

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MAURICE WILLIAMS,	§	No. 55, 2012
	§	
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware, in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	Cr. I.D. No. 9901005150
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: September 26, 2012

Decided: October 2, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

ORDER

This 2nd day of October 2012, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Maurice Williams, the defendant-below (“Williams”), appeals from a Superior Court’s denial of his Motion for Correction of Sentence. Williams also attempts (in his Amended Opening Brief) to appeal from the Superior Court’s denial of his Motion for Reargument. Because we find no merit to Williams’ claims, we affirm the order denying his Motion for Correction of Sentence, and dismiss his attempted appeal from the order denying his Motion for Reargument.

2. In April 1999, Williams pleaded guilty to, among other charges, one count of Robbery in the Second Degree. In its June 11, 1999 sentencing order, the

Superior Court sentenced Williams to five years of imprisonment for his Robbery conviction. The first four years were to be served at Level V pursuant to 11 *Del. C.* § 4204(k), with the remaining year to be served at Level IV.¹ In its January 28, 2010 order, the Superior Court amended its sentencing order by removing the Section 4204(k) provision and immediately suspending Williams' remaining Level V sentence for Level IV. That sentence modification did not change the overall length of Williams' sentence, but it did allow Williams to spend less time at Level V and more time at Level IV than did the original sentencing order. In its January 19, 2011 corrected order, the Superior Court amended its January 28, 2010 order to reflect an effective date of January 15, 1999 (as stated in the sentencing order) instead of June 11, 1999 (the date of the sentencing order).

3. In September 2011, Williams moved for a correction of sentence under Superior Court Criminal Rule 35(a).² The State responded with a detailed calculation showing that Williams' sentence was correctly computed. On January 11, 2012, the Superior Court denied the Motion for Correction of Sentence "for the reasons stated in the State's Response."

¹ 11 *Del. C.* § 4204(k) mandates that a court may order that a sentence "at Level V or otherwise . . . shall be served without benefit of any form of early release, good time, furlough, work release, supervised custody or any other form of reduction or diminution of sentence."

² SUPER. CT. CRIM. R. 35(a) ("The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner . . .").

4. On February 1, 2012, Williams filed a Motion for Reargument. On February 6, 2012, he appealed from the order denying his Motion for Correction of Sentence. On February 9, 2012, the Superior Court denied his untimely Motion for Reargument.³ In his March 2012 Amended Opening Brief, Williams also attempts to appeal from the denial of his Motion for Reargument.

5. This Court reviews a trial court's denial of a Motion for Correction of Sentence and a Motion for Reargument for an abuse of discretion.⁴ We review questions of law *de novo*.⁵

6. On appeal, Williams first claims that the Section 4204(k) provision of his Level V sentence "was illegal, and void *ab initio*." As we held in *In re Williams*,⁶ this issue is moot because the Superior Court removed the Section 4204(k) (Level V) provision from Williams' sentence in its January 28, 2010 order. Second, Williams contends that that order was invalid, because the modification effectively increased the length of his Level IV sentence. We held in *Williams v. State*, 2012 WL 2914041 (Del. July 16, 2012), that that claim lacked merit. Williams' third argument is that the corrected order did not amend the January 28, 2010 order's "illegal" sentence. Since we hold that the January 28,

³ *State v. Williams*, 2012 WL 1415622 (Del. Super. Ct. Feb. 9, 2012).

⁴ *Manis v. State*, 782 A.2d 265 (Del. 2001); *see Colon v. State*, 962 A.2d 916 (Del. 2008).

⁵ *Manis*, 782 A.2d at 265.

⁶ 38 A.3d 1256 (Del. 2012).

2010 order was correct, this contention also fails. Fourth, Williams argues that the January 28, 2010 order, and the order correcting it, should both be made retroactive to the effective date of January 15, 1999. This argument is moot, because the Superior Court, by its order amending the January 28, 2010 order, has already done that.

7. Finally, Williams' attempt to appeal from the Superior Court's denial of his Reargument Motion is also procedurally improper, because the Superior Court did not deny his Motion until February 9, 2012—*after* Williams had already filed his February 6, 2012 Notice of Appeal. Even if that ineffective appeal was procedurally sound, we still would have affirmed the order denying the Reargument Motion as untimely, because Williams filed his February 1, 2012 Motion more than five days after the Superior Court's January 11, 2012 order.⁷

NOW, THEREFORE, IT IS ORDERED that the January 11, 2012 order of the Superior Court denying Williams' Motion for Correction of Sentence is **AFFIRMED**, and that Williams' attempted appeal of the Superior Court's February 9, 2012 order denying his Motion for Reargument is **DISMISSED**.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁷ See SUPER. CT. CIV. R. 59(e) (“A motion for reargument shall be served and filed within 5 days after the filing of the Court's opinion or decision.”).