

SUPREME COURT OF THE STATE OF DELAWARE

White v. State

No. 21, 2021 (Del. May 6, 2021) · No. No. 21, 2021 · Decided May 6, 2021

SUMMARY

The Delaware Supreme Court affirmed the Superior Court's denial of James E. White's motion for sentence review and modification. The Court held that 11 Del. C. § 4221 did not apply because White's sentence exceeded the statute's one-year limitation, and it rejected his constitutional arguments. The Court stated that a Department of Correction application under § 4217 was the proper vehicle for sentence modification based on medical conditions and potential COVID-19 exposure.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	James T. Vaughn, Jr., Justice; Valihura, Justice; Vaughn, Justice; Traynor, Justice
JURISDICTION	Delaware
DECIDED	May 6, 2021
DOCKET	No. 21, 2021
DISPOSITION	affirmed
PROCEDURAL POSTURE	White appealed the Superior Court's denial of his motion for sentence review under 11 Del. C. § 4221. The State moved to affirm under the Delaware Supreme Court's summary affirmance procedure.
STANDARD OF REVIEW	The denial of a motion for sentence reduction is reviewed for abuse of discretion; legal questions are reviewed de novo.
PRECEDENTIAL VALUE	published Delaware Supreme Court order
PARTIES	James E. White v. State of Delaware

TOPICS

[sentence modification](#)[sentencing](#)[appellate procedure](#)[criminal procedure](#)[constitutional law](#)

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Superior Court properly denied White's motion for sentence review under 11 Del. C. § 4221.
2. Whether § 4221 authorizes modification of White's PFBPP sentence when that sentence exceeds one year.
3. Whether White's asserted COVID-19 risk established a basis under the Eighth or Fourteenth Amendment for reducing his sentence.
4. Whether an application by DOC under 11 Del. C. § 4217, rather than a defendant's motion under § 4221, is the proper vehicle for sentence modification based on personal health conditions.

HOLDINGS

1. Section 4221 does not apply because it authorizes modification, deferral, suspension, or reduction only of a minimum or mandatory sentence of one year or less, while White's PFBPP sentence exceeds one year.
2. White's constitutional claims did not establish entitlement to sentence reduction because the authorities he cited concerned civil liability of prison officials rather than reduction of a prisoner's sentence.
3. If White's personal health warrants sentence modification in light of COVID-19, an application by DOC under 11 Del. C. § 4217 is the proper vehicle for that relief.

KEY QUOTATIONS

“Section 4221 does not apply to White’s PFBPP sentence because that statute, among other things, only applies to minimum or mandatory sentences of one year or less and the PFBPP sentence exceeds one year.”
(3)

“Should White’s personal health warrant sentence modification in light of COVID-19, an application by DOC under § 4217 is the proper vehicle for such relief.” (3)

FACTUAL BACKGROUND

White pleaded guilty on September 17, 2018, to possession of a firearm by a person prohibited and tampering with evidence. His PFBPP sentence was fifteen years of Level V incarceration, suspended after six years subject to specified program and supervision conditions. White sought sentence relief based in part on his asserted risk of contracting COVID-19 a second time and the adequacy of DOC's protective measures.

PROCEDURAL HISTORY

White pleaded guilty to possession of a firearm by a person prohibited and tampering with evidence and received an aggregate sentence including fifteen years of Level V incarceration for the firearm offense. After several unsuccessful sentence-modification motions and a DOC-requested modification of the program conditions, White filed a December 2020 motion for sentence review under § 4221. The Superior Court denied the motion as time-barred, found that DOC had implemented COVID-19 screening protocols, and concluded that White had not shown entitlement to relief. The Delaware Supreme Court granted the State's motion to affirm.

DISPOSITION

affirmed

CASES CITED

- State v. Culp, 152 A.3d 141, 144 (Del. 2016)
- Farmer v. Brennan, 511 U.S. 825, 837 (1994)
- Johnson v. State, 2020 WL 5626231, at *2 (Del. Sept. 18, 2020)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE JAMES E. WHITE, § § No. 21, 2021 Defendant Below, § Appellant, § Court Below—Superior Court § of the State of Delaware v. § § Cr. ID No. 1708016138 (K) STATE OF DELAWARE, § § Plaintiff Below, § Appellee. § Submitted: March 31, 2021 Decided: May 6, 2021 Before VALIHURA, VAUGHN, and TRAYNOR, Justices. ORDER 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, James E. White, filed this appeal from the Superior Court’s denial of his motion for sentence modification.

