

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EMMANUEL T. HOLIDAY,	§
	§ No. 113, 2024
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID Nos. N1911015042
STATE OF DELAWARE,	§ N2008011758
	§
Appellee.	§

Submitted: May 28, 2024

Decided: July 26, 2024

Before **SEITZ**, Chief Justice; **TRAYNOR** and **GRIFFITHS**, Justices.

**ORDER**

Upon consideration of the appellant’s opening brief, the appellee’s motion to affirm, and the record below, it appears to the Court that:

(1) Emmanuel T. Holliday<sup>1</sup> filed this appeal from the Superior Court’s modification of a sentence that the court previously imposed for a violation of probation (“VOP”). The State has moved to affirm the judgment below on the ground that it is manifest on the face of Holliday’s opening brief that the appeal is without merit. We agree and affirm.

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<sup>1</sup> The Superior Court records identify the appellant as Emmanuel T. Holiday. The appellant’s handwritten filings use the spelling “Holliday,” and we therefore use that spelling in the text of this order.

(2) In May 2020, Holliday pleaded guilty to second-degree robbery and second-degree conspiracy. The Superior Court sentenced him as follows: for second-degree robbery, five years of imprisonment with credit for 174 days previously served, suspended for eighteen months of Level III probation; and for second-degree conspiracy, two years of imprisonment, suspended for one year of Level III probation.

(3) In December 2021, Holliday pleaded guilty to second-degree assault, carrying a concealed deadly weapon (“CCDW”), and resisting arrest. The Superior Court sentenced him as follows: for CCDW, effective August 24, 2020, two years of imprisonment, suspended after eighteen months for eighteen months of Level III probation with GPS monitoring, suspended after six months for one year of Level III probation; for second-degree assault, eight years of imprisonment, suspended for eighteen months of Level III probation; and for resisting arrest, two years of imprisonment, suspended for eighteen months of Level III probation.

(4) The Superior Court found Holliday in violation of probation several times in 2021, 2022, and 2023. Most recently, on June 6, 2023, the Superior Court imposed the following VOP sentence: for second-degree assault, effective May 19, 2023, seven years and 296 days of imprisonment with credit for nine days previously served, suspended after successful completion of a Level V substance abuse treatment program for eighteen months of Level III probation with GPS monitoring;

for second-degree robbery, four years and 191 days of imprisonment, suspended after sixty days for eighteen months of Level III probation with GPS monitoring; for second-degree conspiracy, two years of imprisonment, suspended for eighteen months of Level III probation with GPS monitoring; and for CCDW, six months of imprisonment, suspended for eighteen months of Level III probation with GPS monitoring.

(5) Holliday then filed several letters and motions seeking modification of his sentence. At a status conference on February 23, 2024, counsel for Holliday made an oral motion for sentence modification. The court then scheduled a hearing on the motion for March 1, 2024. On March 1, 2024, the court modified the sentence for second-degree assault, still effective May 19, 2023, to eighteen months of imprisonment with no probation to follow. The sentences for the other offenses remained the same. The modification eliminated several years of back-up time and the requirement that Holliday complete a Level V substance abuse program before being released to probation.

(6) Holliday has appealed to this Court. He seeks to eliminate the probationary portion of his sentence—and specifically the GPS monitoring—or to have the period of probation reduced from eighteen months to six months.

(7) Because Holliday did not direct the preparation of transcripts for this appeal, it is not clear on what grounds counsel made the oral motion for sentence

modification. But Holliday's numerous pro se letters and filings indicate that he had been discharged from the Level V program to which he was assigned. Discharge from a DOC program can result in a significant delay in an inmate's opportunity to complete the program.<sup>2</sup> Indeed, Holliday's filings in the Superior Court asserted that, following his discharge from the program, he could not return to the program for a year and asked the court to eliminate the requirement that he complete the program. It appears that the sentence was modified to replace the program-completion requirement with a specified term of incarceration so that Holliday would not spend even more time in prison awaiting placement in a program, consistent with his request.

(8) Holliday's arguments concerning probation with GPS monitoring are unavailing. The March 2024 sentence modification did not change Holliday's sentence for robbery, conspiracy, or CCDW, which included the probationary period with GPS monitoring. In the absence of a transcript of the sentence modification proceedings, it is not clear that Holliday asked the Superior Court to remove the probationary period or the GPS monitoring condition. But, in any event, Holliday has not shown that the Superior Court abused its discretion by leaving that aspect of

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<sup>2</sup> See *Lysinger v. State*, 2020 WL 1921031 (Del. Apr. 20, 2020) (stating that appellant had been discharged from the Key Program for a disciplinary violation of which she was later found not guilty and that she could not return to the program for up to six months, except in the exercise of the director's discretion).

Holliday's sentence intact.<sup>3</sup> Holliday's contention that he cannot engage in his preferred profession of interstate truck driving while on Level III probation with GPS monitoring does not establish reversible error.<sup>4</sup>

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ N. Christopher Griffiths  
Justice

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<sup>3</sup> See *Stanley v. State*, 2024 WL 358235, at \*2 (Del. Jan. 30, 2024) (holding that appellant had not shown that the Superior Court abused its discretion by denying his request to remove the GPS monitoring condition of his probation). See generally *Satchell v. State*, 2023 WL 8802701, at \*1 (Del. Dec. 19, 2023) (“[T]his Court’s appellate review of a sentence is extremely limited and generally ends upon a determination that the sentence is within statutory limits.”).

<sup>4</sup> Cf. *Diaz v. State*, 2023 WL 4043763 (Del. June 15, 2023) (holding that appellant’s argument that he could not comply with Level III supervision while maintaining employment and meeting his financial obligations did not establish reversible error where appellant did not contend that VOP sentence exceeded Level V time remaining on his sentence).