

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL BRUNO,	§
	§
Defendant Below-	§ No. 119, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. 93-09-0341
Plaintiff Below-	§ 93-09-0342
Appellee.	§ 93-09-0343

Submitted: June 23, 2000
Decided: August 16, 2000

Before **VEASEY**, Chief Justice, **WALSH** and **BERGER**, Justices

ORDER

This 16th day of August 2000, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Michael Bruno, appeals from an order of the Superior Court dated February 25, 2000 denying his motion seeking relief from two previous Superior Court orders entered on August 16, 1999 and January 20, 2000,¹ both of which denied him postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we AFFIRM.

¹It appears that Bruno may not have received the Superior Court's August 16, 1999 order until after he filed his second motion for postconviction relief. The Superior Court sent its August 16, 1999 order to Bruno along with its January 20, 2000 order.

(2) In this appeal, Bruno claims that: first, the terms of his guilty plea agreement were breached in that he received more than the 5 years of imprisonment he bargained for; second, he did not know the maximum sentence for his crimes and, therefore, did not enter his guilty plea knowingly and voluntarily; and, third, he received ineffective assistance of counsel in the proceedings leading up to his guilty plea.²

(3) In December 1993, Bruno pleaded guilty to trafficking in cocaine, possession with intent to deliver cocaine and conspiracy in the second degree. In February 1994, he was sentenced to a total of 32 years incarceration at Level V, to be suspended after 24 years for 8 years of decreasing levels of probation. His convictions and sentences were affirmed by this Court on direct appeal.³

(4) In its August 16, 1999 order, the Superior Court held that Bruno's Rule 61 postconviction motion was time-barred because it was filed more than three years following the judgment of conviction⁴ and there was no colorable claim of a miscarriage of justice due to a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings

²In his two Rule 61 motions in Superior Court Bruno asserted the same claims that he asserts here. Neither of the Superior Court orders denying him relief was appealed to this Court.

³*Bruno v. State*, Del. Supr., No. 82, 1994, Hartnett, J., 1994 WL 590491 (Oct. 11, 1994) (ORDER).

⁴Super. Ct. Crim. R. 61(i) (1).

leading to the judgment of conviction.⁵ Reaching the merits of Bruno's claim of ineffective assistance of counsel, the Superior Court also held that Bruno failed to identify any acts or omissions on the part of counsel that resulted in prejudice to him⁶ and, in the absence of clear and convincing evidence, was bound by his guilty plea.⁷ In its January 20, 2000 order, the Superior Court held that Bruno's second Rule 61 motion was identical to the first and summarily denied it.⁸

(5) There is no merit to Bruno's appeal from the Superior Court's February 25, 2000 order. Bruno offered no grounds for the Superior Court to reconsider its two previous orders denying his motions for postconviction relief and the Superior Court was, therefore, correct in denying Bruno's request for relief from those orders. Even if Bruno's substantive claims were properly before us, they are meritless. A review of the record indicates that the Superior Court properly concluded that Bruno's guilty plea was entered knowingly and intelligently and that he failed to identify any acts or omissions on the part of counsel that resulted in prejudice to him.

⁵Super. Ct. Crim. R. 61(i) (5).

⁶*Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

⁷*Fullman v. State*, Del. Supr., 560 A.2d 490 (1989).

⁸Super. Ct. Crim. R. 61(d) (4) and 61(i) (4).

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice