forth extraordinary circumstances warranting an exception to Rule 35(b)'s time bar, and the motion was an impermissible repetitive request for sentence modification.⁷

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/ Abigail M. LeGrow

Justice

⁶ See *Henry v. State*, 981 A.2d 1172, 2009 WL 3286068, at *1 (Del. Oct. 13, 2009) (TABLE); *Burns v. State*, 892 A.2d 1083, 2006 WL 196435, at *1 (Del. Jan. 24, 2006) (TABLE); *Crawford v. State*, 820 A.2d 371, 2003 WL 1572124, at *1 (Del. Mar. 25, 2003) (TABLE).

⁷ See *Gibbs v. State*, 862 A.2d 385, 2004 WL 2743427, at *2 (Del. Nov. 12, 2004) (TABLE) (affirming the Superior Court's denial of the movant's fourth, *timely* filed motion for sentence modification as an impermissible repetitive motion).