

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: May 15, 2025)

STATE OF RHODE ISLAND,
Appellee,

v.

EDSON TORO,
Appellant.

:
:
:
:
:
:
:

C.A. No. P1-1997-3049A

DECISION

VAN COUYGHEN, J. The matter before the Court is Appellant Edson Toro’s (Appellant) appeal of a May 17, 2024 decision of a Superior Court magistrate denying Appellant’s Motion for Early Termination of Probation pursuant to Rule 35(c) of the Superior Court Rules of Criminal Procedure. Jurisdiction is pursuant to G.L. 1956 § 8-2-11.1(d).

I

Facts and Travel

Appellant’s litigation history is extensive and complex, dating back to 1992;¹ however, only the aspects pertinent to the current appeal are addressed herein. On May 7, 1997, Appellant entered a plea of nolo contendere to a charge of felony assault with a dangerous weapon and was sentenced to fifteen years at the Adult Correctional Institutions (ACI), with five years to serve, ten years suspended, and fifteen years probation. (P2-1997-1639A, Judgment of Conviction and Commitment.) Approximately one month later, on June 16, 1997, Appellant was found to have violated the terms of his sentence based on conduct that later resulted in a first-degree murder conviction. (P1-1997-3049A, Grand Jury Charge filed Sept. 12, 1997.) His full sentence in P2-

¹ See *State v. Toro*, 785 A.2d 568 (R.I. 2001); *State v. Toro*, 684 A.2d 1147 (R.I. 1996).

1997-1639A was imposed pursuant to Rule 32(f) of the Superior Court Rules of Criminal Procedure at a violation hearing held on September 24, 1997. (*See* 32(f) Violation Report dated June 23, 1997.) (*See* Docket activity Sept. 24, 1997.) Thereafter, in April 2001, in P1-1997-3049A, Appellant was convicted by a jury of the underlying conduct—the first-degree murder of fellow inmate Luis Rivera at the ACI’s Maximum Security Facility on June 16, 1997. He was sentenced to life imprisonment. (*See Toro v. Wall*, 926 A.2d 1019, 1019 (R.I. 2007).) Appellant appealed his conviction to the Supreme Court. Appellant also moved for a remand to the Superior Court for the purpose of filing a Motion for a New Trial on the ground that he had discovered a new witness who could offer exculpatory evidence in his case. The Supreme Court granted the remand, and the case returned to the Superior Court on September 13, 2002. *Toro v. State*, No. P1/1997-3049A, 2004 WL 1541917, at *1 (R.I. Super. June 30, 2004). On November 7, 2005, Appellant pled nolo contendere in P1-1997-3049A to the amended charge of second-degree murder and was sentenced to fifty years at the ACI, with twenty-eight years to serve, twenty-two-years suspended, and fifty years probation. (*See* Nov. 7, 2005, Request to Enter Plea of Nolo Contendere.) It is this sentence that Appellant unsuccessfully sought termination of his probation by the magistrate, and the appeal of which is before this Court for review.

Appellant began serving his sentence after his plea and was granted early release into the community on August 6, 2010. He completed his parole on April 20, 2021. (*See* Certificate for Termination of Probation Supervision.) (*See also* Appellant’s Mem. at 5.) Appellant’s probation term is scheduled to terminate on November 6, 2055. *Id.*

Appellant filed a Motion for Early Termination of Probation that was heard before a Superior Court magistrate on May 17, 2024. (*See generally* Hr’g Tr., May 17, 2024.) Under Rule 35(c) of the Superior Court Rules of Criminal Procedure, the Probation Unit of the Rhode Island

Department of Corrections first must make a recommendation based on the criteria outlined in subdivision (1) of Rule 35(c). The criteria outlined in subdivision (1) of Rule 35(c) is as follows:

“(1) A motion seeking probation termination shall contain a signed certificate from the probation unit of the department of corrections stating that:

“(i) A copy of the signed certificate has been provided to the State and the defendant’s probation is not conditioned on an active no-contact order; and

“(ii) The defendant has completed all of the terms and conditions of the defendant’s probation, including, but not limited to, counseling requirements, community service orders, restitution orders, and fines; and

“(iii) There are no pending probation or deferred sentence revocation proceedings filed against the defendant; and

“(iv) During the three (3) years preceding the issuance of the certificate by the probation unit, the court has not declared defendant a violator of the defendant’s probation or deferred sentence; and

“(v) The defendant is not currently on parole in this or any other jurisdiction; and

“(vi) The defendant is not currently on probation, suspended sentence, or deferred sentence in any other criminal case in this or any other jurisdiction, with the exception of another criminal case where the term of probation, suspended sentence or deferred sentence was imposed on the same date as the other sentence and the sentences were ordered to run concurrently; and

“(vii) The defendant is not the subject of pending charge(s) in this or any other jurisdiction; and

“(viii) The probation unit has made reasonable efforts to contact victims through its Office of Victims Services and/or the victim’s last known address; and

“(ix) After review of the defendant’s case history and the criteria in subdivisions (1)(i) to (ix), the probation unit recommends that the defendant’s probation be terminated.”
Super. R. Crim. P. 35(c).

