

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,)	
)	
v.)	ID. No. 0908004561
)	
JAMIE L. BELTRAN.)	
)	

ORDER

AND NOW, TO WIT, this 17th day of April, 2012, **IT IS HEREBY ORDERED** as follows:

Defendant, Jamie Beltran, (“Defendant” or “Beltran”) filed a Motion for Modification of Sentence pursuant to Superior Court Criminal Rule 35. The motion is **DENIED** for the following reasons: (1) the sentence was imposed pursuant to a plea agreement between the Defendant and the State and was signed by Defendant; and (2) the sentence is appropriate for the reasons considered at sentencing. No additional information has been provided to the Court warranting a reduction or modification of this sentence.

Background

On August 3, 2009, the victim, Wanda Carr, (“victim”) was 57 years old when she was shot three times and killed in her home, during the

commission of a burglary. The burglary was committed by Defendant and his coconspirator, Christian Cortes, (“Cortes”). Of the three shots fired, two were contact wounds to the head and one was a defensive wound to victim’s hand.

On August 5, 2009, Defendant was arrested and indicted for Murder First Degree, Robbery First Degree, Burglary First Degree, Conspiracy Second Degree, four counts of Possession of a Firearm During the Commission of a Felony (“PFDCF”), and Possession of a Deadly Weapon by a Person Prohibited (“PDWPP”). A Capital Murder trial was held October 13, 2010. The jury found the Defendant not guilty of Murder First Degree, and were unable to render a unanimous verdict on the lesser included offense of Murder Second Degree.

Another trial date was scheduled. Before the second trial started, Defendant accepted a plea agreement where he pled guilty to Murder Second Degree and Burglary Second Degree. The plea was entered and signed by Defendant on February 16, 2011. Cortes, who did not yet have a trial before this Court, pled guilty to Manslaughter, Burglary Second Degree and PDWPP on June 6, 2011.

Beltran and Cortes were both sentenced on August 26, 2011. The victim in this case was 57 years old at the time of her death; the Defendant

was 20 years old at the time of sentencing. The State recommended 37 years of Level V so Defendant is incarcerated at Level V until he is the age the victim was at the time of her death. The State justified a higher recommendation for Beltran than it recommended for Cortes for two reasons. First, the evidence at trial established that the burglary was his idea and the text messages and other evidence indicate that Beltran was in the house from the start to the completion of the burglary. Secondly, Beltran had a longer criminal history than Cortes.

On the Murder Second degree charge, effective August 5, 2009, Defendant was sentenced to 40 years at Level V, suspended after 35 years for 5 years at Level IV Department of Corrections discretion, suspended after six months, for two years of Level III. On the Burglary Second Degree charge, Defendant was sentenced to two years at Level V. This Court found that the aggravating circumstances outweighed the mitigating circumstances. These circumstances included excessive cruelty, the vulnerability of the victim, and the lack of amenability.

Discussion

Defendant claims that his sentence was a violation of the Eighth Amendment because he was sentenced to 37 years while his coconspirator was sentenced to 14 years at Level V.

The Eighth Amendment is applicable to the States through the Due Process Clause of the Fourteenth Amendment and states, “[e]xcessive bail shall not be required, not excessive fines imposed, nor cruel and unusual punishments inflicted.”¹

The Eighth Amendment has been interpreted to prohibit only sentences that are disproportionate to the crime or are excessive.² In reviewing a sentenced for a position Eighth Amendment violation, this Court must first compare the crime committed with the sentence imposed to see if a gross disproportionality can be inferred from the sentence.³

In comparing the crime committed with the sentence imposed, this sentence is not disproportional. The Sentencing Accountability Commission (“SENTAC”) implemented guidelines that set forth statutory ranges for sentencing of crimes. According to SENTAC, the statutory range for a Murder Second Degree charge 15 years at Level V to life imprisonment. The first 15 years at Level V are mandatory and may not be suspended.⁴ The sentence was not beyond that range, as Beltran was sentenced to 35 years at Level V. SENTAC sets forth a statutory range of 0 to 8 years for

¹ U.S. Const. amend. VIII.

² *Wallace v. State*, 956 A.2d 630, 639 (Del. 2008).

³ *Crosby v. State*, 824 A.2d 894, 907 (Del. 2003); *See Wallace*, 956 A.2d 630 (Del. 2008) (holding that the life sentence without probation or parole of a 15 year old defendant who was convicted of Murder First Degree against his 9 year old cousin did not violate the Eighth Amendment).

⁴ *See 11 Del. C. § 4502(d)*.

Burglary Second Degree. Again, Beltran's sentence did not go beyond that statutory range, as he was sentenced to 2 years for Burglary Second degree. Even if the sentence was not within the SENTAC guidelines, "there is no constitutional or statutory right in Delaware to appeal a criminal punishment on the sole basis that it deviates from the SENTAC sentencing guidelines."⁵

Defendant also argues that Beltran's sentence should be reduced to 14 years at Level V, which is the sentence received by Cortes. While the State reiterated at sentencing that the evidence does not establish who discharged the gun that killed the victim, Beltran received a significantly higher sentence than Cortes for a few reasons. First, Beltran pled to Murder Second Degree, and Burglary Second Degree, while Cortes pled guilty to Manslaughter, Burglary Second Degree and PDWPP. Different statutory ranges exist for each crime.⁶ Second, the State reiterated at sentencing that the idea for the burglary was Beltran's and he was in the house throughout the entire crime. Last, Beltran had a more serious criminal history than Cortes. This Court found that the aggravating factors that existed in this case included excessive cruelty, vulnerability of the victim and lack of amenability. Therefore, the sentence imposed is appropriate for the reasons

⁵ *Siple v. State*, 701 A.2d 79, 83 (Del. 1997).

⁶ For Manslaughter, the statutory range of the sentence is from 2 to 25 years; the first two years at Level V are mandatory and may not be suspended.

stated at sentencing. Defendant has not set forth anything in his motion warranting a reduction of his sentence.

Conclusion

Based on the forgoing, Defendant's Motion for Modification of Sentence is **DENIED**.

IT IS SO ORDERED.

/S/CALVIN L. SCOTT
Judge Calvin L. Scott, Jr.