The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of White’s opening brief that his appeal is without merit. We agree and affirm. (2) On September 17, 2018, White pleaded guilty to possession of a firearm by a person prohibited (“PFBPP”) and tampering with evidence.

The Superior Court sentenced White as follows: (i) for PFBPP, effective July 26, 2018, fifteen years of Level V incarceration, suspended after six years for two years of Level V Key, to be suspended after successful completion for one year of Level IV Crest, to be suspended after successful completion for one year of Level III Crest; and (ii) for tampering with evidence, two years of Level V incarceration suspended for one year of Level III probation.¹ (3) Between January 2020 and May 2020, White filed three unsuccessful motions for sentence modification.

In June 2020, the Department of Correction (“DOC”) filed a progress report requesting removal of the Level V Key Program from White’s sentence because his treatment needs would be better addressed by a different program.

On September 10, 2020, the Superior Court modified White’s PFBPP sentence to fifteen years of Level V incarceration, suspended after six years and successful completion of a Level V program within DOC discretion, followed by six months of Level IV Work Release or Level IV Home Confinement and one year of Level III probation.

On December 10, 2020, White filed a motion for sentence modification, which the Superior Court denied on December 15, 2020. (4) On December 28, 2020, White filed a motion for sentence review under 11 Del. C. § 4221.

On January 6, 2021, the Superior Court denied the motion. The Superior Court held that the motion was time-barred, DOC had implemented a protocol for increased screening of inmates for COVID-19 to protect inmates and 1 The original sentencing order did not include the tampering sentence imposed by the Superior Court at the sentencing hearing.

On July 27, 2020, the Superior Court corrected the sentencing order to include that sentence. 2 others, and White had failed to show that he was entitled to relief under § 4221. This appeal followed. (5) We review the Superior Court's denial of a motion for sentence reduction for abuse of discretion.² To the extent the claim involves a question of law, we review the claim de novo.³ In his opening brief, White argues that the Superior Court erred in considering his motion under Superior Court Criminal Rule 35(b), instead of under § 4221.

He contends that he is entitled to relief under § 4221 because DOC has not implemented sufficient measures against the spread of COVID-19 and he faces a high risk of contracting COVID-19 for a second time. White also claims that this risk implicates the Eighth Amendment and his right to due process under the Fourteenth Amendment.

(6) The Superior Court did not err in denying White's motion. Section 4221 does not apply to White's PFBPP sentence because that statute, among other things, only applies to minimum or mandatory sentences of one year or less and the PFBPP sentence exceeds one year.⁴ As to White's constitutional claims, the cases he cites relate to the civil liability of prison officials, not the reduction of prisoners' 2 State v. Culp, 152 A.3d 141, 144 (Del.

2016). 3 Id. 4 11 Del. C. § 4221 ("Notwithstanding any provision of law to the contrary, a court may modify, defer, suspend or reduce a minimum or mandatory sentence of 1 year or less, or a portion thereof, where the court finds by clear and convincing evidence, or by stipulation of the State, that the person to be sentenced suffers from a serious physical illness, injury or infirmity with continuing treatment needs which make incarceration inappropriate and that such person does not constitute a substantial risk to the community.").

3 sentences.⁵ Should White's personal health warrant sentence modification in light of COVID-19, an application by DOC under § 4217 is the proper vehicle for such relief.⁶ NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED and the Superior Court's judgment is AFFIRMED. BY THE COURT: /s/ James T. Vaughn, Jr. Justice 5 See, e.g., Farmer v. Brennan, 511 U.S. 825, 837 (U.S.

1994) (holding "a prison official cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the official knows of and disregards an

excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference”).

6 Johnson v. State, 2020 WL 5626231, at *2 (Del. Sept. 18, 2020) (recognizing that § 4217 was the statutory vehicle for the appellant’s claims that his medical conditions and potential exposure to COVID-19 entitled him to sentence modification under Rule 35(b)). 4