Appellant is serving his probation in Virginia. On April 29, 2024, the Virginia Probation Unit initially recommended early termination of supervision. (*See Interstate Commission for Adult Offender Supervision.*) The recommendation was then forwarded to Rhode Island, where the

Probation Unit assessed and approved it under the criteria outlined in Rule 35(c). (*See* Interstate Commission for Adult Offender Supervision Progress Report.)

Appellant then filed a motion in Superior Court to amend his sentence by terminating his probation. During the hearing on May 17, 2024, the magistrate heard from Appellant and reviewed the documents he presented, which included generic correspondence from the Rhode Island Governor's Office and the Governor's Office of Virginia responding to Appellant's request certifying that his civil rights were restored upon his discharge from incarceration. (Hr'g Tr. 8:10-9:13, May 17, 2024.) Appellant additionally provided letters from Appellant's employer and from the charitable organization where he volunteers. *Id.* at 7:4-13. The magistrate issued a bench decision denying Appellant's motion at the hearing on May 17, 2024, citing the time remaining on Appellant's probation and the seriousness of the crimes. *Id.* at 13:21-14:3.

On May 29, 2024, Appellant timely filed this appeal seeking review of the magistrate's decision by a justice of this Court pursuant to § 8-2-11.1(d) and Rule 35(c).

II

Standard of Review

A

Review of a Magistrate's Decision

Section 8-2-11.1(d) governs generally the Superior Court's review of a magistrate's decision and provides:

“A party aggrieved by an order entered by the administrator/magistrate shall be entitled to a review of the order by a justice of the superior court. Unless otherwise provided in the rules of procedure of the court, the review shall be on the record and appellate in nature. The court shall, by rules of procedure, establish procedures for review of orders entered by the administrator/magistrate, and for enforcement of contempt adjudications of the administrator/magistrate.” Section 8-2-11.1(d).

Rule 2.9(h) of the Superior Court Rules of Practice also sets forth the standard by which a Superior Court justice considers appeals from decisions of a magistrate. Pursuant to Rule 2.9(h),

“The Superior Court justice shall make a de novo determination of those portions to which the appeal is directed and may accept, reject, or modify, in whole or in part, the judgment, order, or decree of the magistrate. The justice, however, need not formally conduct a new hearing and may consider the record developed before the magistrate, making his or her own determination based on that record whether there is competent evidence upon which the magistrate’s judgment, order, or decree rests. The justice may also receive further evidence, recall witnesses or recommit the matter with instructions.”

B

Rule 35(c) Motion for Termination of Probation

The judicial officer has the ultimate discretion to grant a defendant’s motion for discharge from probation if the judicial officer determines that this defendant no longer requires supervision. Super. R. Crim. P. 35(c)(2).

The Rhode Island Supreme Court has defined “judicial discretion” as “sound discretion, exercised not arbitrarily or willfully, but with just regard to what is right and equitable under the circumstances and the law.” *Strzebinska v. Jary*, 58 R.I. 496, 193 A. 747, 749 (1937). The Rhode Island Supreme Court has held that abuse of discretion ““occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them.”” *Hogan v. McAndrew*, 131 A.3d 717, 722 (R.I. 2016) (quoting *Independent Oil and Chemical Workers of Quincy, Inc. v. Procter & Gamble Manufacturing Co.*, 864 F.2d 927, 929 (1st Cir. 1988)).

