

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
) I.D. No. 2411002318
 v.)
)
 JOSEPH S. SANDERS JR.,)
)
 Defendant.)

Date submitted: October 8, 2025

Date decided: January 2, 2026

ORDER DENYING MOTION FOR SENTENCE MODIFICATION

Having considered Joseph S. Sanders’ (“Sanders”) Motion for Sentence Modification (“Motion”),¹ for the reasons below, the Motion is **DENIED**.

Background

1. On July 14, 2025, Sanders pled guilty to Assault 2nd and an Act of Intimidation² and was sentenced, effective November 6, 2024, as follows: Assault 2nd - 8 years at Level V, suspended after 2 years, followed by 6 months at Level IV DOC discretion, followed by 18 months at Level III, and Act of Intimidation - 8 years at Level V, suspended for 18 months at Level III.³

2. The incident that led to the charges included Saunders hitting the victim with a pool stick, causing a permanent injury to her eye.

¹ D.I. 18.

² D.I. 14.

³ D.I. 16.

3. On October 8, 2025, Sanders filed his Motion,⁴ requesting that his Level V time be suspended after 18 months for Level III, which he contends will allow him to start the Level IV DOC discretion sooner. In support, Sanders states that he has: taken full responsibility for his actions and the harm caused to the victim; voluntarily entered into and completed a drug and alcohol treatment programming; learned about and worked on various behaviors that contributed to his criminal actions; apologized to the victim; and worked closely with the Attorney General’s Office in order to provide information in the investigation of other crimes.⁵

Standard of Review

4. Superior Court Criminal Rule 35(b) provides that the Court “may reduce a sentence of imprisonment on a motion made within 90 days after the sentence is imposed.” The Court will consider a Rule 35(b) motion after the 90-day period “only in extraordinary circumstances” or when the DOC has filed a motion pursuant to 11 Del. C. § 4217. Under Rule 35(b), the Court may consider reducing the term or conditions of partial confinement or probation at any time.

5. Rule 35(b) further provides that the Court “will not consider repetitive requests for reduction of sentence.” The bar to considering repetitive requests for

⁴ D.I. 18.

⁵ *Id.*

modification of a sentence is absolute.⁶ This procedural bar applies even when the subsequent motion requests a reduction or modification of a term of partial confinement or probation.⁷

6. Rule 35(b) relief is subject to the Court's sound discretion.⁸ While the Rule does not set forth specific criteria that must be satisfied to obtain relief, "common sense dictates that the Court may modify a sentence if present circumstances indicate that the previously imposed sentence is no longer appropriate."⁹

Analysis

7. Sanders' Motion was filed within 90 days of his sentencing, and it was his first motion. Thus, he is not procedurally barred.

⁶ *State v. Burton*, 2020 WL 3057888, at *2 (Del. Super. June 5, 2020) (The bar to considering repetitive motions has no exceptions). See also *Jenkins v. State*, 954 A.2d 910 (TABLE), 2008 WL 2721536, at *1 (Del. July 14, 2008) (affirming the Superior Court's denial of defendant's Rule 35(b) motion for modification where Rule 35(b) "prohibits the filing of repetitive sentence reduction motions."); *Morrison v. State*, 846 A.2d 238 (TABLE), 2004 WL 716773, at *2 (Del. Mar. 24, 2004) (finding that defendant's Rule 35(b) motion for modification "was repetitive, which also precluded its consideration by the Superior Court.").

⁷ *Burton*, 2020 WL 3057888, at *2.

⁸ *State v. Bailey*, 2017 WL 8787504, at *1 (Del. Super. Oct. 3, 2017); *Mapp v. State*, 314 A.3d 663 (TABLE), 2024 WL 707143 (Del. Feb. 20, 2024).

⁹ *Bailey*, 2017 WL 8787504, at *1 (citing *State v. Johnson*, 2006 WL 3872849, at *3 (Del. Super. Dec. 7, 2006)).

8. Sanders seeks to modify his Level V time to start the Level IV portion of his sentence to further his treatment and rehabilitation. While this is a commendable motivation, it does not provide grounds for a sentence modification.¹⁰

9. The Court commends Sanders for his dedication to bettering himself through drug and alcohol treatment, mental health treatment, and education. It appears that he has made great personal strides on the road to healing and moving forward with his life in a positive direction. The Court, however, finds that Sanders' sentence continues to be appropriate. Accordingly, the Motion is **DENIED**.

IT IS SO ORDERED.

/s/Kathleen M. Miller
Kathleen M. Miller, Judge

¹⁰ See, *State v. Liket*, 2002 WL 31133101, at *2 (Del. Super. Sept. 25, 2002) (finding that rehabilitative efforts does not qualify as extraordinary circumstances); *State v. Lindsey*, 2020 WL 4038015, n.23 (Del. Super. July 17, 2020) (collecting cases).