

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DORIAN FRISBY-JONES,	§
	§
Defendant Below-	§ No. 501, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0910004187
Plaintiff Below-	§
Appellee.	§

Submitted: December 16, 2011

Decided: February 7, 2012

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 7th day of February 2012, 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, Dorian Frisby-Jones, filed this appeal from the Superior Court's sentence for his 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 Frisby-Jones' opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Frisby-Jones pled guilty in March 2010 to one count each of attempted third degree burglary and misdemeanor criminal mischief. The Superior Court sentenced him to a total period of three years at Level V

incarceration to be suspended after serving fifteen months for a period of probation. On August 23, 2011, the Superior Court found that Frisby-Jones had violated the terms of his probation and sentenced him to one year and 30 days at Level V incarceration with no probation to follow. This appeal ensued.

(3) Frisby-Jones claims on appeal that his probation officer never tried to help him upon his release from incarceration, which led to his violation charges. Frisby-Jones also contends that the Superior Court's VOP sentence was excessive for a first violation. He also suggests that the counsel who represented him at the VOP hearing was ineffective.

(4) This Court will not review ineffective assistance of counsel claims for the first time on appeal.¹ Accordingly, we do not consider that claim here. Moreover, we find no merit to Frisby-Jones' claims that he should not have been violated and that his sentence was too harsh. Frisby-Jones does not deny that he committed the violations with which he was charged. Thus, there is no basis for this Court to conclude that the Superior Court erred in finding Frisby-Jones guilty of a VOP. Upon finding him in violation of his probation, the Superior Court was authorized to reimpose any time remaining to be served on his original sentence.² The Superior Court's one-year VOP sentence did not exceed the time remaining to

¹ *Foster v. State*, 2009 WL 1456992 (Del. May 26, 2009).

² DEL. CODE ANN. tit. 11, § 4334(c) (2007).

be served on the original sentence and was not abuse of the Superior Court's discretion.

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice