

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID No. 0806016612
)
 FRANKLIN D. MULLINS III,)
)
 Defendant.)
)

Date Submitted: August 15, 2024
Date Decided: October 16, 2024

ORDER

Upon consideration of Defendant Franklin Mullins’ third Motion for Sentence Modification,¹ Delaware Superior Court Criminal Rule 35(b),² statutory and decisional law, and the record, **IT APPEARS THAT:**

(1) On January 12, 2009, Mullins pled guilty to Rape Second Degree (IN08-06-1519).³ By Order dated March 13, 2009, effective June 12, 2008, the Court sentenced Mullins as follows: 25 years at Level V, suspended after 22 years at Level V for 1 year at Level IV, followed by 2 years at Level III.⁴

(2) On December 7, 2009, Mullins filed his first Motion for Sentence Modification to request the Court to “modify [his] sentence” because he is a first-

¹ D.I. 26.
² Del. Super. Ct. Crim. R. 35(b).
³ D.I. 10.
⁴ D.I. 16.

time offender, the sentence is outside the Truth in Sentencing guidelines, and he has already served one year and six months.⁵ By Order dated March 9, 2009, the Court denied the motion.⁶

(3) On April 29, 2013, Mullins filed his second Motion for Sentence Modification requesting the Court “to specify that [he] is to be placed in either the Family Problems Group or the Connections Group, and upon completion of either group, the court will consider modifying the Non-Mandatory portion of his sentence.”⁷ By Order dated May 21, 2013, the Court denied the motion.⁸

(4) On August 15, 2024, Mullins filed the instant Motion for Sentence Modification (“Motion”) asking the Court “to adjust his 1 year of Level IV – Home Confinement to Level III.”⁹

(5) Delaware Superior Court Criminal Rule 35(b) governs motions for modification of sentence.¹⁰ The purpose of Rule 35(b) is to “provide a reasonable period for the Court to consider alteration of its sentencing judgments.”¹¹ Rule 35(b) contains procedural bars for timeliness and repetitiveness.¹² Under Rule 35(b), the

⁵ D.I. 19.

⁶ D.I. 21. The motion was denied because motion was filed more than 90 days after the imposition of the sentence and is, therefore, time barred.

⁷ D.I. 24.

⁸ D.I. 25. The motion was denied because motion was filed more than 90 days after the imposition of the sentence and is, therefore, time barred.

⁹ D.I. 26.

¹⁰ Del. Super. Ct. Crim. R. 35(b).

¹¹ *State v. Remedio*, 108 A.3d 326, 331 (Del. Super. 2014).

¹² Del. Super. Ct. Crim. R. 35(b).

“[C]ourt will not consider repetitive requests for reduction of sentence.”¹³ The repetitive motion bar is applicable even when the request is for reduction or modification of a term of partial confinement or probation.¹⁴

(6) Because this is his third motion for sentence modification, Mullins’ Motion is procedurally barred as repetitive.¹⁵

(7) The sentence is appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the Court which would warrant a reduction or modification of this sentence.

NOW, THEREFORE, IT IS HEREBY ORDERED that Mullins’ third Motion for Sentence Modification is **DENIED**.

IT IS SO ORDERED.

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

cc: Original to Prothonotary
Renee L. Hrivnak, Esq.
Franklin D. Mullins III (SBI # 00620326)

¹³ *Id.*

¹⁴ *State v. White*, 2018 WL 3545505, at *1 (Del. Super. Ct. July 23, 2018); *See also Teat v. State*, 31 A.3d 77 (Del. 2011) (The Supreme Court of Delaware affirmed the denial of a motion seeking modification of partial confinement on the grounds that the motion was repetitive.).

¹⁵ *See supra* ¶¶ 2-4.