

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

JAMES L. BLOUNT, :
 :
 Plaintiff, :
 :
 v. : I.D. No. 83002079DI
 :
 :
 STATE OF DELAWARE, :
 :
 Defendant. :

Submitted: September 6, 2007
Decided: January 25, 2008

Decision upon Defendant's Motion for Correction of an Illegal Sentence

ORDER

This 25th day of January, 2008, the defendant's motion for Correction of Illegal Sentence having been considered, it appears:

1. On March 14, 1983, Reverend Perry O. Hill, a 68 year-old, retired clergyman, was walking in Canby Park West in Wilmington when he was shot to death. There were no eyewitnesses to the killing. Three witnesses testified that they saw an individual matching the description of James L. Blount ("defendant") in the park at about the time of the murder. The defendant made a statement which was admitted in evidence stating that he had been in the park at about the time of the murder. The murder weapon was found in the defendant's residence.¹
2. On February 23, 1984, a jury found the defendant guilty of two counts of murder first degree, robbery first degree, and possession of a deadly weapon during the commission of a felony. He was sentenced on June 25, 1984 to life in prison without probation or parole on each

¹ *Blount v. State*, 511 A.2d 1030 (Del. 1986).

of the counts of murder first degree, to be served concurrently.² He was sentenced to 30 years for robbery first degree, to be served consecutive to the murder sentences. He was sentenced to 15 years for possession of a deadly weapon during the commission of a felony, to be served consecutive to the robbery sentence. The defendant appealed his conviction. His conviction was affirmed by the Delaware Supreme Court on July 8, 1986.³

3. Defendant's *pro se* motion for correction of an illegal sentence is untimely.⁴ He cites three allegations in support of his motion: (1) that there is a discrepancy between the sentencing order and the Department of Corrections status sheet; (2) that the Court incorrectly sentenced him to 30 years on the robbery first degree charge; (3) that his sentence should be modified in light of the *Chao v. State* decision.

4. The defendant alleges there is a discrepancy between the sentencing order and the Department of Corrections status sheet. The defendant is incorrect, as the attached documents—the sentencing order and his current Offender Status Sheet dated January 24, 2008—clearly demonstrate. The original sentencing order states that the sentence for each murder first degree conviction is the “remainder of his natural life . . . without benefit of probation or parole or any other reduction.” The Offender Status Sheet states the defendant's sentence correctly: one life term for each murder first degree conviction, to be served concurrently; 30 years for robbery first degree, to be served consecutively; and 15 years for possession of a deadly weapon during the commission of a felony, to be served consecutively. It also correctly notes that he is not eligible for probation or parole.

5. The defendant contends that he was improperly sentenced to 30 years for first degree robbery. Under the statute applicable at the time of sentencing, robbery was classified as a class

² Sent. Order, June 25, 1984.

³ Blount, *supra*.

⁴ Super. Ct. Crim. R. 35.

B felony.⁵ Accordingly, “[t]he term of imprisonment which the court may impose for . . . a class B felony [is] from 3 to 30 years and such fine or other conditions as the court may order.”⁶ The 30 year sentence imposed for robbery first degree was within the Court’s discretion and it was neither illegal nor imposed in an illegal manner as the defendant alleges.

6. The defendant’s final allegation is that the Court’s decision in *Chao v. State*⁷ applies to his case. The only objection expressed regarding *Chao* is as follows:

The petitioner contend’s that in the recent Chao ruling by the Supreme Court, retroactively applying the decision concerning the murder statute, and the list of name [sic] it affected, the Supreme Court had me listed on their list as one of the name’s [sic] this decision affect [sic] and more importantly it reflect me and listed me as having two life sentence’s plus fifty (50) yrs. and not a “natural life sentence” See Pg 6 of Chao ruling.⁸

In fact, the *Chao* ruling references Blount correctly in that he is now serving two sentences of life imprisonment without parole (“LWOP”) plus 45 years. If he were eligible for a change in his sentence due to the application of *Williams v. State*,⁹ he would be sentenced to a maximum of one LWOP plus 75 years. That reflects one less life sentence, and a 30 year sentence for manslaughter. The final column which relates to the remaining sentence shows that *if* he were entitled to a *Chao* modification, he would still be serving one LWOP plus 45 years. The important fact is that the defendant does not contend that he is entitled to a *Chao* modification.

⁵ 11 *Del. C.* § 832 (1979).

⁶ 11 *Del. C.* § 4205(b)(2) (1979).

⁷ *Chao v. State*, 931 A.2d 1000 (Del. 2007).

⁸ Def.’s Mot. at ¶ 15.

⁹ *Williams v. State*, 818 A.2d 906 (Del. 2003).

Finding that the defendant's motion is untimely and without merit, it is DENIED.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary

xc: Paul R. Wallace, Esquire, Deputy Attorney General
Paul L. Blount, Delaware Correctional Center