

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)
)
Plaintiff,) ID No. 0405006248
)
v.)
)
TYRONE NORWOOD,)
)
Defendant.)

Submitted: May 14, 2026
Decided: May 18, 2026

Upon Defendant Tyrone Norwood’s Request for Status and for Ruling on Pending Rule 35(a) Motion
GRANTED

Upon Defendant Tyrone Norwood’s Motion to Correct Illegal Sentence
DENIED

ORDER

Andrew J. Vella, Esquire, Chief of Appeals, DEPARTMENT OF JUSTICE, 820 North French Street, Wilmington, DE 19801, Attorney for the State of Delaware.

Tyrone Norwood (SBI# 00506509), James T. Vaughn Correctional Center, 1181 Paddock Road, Smyrna, DE 19977, Defendant, *pro se*.

WHARTON, J.

This 18th day of May 2026, upon consideration of Defendant Tyrone Norwood’s (“Norwood”) Request for Status and Ruling on Pending Rule 35(a) Motion¹ and Motion for Correction of Illegal Sentence,² and the record in this matter, it appears to the Court that:

1. On September 8, 2005, Norwood pled guilty to Murder Second Degree, Possession of a Firearm During the Commission of a Felony (“PFDCF”), and Possession of a Deadly Weapon by a Person Prohibited (“PDWBPP”).³ On November 16, 2005, the Court sentenced him to a “mandatory” sentence of thirty-five years at Level V, suspended after twenty-five years for decreasing levels of supervision on the murder charge, a “mandatory” sentence of ten years at Level V on the PFDCF charge, and four years at level V, suspended after two years for probation on the PDWBPP charge.⁴ Norwood’s sentence-based direct appeal was unsuccessful.⁵ A series of unsuccessful sentence modification/correction motions,⁶ and postconviction relief motions followed.⁷

¹ D.I. 108.

² D.I. 91

³ D.I. 21.

⁴ D.I. 26.

⁵ *Norwood v. State*, 2006 WL 2190585 (Del. Aug 1, 2006).

⁶ *Norwood v. State*, 2012 WL 537605 (Del. Feb. 17, 2012); D.I. 85, D.I. 86, D.I. 94.

⁷ *Norwood v. State*, 2013 WL 5612266 (Del. Oct. 10, 2013); *Norwood v. State*, 2017 WL 4001838 (Del. Sept. 11, 2017).

2. In June 2024, the United States Supreme Court decided *Erlinger v. United States*.⁸ *Erlinger* held that a unanimous jury must determine beyond a reasonable doubt whether a defendant's prior offenses were committed on separate occasions before the defendant's sentence can be enhanced under the Armed Career Criminal Act.⁹ The Court stated that “[v]irtually any fact that *increases the prescribed range of penalties* to which a criminal defendant is exposed must be resolved by a unanimous jury beyond a reasonable doubt (or freely admitted in a guilty plea).”¹⁰ Inspired by *Erlinger*, scores of inmates moved under Superior Court Criminal Rule 35(a) to correct what they claimed to be their illegal sentences. Norwood was one of them.¹¹ Many, if not most of those inmates were mistaken, as *Erlinger* had no applicability to their sentences.¹² However, some cases required a more thorough examination of *Erlinger*’s implications. Accordingly, a number of those cases were

⁸ 602 U.S. 821 (2024).

⁹ *Id.* at 834-35.

¹⁰ *Id.* at 834.

¹¹ D.I. 91 (“Del. Super. Ct. Crim. R. 35(a) Illegal Sentence Motion” (Feb. 12, 2025)); D.I. 92 (“Argument of Relief Under Delaware Rule 35(a)” (Mar. 20, 2025)). The Court treats D.I. 91 and D.I. 92 as a single motion.

¹² See, e.g. *State v. Northern*, 2026 WL 296289 (Del. Super. Ct. Feb 4, 2026); *State v. Kellum*, 2026 WL 882813 (Del. Super. Ct. Mar. 31, 2026).

selected as “Bellwether Cases.”¹³ Many cases, including Norwood’s, were stayed pending the resolution of the Bellwether Cases.¹⁴

3. On May 14, 2026, Norwood submitted a “Request for Status and for Ruling on Pending Rule 35(a) Motion.”¹⁵ After reviewing Norwood’s Rule 35(a) motion and supporting arguments, the Court determines that it is able to decide it now without the benefit of a decision in the Bellwether Cases. Norwood’s request is **GRANTED**. Accordingly, the stay, entered on April 9, 2025, is **VACATED**.

