

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
)
 v.) I.D. No. 1805011552
)
)
 DAQUAN D. KENT,)
)
)
 Defendant.)

ORDER

AND NOW TO WIT, this 13th day of January 2020, upon consideration of Daquan D. Kent’s (“Defendant”) Motion for Modification of Sentence, the sentence imposed upon the Defendant, and the record in this case, it appears to the Court that:

1. On November 14, 2018, Defendant pleaded guilty to Drug Dealing Heroin and Possession.¹ On April 12, 2019, Defendant was sentenced as follows: (1) for the Drug Dealing charge, eight years at Level V, suspended for eight years at Level IV Home Confinement, suspended after six months at Level IV Home Confinement, for one year at Level III; and (2) for the Possession charge, one year

¹ Trial Calendar – Defendant Pled Guilty, Sentence Deferred, *State of Delaware v. Daquan K. Kent*, Crim. ID No. 1805011552, D.I. 11 (Del. Super. Ct. Nov. 14, 2018) [hereinafter “Def.’s Plea”].

at Level V, suspended for one year at Level III, probation to be served concurrently.² In sum, he received six months at Level IV Home Confinement, followed by one year at Level III.

2. On June 19, 2019, this Court found Defendant to be in Violation of Probation for Drug Dealing and resentenced Defendant.³ Again, on September 4, 2019, this Court found Defendant to be in Violation of Probation for Drug Dealing and resentenced Defendant as follows: (1) for the Drug Dealing charge, seven years and nine months at Level V, suspended for seven years and nine months at Level IV Work Release, suspended after six months at Level IV Work Release, for one year at Level III; and (2) for the Possession charge, one year at Level V, suspended for one year at Level III, probation to be served concurrently.⁴

3. On September 12, 2019, Defendant filed this request to modify his sentence⁵ by: (1) reducing his six months at Level IV Work Release to four or five months, and instead adding that reduced time to his Level III sentence; and (2)

² Sentencing Calendar: Defendant Sentenced, *State of Delaware v. Daquan K. Kent*, Crim. ID No. 1805011552, D.I. 14 (Del. Super. Ct. Apr. 12, 2019).

³ Violation-of-Probation Hearing: Defendant Found in Violation. Sentenced, *State of Delaware v. Daquan K. Kent*, Crim. ID No. 1805011552, D.I. 18 (Del. Super. Ct. June 19, 2019).

⁴ Violation-of-Probation Hearing: Defendant Found in Violation. Sentenced, *State of Delaware v. Daquan K. Kent*, Crim. ID No. 1805011552, D.I. 24 (Del. Super. Ct. Sept. 04, 2019).

⁵ On September 12, 2019, Defendant filed Motion for Modification of Sentence. His Motion was referred to this Court on October 7, 2019. Defendant's Motion for Modification of Sentence, *State of Delaware v. Daquan K. Kent*, Crim. ID No. 1805011552, D.I. 28 (Del. Super. Ct. Sept. 12, 2019).

permitting him to participate in a reentry program.⁶ In support of his motion, Defendant states the following grounds for relief: (1) his child's third birthday – Defendant's states that his child turns three years old on January 6, 2020; (2) employment – Defendant claims that he is working and is able to pay his fines; and (3) "drug free" – Defendant states that he is "drug free and [feeling] good."⁷

4. Defendant does not specifically cite to Superior Court Criminal Rule 35(b) in his motion. However, in his letters he asks the Court to change the conditions of his Level IV sentence. Generally, "[t]here is no separate procedure, other than that which is provided under Superior Court Criminal Rule 35, to reduce or modify a sentence."⁸ The Court therefore considers this request under Superior Court Criminal Rule 35(b).

5. Under Rule 35(b), "[t]he Court may . . . reduce the . . . term or conditions of partial confinement or probation, at any time."⁹ Defendant is not time-barred because he does not seek to modify or reduce his Level V sentence, but rather requests a reduction of his probation.

⁶ Defendant's Motion for Modification of Sentence, *State of Delaware v. Daquan K. Kent*, Crim. ID No. 1805011552, D.I. 28 (Del. Super. Ct. Sept. 12, 2019). On October 14, 2019, Defendant filed an additional Motion for Modification of Sentence. Defendant's Motion for Modification of Sentence, *State of Delaware v. Daquan K. Kent*, Crim. ID No. 1805011552, D.I. 29 (Del. Super. Ct. Oct. 14, 2019) [collectively, hereinafter "Def.'s Mot."].

⁷ Def.'s Mot.

⁸ *Jones v. State*, 2003 WL 21210348, at *1 (Del. May 22, 2003).

⁹ SUPER. CT. CRIM. R. 35(b).

6. Although the Court commends Defendant on his ability to maintain good standing during his Level IV Work Release, it emphasizes that Defendant's sentence to Level IV Work Release is a direct result of his multiple violations of probation. No additional information has been provided to the Court that would warrant a modification of this sentence. As such, the sentence was and remains appropriate for all the reasons stated at the time of sentencing.

IT IS SO ORDERED that Defendant's Motion for Modification is **DENIED**.



Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Department of Justice
Investigative Services
Defendant