

SUPREME COURT OF THE STATE OF DELAWARE

Gatewood v. State

No. 415, 2016 (Del. Dec. 12, 2016) · No. No. 415, 2016 · Decided December 12, 2016

SUMMARY

The Delaware Supreme Court affirmed the Superior Court’s denial of Stanley Gatewood’s motion to correct his sentence under Superior Court Rule 35(a). The Court held that Gatewood’s prior violent felony convictions subjected him to the applicable enhanced sentence and declined to reconsider the issue or address constitutional and plea-validity arguments raised for the first time on appeal.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Collins J. Seitz, Jr.; Strine, Chief Justice; Holland, Justice; Seitz, Justice
JURISDICTION	Delaware
DECIDED	December 12, 2016
DOCKET	No. 415, 2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's denial of a motion for correction of sentence under Superior Court Rule 35(a).
STANDARD OF REVIEW	The appeal was affirmed under the State's motion-to-affirm standard because the appeal was manifestly without merit on the face of the opening brief.
PRECEDENTIAL VALUE	Unpublished/nonprecedential order
PARTIES	Stanley Gatewood v. State of Delaware

TOPICS

- sentence modification
- sentencing
- criminal procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate procedure
- sentencing

QUESTIONS PRESENTED

1. Whether Gatewood's Rule 35(a) motion established that he lacked two predicate violent-felony convictions supporting the enhanced sentence for his 2015 possession-of-a-firearm-by-a-person-prohibited conviction.
2. Whether the Supreme Court was required to reconsider the prior determination regarding Gatewood's predicate violent-felony convictions because he refined or restated the claim.
3. Whether the Supreme Court could consider for the first time on appeal Gatewood's challenges to the constitutionality of 11 Del. C. § 1448 or the validity of his plea agreement.

HOLDINGS

1. Gatewood had previously been determined to have two convictions that were designated violent felonies under 11 Del. C. § 4201(c) when he was convicted, and the appeal presented no merit warranting correction of his sentence.
2. The Court was not required to reconsider a claim merely because it had been refined or restated.
3. The Court would not consider Gatewood's constitutional challenge to 11 Del. C. § 1448 or his challenge to the validity of his plea agreement because he failed to raise those claims in the Superior Court.

FACTUAL BACKGROUND

Gatewood pleaded guilty on May 11, 2015, to possession of a firearm by a person prohibited, receiving a stolen firearm, and conspiracy in the second degree. The Superior Court sentenced him to an aggregate twenty years at Level V incarceration, suspended after ten years for decreasing levels of supervision. His record included prior convictions for possession of a firearm by a person prohibited and distribution of a controlled substance within 300 feet of a church, offenses designated as violent felonies at the time of conviction.

PROCEDURAL HISTORY

Gatewood pleaded guilty to possession of a firearm by a person prohibited, receiving a stolen firearm, and conspiracy in the second degree. The Superior Court imposed an aggregate twenty-year sentence, suspended after ten years of Level V incarceration. After an earlier motion for credit time was denied and affirmed on appeal, Gatewood filed a Rule 35(a) motion arguing that he lacked two predicate violent-felony convictions for the enhanced sentence. The Superior Court denied the motion, and the Delaware Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Gatewood v. State, 2016 WL 792382 (Del. Feb. 29, 2016)
- Chrichlow v. State, 2014 WL 4243629, *2 (Del. Aug. 26, 2014)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE STANLEY GATEWOOD, § § No. 415, 2016 Defendant Below- § Appellant, § § v. § Court Below—Superior Court § of the State of Delaware STATE OF DELAWARE, § § Cr. ID 1407022963 Plaintiff Below- § Appellee. § Submitted: October 18, 2016 Decided: December 12, 2016 Before STRINE, Chief Justice; HOLLAND, and SEITZ, Justices.

ORDER This 12th day of December 2016, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that: (1) The appellant, Stanley Gatewood, filed this appeal from the Superior Court's denial of his motion for correction of sentence.

The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Gatewood's opening brief that his appeal is without merit. We agree and affirm. (2) The record reflects that Gatewood pled guilty on May 11, 2015 to Possession of a Firearm by a Person Prohibited ("PFBPP"), Receiving a Stolen Firearm, and Conspiracy in the Second Degree.

After a presentence investigation, the Superior Court sentenced Gatewood, effective October 13, 2014, to serve a total period of twenty years at Level V incarceration, to be suspended after serving ten years in prison for decreasing levels of supervision. Gatewood did not appeal.

(3) In September 2015, Gatewood filed a motion for credit time, which the Superior Court denied. This Court affirmed the Superior Court's decision on appeal.¹ In rejecting Gatewood's claims in that appeal, we noted that Gatewood previously had been convicted of two prior violent felonies, PFBPP in 2011 and Distribution of a Controlled Substance within 300 Feet of a Church in 2010.² Gatewood's prior violent felony record prohibited the Superior Court from imposing any concurrent prison sentences in Gatewood's case.³ (4) In July 2016, Gatewood filed a motion for correction of sentence under Superior Court Rule 35(a).

Gatewood argued that he did not have two predicate violent felony convictions subjecting him to an enhanced ten-year sentence for his 2015 PFBPP conviction. The Superior Court denied his motion. This appeal followed. 1 Gatewood v. State, 2016 WL 792382 (Del. Feb. 29, 2016). 2 Id. at *1 n.2. At the time of his respective prior convictions, these offenses were designated violent felonies under 11 Del.

C. § 4201(c). 3 Id. at *1 (citing 11 Del. C. § 3901(c)). 2 (5) We find no merit to Gatewood's appeal. The Court previously held in Gatewood's most recent appeal that he had been convicted of two prior felonies that, at the time of his convictions, had been designated "violent" under 11 Del. C. § 4201(c).⁴ We are not required to reconsider this claim simply because it has been refined or restated.⁵ Moreover, to the extent Gatewood is attempting to challenge the constitutionality of 11 Del.

C. § 1448 or the validity of his plea agreement, he failed to raise those arguments in the Superior Court. We will not consider those claims in the first instance.⁶ NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. BY THE COURT: /s/ Collins J. Seitz, Jr. Justice 4 Id. 5 Chrichlow v. State, 2014 WL 4243629, *2 (Del. Aug. 26, 2014).

⁶ Del. Supr. Ct. R. 8 (2016). 3