

SUPERIOR COURT
OF THE
STATE OF DELAWARE

CRAIG A. KARSNITZ
RESIDENT JUDGE

1 The Circle, Suite 2
Georgetown, DE 19947
Telephone (302) 856-5263

October 1, 2026

James E. West
SBI# 00363203
Sussex Correctional Institution
Merit East Building
P.P. Box 500
Georgetown, DE 19947

Re: *State of Delaware v. James E. West*, Def. ID# 1905004634; 1905004787

Dear Mr. West:

On March 2, 2020, you pled guilty to two charges of Robbery in the First Degree and one charge of Robbery in the Second Degree.¹ On July 30, 2021, I sentenced you as follows: for the first Robbery in the First Degree offense, 25 years at Level 5, suspended after 4 years; for the second Robbery in the First Degree offense, 4 years at Level 5; and, for the Robbery in the Second Degree offense, 4 years at Level 5.

On November 15, 2021, I received your first *pro se* Motion for Postconviction Relief under Delaware Superior Court Rule Criminal Rule 61 (the “Motion”), dated

¹ Other offenses originally charged were ultimately resolved by *nolle prosequi*.

November 10, 2021, with respect to the above-referenced matter. I directed that postconviction counsel be appointed to represent you. After receiving an Answer from the State and an Affidavit from your lawyer at trial, and holding an evidentiary hearing, I denied your Motion.

On January 15, 2026, you filed a Motion for Specific Enforcement of Plea Bargain, dated December 23, 2025 (the “Motion”), which I also denied.

On September 2, 2026, you filed a *pro se* Motion for Correction of Illegal Sentence.² Rule 35(a) permits me to correct an illegal sentence “at any time.”³ Relief under Rule 35(a) is available “when the sentence imposed exceeds the statutorily-authorized limits, [or] violates the Double Jeopardy Clause.”⁴ A sentence may be illegal if it violates the defendant’s constitutional or statutory rights, or if the court lacked jurisdiction.⁵ A sentence is also illegal if it “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

² Under Super. Ct. Crim. R. 35(a).

³ *Id.*

⁴ *United States v. Pavlico*, 961 F.2d 440, 443 (4th Cir. 1992).

⁵ *Kelly v. State*, 911 A.2d 803 (Del. 2006).

is a sentence which the judgment of conviction did not authorize.”⁶ You ask me to hold a new sentencing hearing and to resentence you.

Your Motion argues that your constitutional rights were violated when you were sentenced. Specifically, you argue that your sentence was imposed in violation of the due process clause of the Fourteenth Amendment to the United States Constitution because, when I sentenced you, I relied upon materially false and unreliable information about the weapon which was used in the first-degree robbery to which you pled guilty.

The Grand Jury Indictment and the charging document refer to “what appeared to be a deadly weapon.” The weapon was identified in the police report as a rifle, black in color. The Plea Agreement did not describe the weapon. In my sentencing comments, I said:

Any time you start waving guns in peoples’ faces – I guess this was a pellet gun, *but it doesn’t matter*. It was a gun, and certainly the victims expected that it was something that you could kill with, and that’s about as serious as it gets short of actually firing the weapon.⁷

You argue that I mischaracterized the weapon, and that such mischaracterization undermined my sentencing decision because it was based on

⁶ *United States v. Dougherty*, 106 F.3d 1514, 1515 (10th Cir. 1997); *see generally Brittingham v. State*, 705 A.2d 577 (Del. 1998).

⁷ Transcript of Sentencing Hearing, p.16, 12 – 17 (emphasis supplied).

“materially false” information. The cases you cite, *Townsend v. Burke*⁸ and *Mayes v. State*,⁹ are inapposite. In *Townsend*, the trial judge, following plea of guilty to burglary and robbery by a *pro se* defendant, considered as sentencing factors prior charges against the defendant which did not result in conviction. The Supreme Court concluded that the defendant was prejudiced by either the prosecution's submission of misinformation to the judge or by the judge's own misreading of record. Thus, the defendant was sentenced on the basis of assumptions concerning his criminal record which were materially untrue, and that such result, whether caused by carelessness or design, was inconsistent with due process, and that therefore the sentence could not stand.¹⁰ However, in this case I did not consider as sentencing factors any prior charges against you which did not result in conviction

The *Mayes* case actually undercuts your argument, because in that case the Delaware Supreme Court *rejected* a reduction of the defendant's sentence under Rule 35(b), and *affirmed* a sentence against a challenge that the trial judge abused his discretion by sentencing the defendant in reliance on a presentence report which showed that the defendant had committed more serious and extensive crimes than those to which he had pled guilty. The judge found such allegations to be credible

⁸ 334 U.S. 736 (1948).

⁹ 604 A.2d 839 (Del. 1992).

¹⁰ *Townsend*, at 843 – 844.

and reliable. The Court held that the judge had comported with due process by relying on information meeting the minimal indicia of reliability beyond mere allegation.

I had broad discretion in sentencing you to consider information which pertains to your personal history and behavior, and such information was not confined exclusively to the burglary charges to which you pled guilty. The due process clause of the Constitution did not prohibit me from considering evidence that would be impermissible for purposes of determining your guilt on a separate weapons charge. In this case, the Indictment, the charging document and the police report all provided sufficient reliability to meet the due process standard for me to consider the presence of a weapon, even if the type of weapon was variously described and not mentioned in the Plea Agreement. At sentencing, where you were represented by counsel, you did not request the opportunity to present evidence to rebut my characterization of the weapon. Nor did you raise this issue in your Rule 61 Motion. In my view, this waived any claim that my mischaracterization of the weapon violated your constitutional rights.

In short, I did not sentence you based on inaccurate or unreliable information. The difference between a pellet gun and another type of weapon is neither false nor lacking minimal indicia of reliability. As I said at sentencing, it doesn't matter. My

point was simply that the victims were terrified by the presence of a gun, and the precise type of gun it was in no way detracted from their fear.

Accordingly, your Motion for Correction of Illegal Sentence under Rule 35(a) is **DENIED**.

IT IS SO ORDERED.

Very truly yours,

/s/ Craig A. Karsnitz
Craig A. Karsnitz

cc: Prothonotary