IN THE SUPREME COURT OF THE STATE OF DELAWARE

BENNIE J. COBB,	§	
	§	
Defendant Below,	§	No. 629, 2013
Appellant,	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for Kent County
	§	Cr. ID 1109012287
Plaintiff Below,	§	
Appellee.	§	

Submitted: December 30, 2013
Decided: February 7, 2014

Before **BERGER**, **JACOBS**, and **RIDGELY**, Justices.

O R D E R

This 7th day of February 2014, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The defendant-appellant, Bennie Cobb, filed this appeal from the Superior Court's order sentencing him for a violation of probation (VOP). The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Cobb's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Cobb pled guilty on March 5, 2012 to one count each of DUI (Fifth Offense) and Shoplifting. The Superior Court immediately sentenced Cobb on the DUI charge to five years at Level V

incarceration (with credit for fifteen days served), to be suspended after serving nine months for one year at Level III probation. On the Shoplifting charge, the Superior Court sentenced Cobb to one year at Level V incarceration to be suspended entirely for one year at Level III probation.

(3) In May 2013, Cobb was charged with violating probation. His hearing scheduled for June 7, 2013 was continued pending the resolution of new criminal charges against him. On September 10, 2013, Cobb was released from custody on a modified unsecured bond. On September 11, 2013, Cobb signed a progress report indicating his understanding that a special condition of his release included a zero tolerance for possession or consumption of alcohol.[1] On September 17, 2013, Cobb's probation officer conducted a home visit and administered a breathalyzer test indicating that Cobb had a blood alcohol content of 0.117%. Another VOP charge was filed on September 18, 2013 as a result of Cobb's violation of the zero tolerance condition of his release. A VOP hearing was held on November 1, 2013. The Superior Court found Cobb in violation and sentenced him on both underlying charges to a total period of five years at Level V incarceration (with credit for four months and twenty-five days served), to

[1] The original sentencing judge approved this special condition on September 16, 2013.

be suspended after serving two years in prison for six months at Level III probation. This appeal followed.

(4) Cobb raises three issues in his opening brief on appeal. His first claim is difficult to understand. He appears to contend that he was denied due process because he was not allowed to ask questions regarding the reassignment of his original probation officer. Cobb next asserts that his November 1, 2013 VOP sentence constituted double jeopardy, because he was previously sentenced for the same VOP on October 30, 2013 and was ordered to serve only twenty-four days at the VOP Center. Finally, Cobb appears to assert that either his probation officer or the sentencing judge had a conflict of interest.

(5) As for Cobb's double jeopardy claim, we find no support in the record for his contention that he was previously sentenced for the same VOP charge on October 30, 2013. To the extent Cobb may have appeared before the Superior Court on October 30, 2013, it was not in this case. Thus, we find no merit to this argument.

(6) Cobb's remaining claims allege a due process violation and a conflict of interest. We are unable to review these claims, however, because Cobb failed to order and provide this Court with a copy of the transcript from his VOP hearing. As the Court has held many times, the failure to

include adequate transcripts of the proceedings, as required by the rules of the Court, precludes appellate review of a defendant's claims of error in the proceedings below.[2]

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

[2] *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987).