III

Analysis

Appellant raises a variety of arguments, contending that the magistrate improperly denied his motion. In his memorandum, Appellant asserts that the magistrate misapplied the law and facts when denying his Motion for Early Termination from Probation under Super. R. Crim. P. 35(c). (Appellant's Mem. in Supp. of Appeal of Magistrate's Decision.) Appellant also states that his rights were violated because the clerk in a previous filing did not file his motion in accordance with Rule 35(c) and the magistrate denied him a hearing under Rule 35(c).² *Id.* at 1. Appellant additionally argues that the incorrect legal standard was applied when his motion was denied because the magistrate improperly based her decision upon the length of his probation. *Id.* at 7. Appellant further argues that the magistrate misapplied the facts and fabricated evidence which she relied on to deny the motion. *Id.* at 8. Appellant also states that the magistrate abused her discretion and denied him the equal benefit of all laws because she did not take Appellant's lifespan into consideration. *Id.* at 9-10. Appellant further asserts that the magistrate ignored the decision of the parole board that granted him early release, the parole unit's determination to allow Appellant to go to court for early termination, and the recommendation by the Virginia Probation Unit which recommended early termination of his probation due to his successful integration into the community. *Id.* at 11. Lastly, Appellant asserts that the magistrate did not take his mitigating circumstance into consideration, which was his status as a juvenile offender. *Id.* at 11-12.

² Appellant had previously filed for Early Termination of Probation pursuant to Super. R. Crim. P. 35(c) on April 8, 2022 and was informed by a probation officer that he was not eligible. In his memorandum, Appellant contends that his 2022 petition was improperly denied. Appellant's argument is without merit. Regardless of the merits of that claim, the issue is now moot as the Appellant subsequently had a hearing on May 17, 2024.

At the hearing before the magistrate, the State objected to Appellant's motion on two grounds. The State asserted that the motion was "far too early" because Appellant's probation was scheduled to end in November 2055 and objected due to the seriousness of the crime committed. (Hr'g Tr. 1:12-18.)

Appellant's arguments lack merit. Appellant was given the opportunity to address the Court before the magistrate ruled on the motion. Appellant shared several points about his background, personal growth, and challenges. Appellant explained that he entered the ACI at the age of sixteen and that he takes full responsibility for his actions. *Id.* at 2:9-19. While incarcerated, Appellant stated that he joined a gang for protection but since then has "renounced" and "denounced" gang membership. *Id.* at 3:4-7; 4:8-10. Appellant also stated that, throughout the years, he has pursued an education, earning a diploma in paralegal and legal assistant studies, a degree in criminal justice, a certification in forensic science, and is completing his last semester of his bachelor's degree, and is hoping to complete a law degree. *Id.* at 5:1-7. Appellant has been employed by his cousin in Virginia for approximately eight years, and regarding other employment, alleges that he has been unable to move upward due to being on probation. *Id.* at 4:13-23. Appellant also shared the emotional toll of familial losses experienced during his incarceration and expressed concern about his age, stating that, at fifty years old, he fears dying before his probation is terminated. *Id.* at 2:21-22; 6:11-16. Appellant shared that he has not gotten into any trouble and has not been involved in any criminal associations and has been involved in the community by volunteering at a homeless shelter, at the Masonic Lodge. *Id.* at 6:17-20.

During the hearing, the magistrate stated that Appellant was "doing everything and anything the Court would want [him] to do" which included "living in Virginia with family, working in Virginia, doing charity work, reaching out to the community, not only furthering

[himself] but furthering others in the community,” which are some of the factors the magistrate considered in making her decision. *Id.* at 10:19-25. The magistrate indicated that she also took the crime Appellant was charged with, along with the time left on Appellant’s probation, as some of the many factors taken into consideration. *Id.* at 11:1-10; 13:21-22. The magistrate accurately indicated that Appellant had thirty-one years left on his probation, consistent with the information provided on Appellant’s application. *Id.* at 13:21-22. (See Certificate for Termination of Probation Supervision.)

This Court reviews a magistrate’s decision and determines whether it is supported by competent evidence. This Court believes that the magistrate conducted a thorough review of the evidence presented and considered all the relevant factors in exercising her discretion. She acknowledged Appellant’s efforts to improve himself by maintaining gainful employment and spending time volunteering for charitable causes and allowed Appellant to be heard as he expressed to the Court his concerns regarding his age upon completing his probation and his life’s challenges. However, the magistrate also acknowledged the severity of the charges and the corresponding sentence. Although this Court applauds Appellant’s strides in improving his life, it does not find that the magistrate abused her discretion when she denied Appellant’s Motion for Early Termination of Probation based upon competent evidence, including the severity of the crimes committed and the length of the corresponding sentence.

IV

Conclusion

The magistrate’s decision is affirmed. Counsel for the State shall submit the appropriate order and judgment for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: State of Rhode Island v. Toro

CASE NO: P1-1997-3049A

COURT: Providence County Superior Court

DATE DECISION FILED: May 15, 2025

JUSTICE/MAGISTRATE: Van Couyghen, J.

ATTORNEYS:

For Plaintiff: Megan A. Andrews, Esq.

For Defendant: Joseph L. Decaporale, Esq.