

SUPREME COURT OF THE STATE OF DELAWARE

Boyce v. State

Boyce · No. No. 343, 2025 · Decided January 15, 2026

SUMMARY

The Delaware Supreme Court affirmed the denial of Nicholas C. Boyce’s motion to correct an illegal sentence following a violation-of-probation sentencing. The Court held that the motion was not subject to Rule 35(b)’s ninety-day limitation, but concluded that requiring the nonsuspended portion of the VOP sentence to be served day-for-day under 11 Del. C. § 4204(k) did not make the sentence illegal. The Court held that Boyce’s consecutive-sentence claim was untimely and declined to review his unpreserved claim for credit for time served on dismissed charges.

CASE DETAILS

|                       |                                                                                                                                                                                     |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Delaware                                                                                                                                              |
| WRITING FOR THE COURT | Chief Justice Seitz; Justice Valihura; Justice Traynor                                                                                                                              |
| JURISDICTION          | Supreme Court of the State of Delaware                                                                                                                                              |
| DECIDED               | January 15, 2026                                                                                                                                                                    |
| DOCKET                | No. 343, 2025                                                                                                                                                                       |
| DISPOSITION           | affirmed                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Boyce appealed the Superior Court's denial of his motion to correct an illegal sentence. The State moved to affirm under the Delaware Supreme Court's summary-affirmance procedure. |
| STANDARD OF REVIEW    | The denial of a motion to correct an illegal sentence is reviewed for abuse of discretion. Questions of law are reviewed de novo.                                                   |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                           |
| PARTIES               | Nicholas C. Boyce v. State of Delaware                                                                                                                                              |

TOPICS

- sentencing
- post-conviction relief
- criminal procedure
- appellate procedure
- statutory interpretation

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- appellate procedure
- post-conviction relief

## QUESTIONS PRESENTED

1. Whether Boyce's motion to correct an illegal sentence was subject to the ninety-day limitation in Delaware Superior Court Criminal Rule 35(b).
2. Whether requiring the nonsuspended portion of Boyce's violation-of-probation sentence to be served day-for-day under 11 Del. C. § 4204(k) rendered the sentence illegal.
3. Whether the claim that the Superior Court failed to state on the record that the sentences would run consecutively was an illegal-sentence claim or an untimely claim that the sentence was imposed in an illegal manner.
4. Whether Boyce could obtain appellate review of his request for credit for time served on dismissed charges when he had not raised that issue in the Superior Court.

## HOLDINGS

1. A motion to correct an illegal sentence under Superior Court Criminal Rule 35(a) is not subject to Rule 35(b)'s ninety-day limitation.
2. A violation-of-probation sentence is not illegal merely because the court requires the nonsuspended portion to be served day-for-day under 11 Del. C. § 4204(k), so long as the nonsuspended portion does not exceed the term remaining suspended under the prior sentence.
3. The claim that the sentencing court failed to state on the record whether sentences would run consecutively concerns the manner in which the sentence was imposed, not an illegal sentence under Rule 35(a), and therefore was subject to Rule 35(b)'s ninety-day limitation.
4. The Supreme Court could not review Boyce's credit-for-time-served claim because he had not raised it in the Superior Court and the appellate record was not developed.

## KEY QUOTATIONS

*“A motion for correction of an illegal sentence is not subject to the time limitation in Rule 35(b).” (at 2)*

*“The Superior Court did not illegally enhance Boyce’s sentence by requiring that he serve it day-for-day, where the nonsuspended portion of the new VOP sentence did not exceed the term left suspended in Boyce’s previous sentence.” (at 3)*

*“Boyce’s contention amounts to a claim that the sentence was imposed in an illegal manner, which was required to be raised within ninety days of sentencing.” (at 4)*

*“Under Delaware law, the sentencing judge has no obligation to credit a defendant with more time than the defendant has served on the specific case,” (at 5)*

## FACTUAL BACKGROUND

In 2021, Boyce pleaded guilty to third-degree burglary and theft of \$1,500 or more. Following several violations of probation, the Superior Court imposed new Level V sentences in April 2025, suspended after one year for one year of Level III probation with GPS monitoring, and required the Level V time to be served day-for-day under

11 Del. C. § 4204(k). Boyce also challenged the consecutive nature of the sentences and sought credit for Level V and Level IV time served on dismissed charges.

#### PROCEDURAL HISTORY

Boyce pleaded guilty in 2021 to third-degree burglary and theft of \$1,500 or more and received suspended Level III probationary sentences. After several violations of probation, the Superior Court imposed new Level V sentences in April 2025, suspended after one year for Level III probation with GPS monitoring, and directed that the Level V terms be served under 11 Del. C. § 4204(k). Boyce did not appeal that sentence, but later moved under Superior Court Criminal Rule 35 to correct an illegal sentence. The Superior Court denied the motion as untimely, and the Delaware Supreme Court affirmed on different grounds as to the § 4204(k) claim, while concluding that the consecutive-sentence claim was untimely and that the credit-for-time-served claim was unpreserved.

#### DISPOSITION

affirmed

#### CASES CITED

- Fountain v. State, 2014 WL 4102069, at \*1 (Del. Aug. 19, 2014)
- Brittingham v. State, 705 A.2d 577, 578 (Del. 1998)
- Unitrin, Inc. v. Am. Gen. Corp., 651 A.2d 1361, 1390 (Del. 1995)
- Ingram v. State, 567 A.2d 868 (Del. 1989)
- Woods v. State, 2018 WL 1677240, at \*1 (Del. Apr. 5, 2018)
- Richmond v. State, 2022 WL 2276282, at \*2 (Del. June 22, 2022)
- Medley v. State, 281 A.3d 29, 33 (Del. 2022)