

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

STATE OF DELAWARE	)	
	)	
v.	)	I.D. No. 1104024338
	)	
TYAIRE BROOKS,	)	
	)	
Defendant.	)	

UPON CONSIDERATION OF DEFENDANT’S MOTION TO  
WITHDRAW GUILTY PLEA  
**DENIED**

Submitted: December 7, 2011  
Decided: January 19, 2012

This 19th day of January, 2012, it appears to the Court that:

1. On December 6, 2011, Defendant Tyaire Brooks (“Brooks”), pursuant to a plea agreement, entered a guilty plea to the following five charges: Assault First Degree, Possession of a Firearm During Commission of a Felony, Reckless Endangering First Degree, Robbery Second Degree, and Possession of a Firearm by a Person Prohibited. In a signed Truth-in-Sentencing Guilty Plea Form and at his plea colloquy, Brooks asserted that his plea was knowing, intelligent, and voluntary.<sup>1</sup> At the plea colloquy, the Court advised Brooks that he faced anywhere from a minimum of eight to a

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<sup>1</sup> Docket 22.

maximum of seventy-one years in prison under the charges against him.<sup>2</sup> On December 7, 2011, Brooks wrote a letter to the Court seeking to withdraw his guilty plea. Brooks asserted that he was pressured by his mother to accept the plea because his counsel had told her that he would be sentenced to thirty-nine years in prison if he was convicted at trial.<sup>3</sup>

2. Superior Court Criminal Rule 32 governs a defendant's request to withdraw his guilty plea. Under Rule 32(d), prior to the implementation of sentence, the Court may permit a defendant to withdraw his guilty plea upon the showing of "any fair and just reason."<sup>4</sup> The decision to permit a defendant to withdraw his guilty plea rests in the sound discretion of the Court.<sup>5</sup> The defendant has the burden to establish that the plea was "[n]ot voluntarily entered or was entered because of misapprehension or mistake as to . . . [the defendant's] legal rights."<sup>6</sup>

3. In *State v. Friend*,<sup>7</sup> the Court enunciated five factors considered upon motion to vacate a guilty plea:

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<sup>2</sup> *State v. Brooks*, Case No. 1104024365 (Del. Super. Dec. 6, 2011) (ROUGH TRANSCRIPT).

<sup>3</sup> Docket 24.

<sup>4</sup> *State v. Phillips*, 2007 WL 3105749, at \*1 (Del. Super. Sept. 20, 2007) (citing *Brown v. State*, 250 A.2d 503, 504 (Del. 1969)).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* (quoting *State v. Drake*, 1995 WL 654131, at \*2 (Del. Super. Nov. 1, 1995)).

<sup>7</sup> *State v. Friend*, 1994 WL 234120, at \*1-2 (Del. Super. May 12, 1994), *aff'd*, 683 A.2d 59, 1996 WL 526005 (Del. Aug. 16, 1996) (TABLE).

- (a) Whether there was a procedural defect in taking the plea;
- (b) Whether the defendant knowingly and voluntarily consented to the plea agreement;
- (c) Whether the defendant presently has a basis to assert legal innocence;
- (d) Whether the defendant received adequate legal counsel throughout the proceedings; and
- (f) Whether granting the motion would prejudice the State or unduly inconvenience the Court.<sup>8</sup>

4. Brooks has failed to satisfy his burden of establishing that his plea was involuntary or the result of a mistake or misapprehension as to his rights. Although Brooks asserts that he feels that his attorney pressured him by advising him and his mother that he faced a possibly much longer sentence if he was convicted at trial, he identifies no procedural error in the taking of the plea. Indeed, at his plea colloquy, Brooks acknowledged his awareness of the range of possible sentences for the offenses to which he pled guilty. Brooks subsequently advised the Court that his plea was knowing and voluntary. Brooks' allegation that he felt pressured by his ailing mother to accept the plea offer is essentially conclusory and does not merit withdrawal of his plea. Brooks has not offered an argument as to legal innocence. He was represented by counsel at the time of his plea. His signed guilty plea form and statements at the

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<sup>8</sup> *Phillips*, 2007 WL 3105749, at \*1 (citing *Friend*, 1994 WL 234120, at \*1-2).

guilty plea colloquy belie his assertion that counsel pressured or coerced him into accepting the guilty plea. When entering his plea, Brooks expressed that he was satisfied with his attorney's representation, had been fully advised of his rights, and was aware of the potential range of sentences and other consequences of entering his plea.<sup>9</sup> There is no basis for withdrawing Brooks' guilty plea.

5. For the foregoing reasons, Brooks' motion to withdraw his guilty plea is hereby **DENIED**.

**IT IS SO ORDERED.**

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Peggy L. Ableman, Judge

Original to Prothonotary

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<sup>9</sup> *State v. Brooks*, Case No. 1104024365 (Del. Super. Dec. 6, 2011) (ROUGH TRANSCRIPT).