4. Norwood’s motion contends that his sentences for Murder Second Degree and PFDCF were mandatory minimum sentences that exceeded the statutory minimum sentences of fifteen years for the murder charge and three years for the PFDCF charge.¹⁶ According to Norwood, the sentences were illegal because no jury ever found any facts that warranted the sentencing judge to exceed the statutory minimum sentences.¹⁷

¹³ *State v. Larrice S. Asberry*—ID No. 9705019895, *State v. Ansara M. Brown*—ID No. 1205025968A, *State v. Michael D. Chambers*—ID No. 0311009491A, *State v. Joshua A. Chattin*—ID No. 1510013711A, *State v. Troy M. Dixon*—ID No. 1211005646A, *State v. James J. Durham*—ID No. 1003006262, *State v. Gigere F. Jackson*—ID No. 1707014544, *State v. Roger L. Johnson*—ID No. 9908000065, *State v. Tyrone A. Miles*—ID No. 0709015392A, *State v. Kori A. Thomas*—ID Nos. 1705004684 / 1705004742, *State v. Jeffrey W. Thomas*—ID No. 1403008516, and *State v. Daemont L. Wheeler*—ID No. 0911008949.

¹⁴ D.I. 94.

¹⁵ D.I. 108.

¹⁶ D.I. 92.

¹⁷ *Id.*

5. Pursuant to Criminal Rule 35(a), the Court may correct an illegal sentence at any time.¹⁸ 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.¹⁹

6. *Erlinger* is inapplicable here because the sentencing judge made no factual findings that exposed Norwood to higher minimum or maximum sentences.²⁰ Norwood's sentences fell within the statutory ranges. The aggravating factors that the Court cited in sentencing Norwood did not increase the prescribed range of penalties to which he was otherwise exposed - fifteen years to life imprisonment for second-degree murder²¹ and three to twenty-five years of imprisonment for PFDCF.²² The Delaware Supreme Court has rejected claims that a sentencing court's consideration of aggravating factors when imposing a sentence above the SENTAC guidelines, but within the statutory range, violates *Erlinger*.²³ The factors considered

¹⁸ Super. Ct. Crim. R. 35(a).

¹⁹ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

²⁰ *Wheeler v. State*, 350 A.3d 1248 (Del. 2025).

²¹ 11 *Del. C.* § 635 (providing that second-degree murder is a class A felony); 11 *Del. C.* § 4205(b)(1) (defining the sentencing range for a class A felony).

²² 11 *Del. C.* § 1447A (providing that PFDCF is a class B felony with a minimum three-year sentence); 11 *Del. C.* § 4205(b)(2) (defining the sentencing range for a class B felony).

²³ *Broomer v. State*, 2026 WL 861635, at *1 (Del. Mar. 27, 2026); *Anderson v. State*, 350 A.3d 641, 2025 WL 3012920, at *2 (Del. Oct. 24, 2025); *Krafchick v. State*, 350 A.3d 636, 2025 WL 2925378, at *1 (Del. Oct. 14, 2025).

by the sentencing judge, whether aggravating or mitigating, are not separate offenses used to enhance a sentence, but simply factors a sentencing judge may consider in determining the proper sentence within the statutory range of punishments.²⁴

7. Another point needs to be addressed, however. In its sentencing order, the Court referred to Norwood's murder sentence and his PDFDCF sentence as "mandatory."²⁵ Specifically, as to the murder charge, it stated, "This is a mandatory sentence pursuant to DE1106350001FB," which the Court interprets as meaning that the mandatory sentence is imposed as a class B felony.²⁶ In reality, Murder Second Degree was a class A felony,²⁷ subject to a fifteen year minimum sentence.²⁸ That fifteen year portion of Norwood's sentence is the only portion of it that is "mandatory." The balance of his twenty-five year sentence was imposed at the discretion of the sentencing judge. To the extent there is any confusion about what part of Norwood's sentence is "mandatory" the Court will issue a new clarifying sentence order.

8. The PDFDCF sentence is different. At the relevant time, 11 *Del. C.* § 1447A(d) provided, "Any sentence imposed for a violation of this section shall not be subject to suspension and no person convicted for a violation of this section shall be

²⁴ *State v. Kellum*, 2026 WL 882813, at *2 (Del. Super. Ct. Mar. 31, 2026).

²⁵ D.I. 26.

²⁶ *Id.*

²⁷ 74 Del. Laws 2003 ch. 106, § 3, eff. June 30, 2003.

²⁸ *Id.* at § 10.

eligible for good time, or parole during the period of sentence imposed.”²⁹ Thus, Norwood is required to serve all of the ten years the Court imposed without diminution. It is a mandatory sentence and no clarification needs to be made to the sentence order for that charge.

THEREFORE, Defendant Tyrone Norwood’s Request for Status and a Ruling on Pending Rule 35(a) Motion is **GRANTED**. The Stay entered by this Court on April 25, 2025 is **VACATED**. Defendant Tyrone Norwood’s Motion to Correct Illegal Sentence is **DENIED**. His sentence order is **MODIFIED** to reflect that only the first fifteen years of his sentence for Murder Second Degree is mandatory

IT IS SO ORDERED.

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

²⁹ 73 Del. Laws 2001 ch. 107, § 3, eff. July 9, 2001.