IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES BARNETT II,	§	
	§	
Defendant Below,	§	No. 377, 2026
Appellant,	§	
	§	Court Below—Superior Court
v.	§	of the State of Delaware
	§	
STATE OF DELAWARE,	§	Cr. ID No. 0311017379 (S)
	§	
Appellee.	§	

Submitted: October 9, 2026
Decided: November 10, 2026

ORDER

Before **LEGROW**, **GRIFFITHS**, and **ZURN**, Justices.

After consideration of the appellant's opening brief, the State's motion to affirm, and the record on appeal, it appears to the Court that:

(1) James Barnett II appeals from the Superior Court's order denying his motion for sentence correction. The State has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit. We agree and affirm.

(2) Barnett was indicted for first-degree murder and other crimes arising from the shooting death of Nicholas Whaley on November 23, 2003.[1] Barnett pleaded guilty to second-degree murder and possession of a firearm during

[1] *Barnett v. State*, 2007 WL 1314664 (Del. May 7, 2007).

commission of a felony ("PFDCF"). The Superior Court sentenced Barnett as follows: for second-degree murder, forty years of imprisonment, suspended after thirty years for decreasing levels of supervision; and for PFDCF, ten years of imprisonment.

(3) In September 2025, Barnett filed a motion for sentence correction under Superior Court Rule of Criminal Procedure 35(a). He claimed that his sentence is illegal because it was enhanced based on facts not found by a jury, in violation of *Erlinger v. United States*.[2] The Superior Court denied the motion, and Barnett has appealed to this Court.

(4) We review the denial of a motion for correction of an illegal sentence for abuse of discretion, although questions of law are reviewed *de novo*.[3] A sentence is illegal if it exceeds statutory limits, 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 its substance, or is a sentence that the judgment of conviction did not authorize.[4]

(5) After careful consideration, we conclude that Barnett's sentence is not illegal. The Superior Court's order denying the motion for sentence correction incorrectly states that Barnett was convicted of possession of a firearm by a person

[2] 602 U.S. 821 (2024).
[3] *Fountain v. State*, 2014 WL 4102069, at *1 (Del. Aug. 19, 2014).
[4] *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

prohibited ("PFBPP") and that the PFBPP sentence was enhanced based on two prior violent felony convictions.[5] Nevertheless, we affirm because Barnett was not subject to enhanced sentencing.[6]

(6) Barnett pleaded guilty to second-degree murder and PFDCF. At the time of Barnett's crimes, second-degree murder was a class A felony, subject to a sentencing range of fifteen years to life in prison.[7] PFDCF was a class B felony, subject to a sentencing range of three to twenty-five years.[8] Although the minimum sentence for PFDCF could be higher based on prior felony convictions,[9] the record reflects that Barnett was not subject to an enhanced minimum. Specifically, the plea agreement indicates that the minimum potential sentence for Barnett's PFDCF offense was three years;[10] during the plea hearing, the court stated that the minimum

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[5] The Superior Court's order further erroneously describes the sentence imposed and the date of the sentence order, and indicates that the PFBPP statute is 11 *Del. C.* § 1447A. Section 1447A is the PFDCF statute, which provides for enhanced sentencing based on prior felony convictions; the PFBPP statute is 11 *Del. C.* § 1448(e), which provides for enhanced sentencing based on prior violent felony convictions, *id.* § 1448(e)(1)-(2).

[6] *See Unitrin, Inc. v. Am. Gen. Corp.*, 651 A.2d 1361, 1390 (Del. 1995) (stating that "this Court may affirm on the basis of a different rationale than that which was articulated by the trial court").

[7] 11 *Del. C.* § 635 (2004, as amended effective June 30, 2003); *id.* 4205(b)(1) (effective June 30, 2003, to present).

[8] *Id.* § 1447A(a), (b) (effective July 9, 2001, to May 23, 2018); *id.* 4205(b)(2) (effective June 30, 2003, to present). A PFDCF sentence was not subject to suspension, nor was a person convicted of PFDCF eligible for good time, parole, or probation. *Id.* § 1447A(d) (effective July 9, 2001, to May 23, 2018).

[9] *See id.* § 1447A(c) (effective July 9, 2001, to May 23, 2018) (providing a minimum sentence of five years for PFDCF if the defendant had "been at least twice previously convicted of a felony in this State or elsewhere").

[10] Exhibit A to Motion to Affirm. The plea agreement also stated that the potential sentence for second-degree murder was fifteen years to life, consistent with the second-degree murder statute. *Id.*

sentence the court could impose for the second-degree murder and PFDCF offenses was eighteen years,[11] which was the minimum total sentence for those two crimes under the Delaware Code, without any enhancements; and during the sentencing hearing, the court stated that the penalty range for the second-degree murder offense was fifteen years to life and the range for the PFDCF offense was three to twenty-five years.[12]

(7) In *Erlinger*, the United States Supreme Court considered a sentence imposed under the federal Armed Career Criminal Act and 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)."[13] *Erlinger* does not apply here because the Superior Court made no factual findings concerning Barnett's criminal history that exposed him to higher minimum or maximum sentences.[14] Barnett's sentences for second-degree murder and PFDCF fall within the applicable statutory ranges for those offenses and therefore are not illegal under *Erlinger*.[15]

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[11] Exhibit B to Motion to Affirm, at 10:8.
[12] Exhibit E to Motion to Affirm, at 20:12-15.
[13] *Erlinger*, 602 U.S. at 834 (alterations and internal quotations omitted).
[14] *Wheeler v. State*, 2025 WL 3296176, at *2 (Del. Nov. 25, 2025).
[15] *E.g.*, *id.*; *Jones v. State*, 2025 WL 3012870, at *1 (Del. Oct. 27, 2025); *Krafchick v. State*, 2025 WL 2925378, at *1 (Del. Oct. 14, 2025); *Jackson v. State*, 2025 WL 2399539 (Del. Aug. 18, 2025).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ N. Christopher Griffiths
Justice