

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
v.)	ID No. 1812003407
)	
STEVEN WATERMAN,)	
)	
Defendant.)	

Date Submitted: February 12, 2024

Date Decided: March 20, 2024

ORDER

Upon consideration of Defendant Steven Waterman’s (“Waterman”) Motion for Modification of Partial Confinement or Probation (“Motion”),¹ Superior Court Criminal Rule 35(b),² statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

(1) On November 5, 2019, Waterman pled guilty to three counts Burglary Second Degree and one count Theft over \$1,500.³ On January 21, 2020, Waterman was sentenced as follows: for Burglary Second Degree (IN18-12-1162), 8 years at Level V, suspended after 1 year for 18 months at Level III; for Burglary Second Degree (IN19-01-1196), 8 years at Level V, suspended for 1 year at Level V for 18

¹ D.I. 16. Waterman styles his Motion as a Motion for Modification/Reduction of Sentence, however, because he requests modification of his partial confinement, the Court views it as a Motion for Modification of Partial Confinement or Probation.

² Super. Ct. Crim. R. 35(b).

³ D.I. 27.

months for Level III; for Theft \$1,500 or greater (IN19-05-116), 2 years at Level V, suspended for 1 year at Level III TASC; and for Burglary Second Degree (IN19-07-0184), 8 years at Level V, suspended for 1 year at Level V for 18 months at Level III.⁴

(2) On October 19, 2023, a Violation of Probation (“VOP”) hearing was held.⁵ At the VOP hearing, Waterman was found in violation of his probation and sentenced as follows: for Burglary Second Degree VOP (VN18-12-1162-01), 7 years at Level V, suspended for 7 years at Level V of DOC Discretion, for 6 months at Level IV, followed by 12 months Level III; for Burglary Second Degree VOP (VN19-07-0184-01), 7 years at Level V, suspended for 1 year Level III; for Burglary Second Degree VOP (VN18-05-0247-02), 2 years at Level V, suspended for 1 year at Level III; for Theft \$1,500 or greater (VN19-05-1216-01), discharged as unimproved.⁶

(3) On February 12, 2024, Waterman filed the instant Motion asking the Court to modify his six months at Level IV Plummer Center to Level IV Home Confinement for six months or, alternatively, for three months.⁷

⁴ D.I. 33.

⁵ D.I. 43.

⁶ D.I. 45.

⁷ D.I. 46.

(4) Rule 35(b) governs motions for modification or reduction of sentence.⁸

“A motion for modification of partial confinement or probation is not subject to the ninety-day limitation applicable to a motion for reduction of imprisonment.”⁹

(5) The Court has discretionary authority to grant relief under Rule 35(b).¹⁰ Rule 35(b) does not provide specific considerations the Court must consider, but rather “the Court exercises broad discretion in determining whether a situation or set of individual factors can be viewed.”¹¹

(6) In support of his Motion, Waterman cites that he will not benefit from staying at the Plummer Center because he has a home to return to and employment following his confinement.¹²

(7) The Level IV confinement imposed by the Court was ordered following a VOP hearing during which the Court found Waterman had violated the terms of his probation.¹³ Waterman was violated while on Level III GPS supervision because he failed to report to probation, tested positive for illegal substances, and left the state without permission. The sentence is appropriate for all the reasons stated at the VOP hearing.

⁸ Super. Ct. Crim. R. 35(b).

⁹ *State v. Baily*, 2017 WL 8787504, at *1 (Del. Super. Oct. 3, 2017); *State v. Redden*, 111 A.3d 602, 609 (Del. Super. 2015).

¹⁰ *Id.*

¹¹ *State v. Redden*, 111 A.3d 602, 609 (2015).

¹² D.I. 46.

¹³ Waterman still has 7 years on his Level V confinement, so this Motion is premature.

NOW, THEREFORE, IT IS HEREBY ORDERED that Steven Waterman's
Modification of Partial Confinement or Probation is **DENIED**.

IT IS SO ORDERED.

/s/ Jan R. Jurden
Jan R. Jurden, President Judge

cc: Original to Prothonotary
Matthew F. Hicks, DAG
Steven Waterman (SBI # 00595395)