

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 Plaintiff,)
)
 v.)
)
 DOUGLAS MATTHEWS,)
)
 Defendant.)

I.D.: 2207005476
2207004584

ORDER ON DEFENDANT’S MOTION TO MODIFY SENTENCE

On July 9, 2024 the Defendant, Douglas Matthews , filed a Motion to Modify his sentence under Superior Court Criminal Rule 35. Having considered the Defendant’s Motion and this Court’s review of the record, it appears to the Court that:

1) On June 7, 2024 Douglas Matthews was sentenced for the following charges to which he pled guilty: Burglary First Degree – 10 years at Level V, suspended after 4 years for 6 months at Level IV DOC discretion to be followed by 18 months at Level III; Assault Second – 3 years at Level V; Stalking one year at Level V; and Resisting Arrest – 1 year at Level V suspended for 6 months at Level III. All Level V time is to be served consecutively and all Level III time is to be served concurrently.

2) Defendant, through the instant Motion to Modify his sentence, requests that the Court amend his sentence to allow the Level V time on his sentences to run concurrently and not consecutively. In support of this request Defendant maintains

that his existing sentence is unfair and constitutes cruel and unusual punishment.

3) The Court may consider such a request “without presentation, hearing or argument.”¹ When considering motions for sentence reduction or modification, this Court addresses any applicable bars before turning to the merits.

4) The purpose of Superior Court Criminal Rule 35(b) historically has been to provide a reasonable period for the Court to consider alteration of its sentencing judgments.² Where a motion for reduction of sentence of imprisonment is filed within 90 days of sentencing, the Court has broad discretion to decide if it should alter its judgment.³ “The reason for such a rule is to give a sentencing judge a second chance to consider whether the initial sentence is appropriate.”⁴ But, no doubt, as movant, Mr. Matthews must shoulder the burden of establishing just cause for modification of his otherwise legal sentence.⁵

5) The Court has examined Mr. Matthews’ claim—*i.e.*, his request that the Court reconsider and decide if, on further reflection, its sentence now seems unduly harsh—on the merits. Under every iteration of Delaware’s criminal rules governing motions to reduce sentences, such entreaties are addressed to the sound discretion of this Court.⁶

¹ Superior Court Criminal Rule 35.

² *Johnson v. State*, 234 A.2d 447, 448 (Del. 1967) (per curiam).

³ *Hewett v. State*, 2014 WL 5020251, at *1 (Del. Oct. 7, 2014) (“When, as here, a motion for reduction of sentence is filed within ninety days of sentencing, the Superior Court has broad discretion to decide whether to alter its judgment.”).

⁴ *State v. Remedio*, 108 A.3d 326, 331 (Del. Super. Ct. 2014) (internal citations and quotations omitted) (Observing that such a request is essentially a plea for leniency: an appeal to the sentencing court to reconsider and show mercy.). See also *State v. Tinsley*, 928 P.2d 1220, 1223 (Alaska Ct. App. 1996) (Explaining under Alaska’s then-extant 120-day rule, that a court’s “authority can be exercised even when there is no reason to reduce the sentence other than the judge’s decision to reconsider and show mercy.”).

⁵ See *State v. Joseph*, 2018 WL 1895697, at *1 (Del. Super. Ct. Apr. 11, 2018) (“The burden is upon the movant to establish cause to modify a lawfully imposed sentence.”).

⁶ *Hewett*, 2014 WL 5020251, at *1. See also *Shy v. State*, 246 A.2d 926 (Del. 1968); *Lewis v. State*, 1997 WL 123585, at *1 (Del. Mar. 5, 1997).

6) Defendant was sentenced on June 7, 2024, and submitted his Motion for Modified Sentence on July 9, 2024. The Defendant filed a timely request for modification of his sentence.

7) “A request for leniency and reexamination of the sentencing factors is precisely the stuff of which a proper and *timely* Rule 35(b) motion is made.”⁷

8) The Court has had occasion to review this entire matter. Given the nature of the crimes for which he is incarcerated, it is this Court’s view that Defendant’s sentences are appropriate for all the reasons stated at the time of his original sentencing. No additional information has been provided to the Court that would warrant a reduction or modification of Defendant’s sentences. The Court declines Mr. Matthew’s request to run his Level V time concurrently rather than consecutively.

Accordingly, the Court will exercise its discretion under Rule 35(b)⁸ and **DENY** Mr. Matthews’s request to run his Level V time concurrently.

IT IS SO ORDERED this 11th day of July, 2024.

/s/ Francis J. Jones, Jr.
Francis J. Jones, Jr., Judge

Encl.

Original to Prothonotary

cc: Jenna Milecki, Deputy Attorney General

Mr. Douglas Matthews, SBI 00993814, HRYCF (w/o Encl.)

⁷ *Remedio*, 108 A.3d at 331-32 (emphasis in original).

⁸ *Rondon v. State*, 2008 WL 187964, at *1 (Del. Jan. 15, 2008) (“The merit of a sentence modification under Rule 35(b) is directed to the sound discretion of the Superior Court.”).