

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)
)
 v.) ID No. 1904007802
)
JAEIR SHARPE,)
)
 Defendant.)

Submitted: May 4, 2026
Decided: May 11, 2026

Upon Defendant Jaeir Sharpe’s Motion for Correction of Illegal Sentence
DENIED.

ORDER

This 11th day of May 2026, upon consideration of Defendant Jaeir Sharpe’s (“Sharpe”) Motion for Correction of Illegal Sentence¹ and the record in this matter, it appears to the Court that:

1. Sharpe pled guilty on January 15, 2020 to Attempted Robbery First Degree.² After a presentence investigation, he was sentenced on July 24, 2020 to 15 years at Level V, suspended after 3 years for two years at Level III, effective June 4, 2019.³ The sentence was modified on October 4, 2022 to change certain terms of his Level III probation, but the modification did not affect the length of probation.⁴ On

¹ D.I. 40.
² D.I. 22.
³ D.I. 26.
⁴ D.I. 32.

January 17, 2023, Sharpe pled guilty to Possession of a Firearm by a Person Prohibited (“PFBPP”) for an offense occurring on February 8, 2022. That offense occurred during the period of his probation. He was sentenced immediately to 15 years at Level V, suspended after five years for 18 months of Level III probation.

2. On March 22, 2022, a violation of probation report was filed based on Sharpe’s arrest on the PFBPP charge.⁵ Consistent with the usual practice, it appears that the violation of probation was deferred until the resolution of the PFBPP charge. In November 2024, Sharpe inquired about the status of his violation of probation.⁶ On February 4, 2025, the Court noted that it had asked Probation and Parole for an update on the status of his probation violation and it advised Sharpe that his hearing would be on February 11, 2025.⁷ On February 4, 2025, a violation report was filed.⁸ At the hearing, Sharpe admitted violating his probation. The Court found him in violation and sentenced him to 14 years and seven months at level V, suspended after one year for one year at Level III probation while reimposing all of the previous terms and conditions of his probation.⁹

3. Sharpe now moves *pro se* for correction of an illegal sentence.¹⁰ In his motion, he argues his violation of probation was not part of his plea agreement on the

⁵ D.I. 31.

⁶ D.I. 33.

⁷ D.I. 37.

⁸ D.I. 35.

⁹ D.I. 39.

¹⁰ D.I. 40.

PFBPP charge and that he first appeared in court for the violation on March 31, 2024 which was after his probation ended on December 4, 2023.¹¹ He claims that his sentence on the violation of probation was illegal because, at the time the Court dealt with it, he had completed his probation.¹²

4. Pursuant to Criminal Rule 35(a), the Court may correct an illegal sentence at any time.¹³ 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.¹⁴ The Court may correct a sentence imposed in an illegal manner within the time provided for the reduction of sentence which is 90 days of the imposition of sentence.¹⁵

5. Sharpe's motion fails. There is no dispute that when he committed PFBPP, he was on probation. He was still on probation for the attempted robbery when he committed the new offense as evidenced by the violation report dated March 22, 2022.¹⁶ That report listed a maximum expiration date for his probation of

¹¹ *Id.*

¹² *Id.*

¹³ Super. Ct. Crim. R. 35(a).

¹⁴ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

¹⁵ Super. Ct. Crim. R. 35(a) and (b).

¹⁶ D.I. 31.

December 4, 2023.¹⁷ Sharpe agrees with that date.¹⁸ That term had not expired when he pled guilty to the PFBPP charge on January 17, 2023. He was sentence on that charge on the same day as he entered his guilty plea. His sentence was effective February 8, 2022, meaning he had been incarcerated since that date.

6. Probation is defined as “the sentencing without imprisonment of an offender by judgment of the court following establishment of guilt, subject to conditions imposed by the court, including the supervision and guidance of the Department’s field services.”¹⁹ A defendant cannot simultaneously serve a period of incarceration and community supervision. Thus, Sharpe’s probationary sentence was tolled while he was incarcerated serving his sentence for PFBPP. because probation can only be meaningful when a defendant is in the community.

7. Sharpe makes the same mistake made by the probationer in *Morales v. State*.²⁰ Just as Morales did, so does Sharpe “overlook[] the time he was serving on other charges” when arguing his probation expired solely based on the sentencing date.²¹ Because Sharpe committed his violation and was arrested before his probation expired, this Court has jurisdiction to find him in violation of his probation even

¹⁷ *Id.*

¹⁸ D.I. 40. (“[M]y probation was over 12/04/2023.”).

¹⁹ 11 *Del. C.* § 4302(16).

²⁰ 2009 WL 2416008 (Del. Aug. 7, 2009).

²¹ *Id.* at *1.

though the hearing on the violation took place after his probation expired.²² His violation of probation sentence was not illegal.

THEREFORE, Defendant Jaeir Sharpe's Motion for Correction of Illegal Sentence is **DENIED**.

IT IS SO ORDERED.

/s/ Ferris W. Wharton
Ferris W. Wharton, Judge

cc: Prothonotary
Department of Justice
Jaeir Sharpe (SBI #00834988)
ISO

²² *Id.* (citing *Tiller v. State*, 257 A.2d 385 (Del. 1969); *Haines v. State*, 2002 WL 243324 (Del. Super. Ct. Feb. 13, 2002)).