

SUPREME COURT OF THE STATE OF DELAWARE

Drummond v. State

Drummond · No. No. 52, 2021 · Decided June 11, 2021

SUMMARY

The Delaware Supreme Court affirmed the Superior Court’s denial of Dallas Drummond’s motion for review or modification of sentence. The Court held that Drummond had not shown entitlement to relief under the Eighth Amendment, 11 Del. C. § 4221, or Superior Court Criminal Rule 35(b), and that the Superior Court did not abuse its discretion. The Court noted that a DOC application under 11 Del. C. § 4217 would be the proper vehicle for sentence modification based on a specific medical condition.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Tamika R. Montgomery-Reeves; Chief Justice Seitz; Justice Traynor; Justice Montgomery-Reeves
JURISDICTION	Delaware
DECIDED	June 11, 2021
DOCKET	No. 52, 2021
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's denial of a motion for review of sentence; the State moved to affirm under the Delaware Supreme Court's summary affirmance procedure.
STANDARD OF REVIEW	The denial of a motion for sentence review or modification is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order
PARTIES	Dallas H. Drummond v. State of Delaware

TOPICS

[sentence modification](#) [sentencing](#) [probation](#) [post-conviction relief](#) [appellate procedure](#)

PRACTICE AREAS

[criminal procedure](#) [sentencing](#) [post-conviction relief](#) [appellate procedure](#) [constitutional law](#)

QUESTIONS PRESENTED

1. Whether the Superior Court abused its discretion by denying Drummond's motion for review or modification of sentence under Superior Court Criminal Rule 35(b).
2. Whether 11 Del. C. § 4221 entitled Drummond to modification or reduction of his sentence based on his asthma and the COVID-19 pandemic.
3. Whether Drummond's COVID-19-related conditions-of-confinement arguments supported sentence relief under the Eighth Amendment or Rule 35(b).

HOLDINGS

1. The Superior Court did not abuse its discretion by denying Drummond's motion for sentence review or modification.
2. Drummond was not entitled to sentence reduction under the Eighth Amendment based on his COVID-19-related concerns because the authorities he relied on addressed civil liability of prison officials rather than reduction of criminal sentences.
3. Section 4221 permits, but does not require, the Superior Court to modify or reduce an eligible sentence, and the court did not abuse its discretion in finding that Drummond was not amenable to probation.
4. The Department of Correction's alleged failure to contain COVID-19 in the prison system did not provide a basis for sentence relief under Superior Court Criminal Rule 35(b).

KEY QUOTATIONS

“We review the denial of a motion for sentence review or modification for abuse of discretion.” (at 3)

“If Drummond’s ‘specific individual medical condition warrant[s] sentence modification, an application by DOC under § 4217 is the proper vehicle to deliver such relief.’” (at 4)

FACTUAL BACKGROUND

Drummond was serving sentences for two fourth-degree rape convictions and a marijuana-possession conviction after violating probation when GPS monitoring placed him on a high-school campus. He sought modification of his sentence to Level III or Level IV supervision, citing the COVID-19 pandemic in prison and his asthma. The Superior Court found the motion untimely and repetitive, determined that he was not amenable to probation, and noted that the Department of Correction had implemented COVID-19 protocols.

PROCEDURAL HISTORY

Drummond pleaded guilty to marijuana possession and later to two counts of fourth-degree rape. After a 2019 violation-of-probation proceeding, the Superior Court imposed additional Level V sentences followed by probation. Drummond later moved under 11 Del. C. § 4221 and the Eighth Amendment for release from Level V confinement because of COVID-19 risks and his asthma. The Superior Court denied the motion as untimely and repetitive, and the Delaware Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Drummond v. State, 2020 WL 1862318 (Del. Apr. 13, 2020)
- Gladden v. State, 2020 WL 773290 (Del. Feb. 17, 2020)
- Bailey v. State, 2005 WL 1469363 (Del. June 20, 2005)
- White v. State, 2021 WL 1828069 (Del. May 6, 2021)
- Woods v. State, 2021 WL 304007 (Del. Jan. 28, 2021)
- Williams v. Commonwealth, 2021 WL 943753 (Ky. Ct. App. Mar. 12, 2021)
- Commonwealth v. Jackson, 2020 WL 4495293 (Mass. App. Ct. Aug. 5, 2020)