

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DORION TATUM,	§
	§
Defendant Below-	§ No. 447, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0503000921
Plaintiff Below-	§
Appellee.	§

Submitted: December 18, 2006

Decided: March 5, 2007

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 5th day of March 2007, upon consideration of the State's motion to dismiss and the appellant's response thereto, it appears to the Court that:

(1) The defendant-appellant, Dorion Tatum, filed this appeal from his convictions and sentencing on seven counts of possession of a hypodermic needle and one count each of tampering with evidence, criminal impersonation, and possession of narcotics. The State of Delaware has moved to dismiss Tatum's appeal on the ground that this Court lacks jurisdiction to consider his appeal. According to the State, none of Tatum's sentences, standing alone, meets the jurisdictional threshold of article IV,

section 11(1)(b) of the Delaware Constitution, which provides that this Court’s appellate jurisdiction in criminal actions is limited to cases “in which the sentence shall be death, imprisonment exceeding one month or fine exceeding One Hundred Dollars.”¹

(2) We agree. In construing the constitutional limitations on our appellate jurisdiction, we have held that “in cases of multiple convictions or multiple penalties for a conviction...the penalties for each conviction must be *either* for a term of imprisonment exceeding one month (or 30 days) *or* a fine exceeding \$100.”² A defendant may not aggregate penalties for purposes of meeting the jurisdictional requirement.

(3) In Tatum’s case, none of his sentences, standing alone, is sufficient to invoke this Court’s constitutional appellate jurisdiction. Accordingly, his entire appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the within appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ Del. Const. art. IV, § 11(1)(b).

² *Marker v. State*, 450 A.2d 397, 399 (Del. 1982) (emphasis in original).