

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TROY W. BRATCHER,	§
	§ No. 443, 2007
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0009019170
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 9, 2008
Decided: June 20, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 20th day of June 2008, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Troy Bratcher, filed an appeal from the Superior Court's May 24, 2007, order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we affirm.

(2) In November 2004, Bratcher pleaded guilty to Trafficking in Cocaine. In exchange for the guilty plea, the State dismissed two additional drug charges and did not move to have Bratcher declared a habitual offender. Bratcher was sentenced to twenty years of Level V incarceration,

to be suspended after twelve years for six months at Level IV home confinement, followed by eighteen months at Level III probation. Bratcher did not file a direct appeal of his conviction and sentence.

(3) In this appeal from the Superior Court's denial of his motion for postconviction relief, Bratcher claims that the Superior Court abused its discretion by failing to grant his motion for postconviction relief on the ground that his counsel provided ineffective assistance. Bratcher specifically argues that his counsel failed to properly investigate his case and failed to file a motion to suppress evidence.

(4) In order to prevail on a claim of ineffective assistance of counsel in connection with a guilty plea, a defendant must demonstrate that, but for his counsel's unprofessional errors, he would not have pleaded guilty, but would have insisted on proceeding to trial.¹ The defendant must make concrete allegations of actual prejudice, and substantiate them, or risk summary dismissal.²

(5) The record in this case does not reflect that, but for counsel's errors, Bratcher would not have pleaded guilty and would have insisted on proceeding to trial. While Bratcher's counsel did not file a motion to suppress, the record reflects that any such motion was likely to fail. The

¹ *Hill v. Lockhart*, 474 U.S. 52, 58 (1985).

² *Younger v. State*, 580 A.2d 552, 556 (Del. 1990).

evidence against Bratcher consisted of two “eight balls” of cocaine, which were seized by the police at a gas station where Bratcher had agreed to meet a confidential police informant to transact a drug deal. Moreover, Bratcher had much to gain from a plea bargain---the State dismissed two additional drug charges against him and declined to move to have him declared a habitual offender. As such, we conclude that there is no merit to Bratcher’s claim.

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

BY THE COURT:

/s/ Randy J. Holland
Justice