

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM E. BURNS,	§
	§
Defendant Below-	§ No. 364, 2005
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID 0102016783
	§
Plaintiff Below-	§
Appellee.	§

Submitted: November 4, 2005

Decided: January 24, 2006

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

ORDER

This 24th day of January 2006, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The defendant-appellant, William Burns, filed this appeal from the Superior Court's denial of his motion for modification of sentence. We find no merit to the appeal. Accordingly, we affirm the judgment of the Superior Court.

(2) The record reflects that Burns pled guilty on October 1, 2003 to one counts of escape after conviction. The Superior Court sentenced him to thirty months at Level V incarceration to be suspended after serving eight months for decreasing levels of supervision. He filed a timely motion for

modification of sentence on October 15, 2003. The Superior Court granted the motion and reduced the Level V portion of Burns' sentence to ninety days to be followed by two years at decreasing levels of supervision. The Superior Court's order further reflected that any future violation of probation would result in a prison sentence of at least one year.

(3) On March 3, 2005, a bench warrant was issued for Burns' arrest for failing to report to probation. After a hearing, the Superior Court found Burns in violation of his probation ("VOP") and sentenced him to one year at Level V incarceration. The trial court discharged Burns as unimproved from any further probation. Burns filed a motion for modification of sentence, which the Superior Court denied. This appeal followed.

(4) In his opening brief on appeal, Burns contends that the Superior Court abused its discretion when it denied his motion for modification of sentence by checking a box on a form order. Burns contends that the use of a form order reflects that the Superior Court did not make a conscientious decision about his motion and that the form order provides no reasoning upon which this Court can base its appellate review.

(5) We disagree. In *Crawford v. State*,¹ this Court held that the Superior Court's use of a pre-printed form to deny the defendant's motion

¹ *Crawford v. State*, 2003 WL 1572124 (Del. Mar. 25, 2003).

for modification of sentence did not deny the defendant due process or otherwise prejudice his ability to present argument on appeal. In Burns' case, the Superior Court's order denied Burns' motion to modify his VOP sentence because "[t]he sentence was imposed after a violation-of-probation hearing was held, and the Court determined the defendant had violated the terms of his probation. The defendant is not amenable to probation at this time." We hold that the Superior Court's order adequately sets for the Superior Court's reasoning and allows for appellate review.

(6) We review the denial of a motion for modification of sentence for abuse of discretion.² We find no abuse of the Superior Court's discretion in this case. The VOP adjudication is supported by the record and the sentence imposed was authorized by law. Accordingly, we find that the judgment of the Superior Court should be affirmed.

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

BY THE COURT:

/s/ Randy J. Holland
Justice

² *Shy v. State*, 246 A.2d 926 (Del. 1968).