

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE	)	
	)	
v.	)	I.D. # 2105000951
	)	
JACARI ROBINSON,	)	
	)	
Defendant.	)	

Submitted: August 11, 2025

Decided: August 19, 2025

\*Amended: August 20, 2025

**ORDER**

This \*19<sup>th</sup> day of August 2025, upon consideration of the Motion for Rule 35(a) Correction of an Illegal Sentence filed by Defendant Jacari Robinson (“Robinson”);<sup>1</sup> and the record in this case, it appears to the Court that:

1. Robinson pled guilty on August 14, 2022 to Illegal Gang Participation, Murder Second Degree, two counts of Possession of a Firearm During the Commission of a Felony (“PFDCF”), and Assault Second Degree.<sup>2</sup> The same day, he was sentenced to unsuspended minimum mandatory sentences of 15 years at Level V on the charge of Murder Second Degree and three years each on two counts of PFDCF.<sup>3</sup> He was sentenced to an additional unsuspended year at Level V on the

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<sup>1</sup> D.I. 73.

<sup>2</sup> D.I. 61.

<sup>3</sup> D.I. 64.

charge of Assault Second Degree and a suspended sentence on the Illegal Gang Participation charge.<sup>4</sup>

2. In his Motion, Robinson, citing *Hunter v. State*,<sup>5</sup> argues that his double jeopardy rights were violated when the Court sentenced him on both the PFDCF charges and the felonies to which they related. Specifically, he argues that it was improper to sentence him on both the Assault Second Degree charge (Count 65) and the related PFDCF charge (Count 66).<sup>6</sup> Additionally, he argues it was likewise improper to sentence him on both the Murder Second Degree charge (Count 63) and the related PFDCF charge (Count 64).

3. Pursuant to Criminal Rule 35(a), the Court may correct an illegal sentence at any time.<sup>7</sup> A sentence is illegal if it violates double jeopardy, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to the substance of the sentence, or is a sentence that the judgment of conviction did not authorize.<sup>8</sup> The Court may correct a sentence imposed in an illegal manner

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<sup>4</sup> *Id.*

<sup>5</sup> 420 A.2d 119 (Del. 1980).

<sup>6</sup> D.I. 73.

<sup>7</sup> Super. Ct. Crim. R. 35(a).

<sup>8</sup> *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

within the time provided for the reduction of sentence which is 90 days from the imposition of sentence.<sup>9</sup>

4. In the late 1970s and early 1980s the Delaware Supreme Court wrestled with the double jeopardy issue in a trio of cases, *Hunter* being one of them. Another was *Davis v. State*,<sup>10</sup> *Davis* dealt with the issue of double jeopardy in the context of first degree robbery and a weapons charge. The Court concluded that “since s 832 [the first degree armed robbery statute] is indistinguishable from and has replaced s 1447 [the Possession of a Deadly Weapon During the Commission of a Felony statute] in cases of armed robbery, defendant’s conviction under the weapons statute cannot stand.”<sup>11</sup> Finally, in *Evans v. State*,<sup>12</sup> the Court applied the principles announced in *Hunter* to set aside the defendant’s separate sentences for Manslaughter and Possession of a Deadly Weapon During the Commission of a Felony (“PDWDCF”) as well as his separate sentences for Assault Second Degree and PDWDCF.<sup>13</sup>

5. The precedential value of those cases was short-lived. *Hunter* and *Evans* were remanded to the Delaware Supreme Court by the United States Supreme

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<sup>9</sup> Super. Ct. Crim. R. 35(a) and (b).

<sup>10</sup> 400 A.2d 292 (Del. 1979).

<sup>11</sup> *Id.* at 297.

<sup>12</sup> 420 A.2d 1186 (1980)

<sup>13</sup> *Id.* at 1191.

Court for “further consideration in light of *Albernaz v. United States*.”<sup>14</sup> On remand, the Delaware Supreme Court allowed for sentencing of both Hunter and Evans on the underlying felony and the PDWDCF charge.<sup>15</sup> *Davis* was overruled by *LeCompte v. State*.<sup>16</sup> It is now, and long has been the rule in Delaware that the question of double jeopardy “is controlled by the clearly expressed legislative intent of the General Assembly in providing for enhanced punishment where persons possess a deadly weapon during the commission of a felony ...[S]uch sentences are permissible, and given our unambiguous legislation on the subject, are mandatory.”<sup>17</sup>

6. In short, the foundation of Robinson’s motion has not been good law in Delaware for four decades, and contradicts current law.

7. **THEREFORE**, Defendant Jacari Robinson’s Motion for Rule 35(a) Correction of Illegal Sentence is **DENIED. IT IS SO ORDERED.**

/s/ Ferris W. Wharton  
Ferris W. Wharton, J.

Original to Prothonotary

cc: Joseph Grubb, Esquire, Deputy Attorney General  
Erika R. Flaschner, Esquire, Deputy Attorney General  
Jacari Robinson (SBI# 00894447)  
Investigative Services

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<sup>14</sup> *Hunter v. State*, 430 A.2d 476 (Del. 1981); *Evans v. State*, 430 A.2d 481 (Del. 1981).

<sup>15</sup> *Id.*

<sup>16</sup> 516 A.2d 898 (Del. 1986).

<sup>17</sup> *Id.* at 898.