

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT WAYNE LAYTON,	§	
	§	No. 72, 2013
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Kent County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1106000025
Appellee.	§	

Submitted: April 16, 2013

Decided: June 20, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

O R D E R

This 20th day of June 2013, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The appellant, Robert Wayne Layton (“Layton”), filed this appeal from the Superior Court’s denial of his first motion for postconviction relief under Superior Court Criminal Rule 61 (“Rule 61”). The appellee, State of Delaware, has moved to affirm the Superior Court judgment on the ground that it is manifest on the face of Layton’s opening brief that the appeal is without merit. We agree and affirm.

(2) It appears from the record that Layton and a co-defendant were arrested on June 1, 2011 on charges of rape and conspiracy. On August 9, 2011, Layton pled guilty to Rape in the Fourth Degree. In exchange for Layton's plea, the State *nolle prossed* the remaining charges against him. The Superior Court immediately sentenced Layton in accordance with the plea agreement to fifteen years at Level V suspended after five years for decreasing levels of supervision.

(3) On October 31, 2011, Layton filed a motion for postconviction relief alleging that his guilty plea was involuntary due to the ineffectiveness of his defense counsel. According to Layton, his defense counsel "lied" about contacting defense witnesses and failed to provide him with his co-defendant's statements. Layton also complained that his co-defendant got a better plea agreement.

(4) The Superior Court referred Layton's postconviction motion to a Commissioner. Thereafter, at the direction of the Commissioner, the State filed a response to the motion, and Layton's defense counsel filed an affidavit in response to the claims of ineffective assistance of counsel.

(5) On August 30, 2012, the Commissioner issued a report recommending that Layton's postconviction motion should be denied. Based on defense counsel's affidavit, which the Commissioner found

credible, the transcript of the plea colloquy, and the signed guilty plea forms, the Commissioner found that Layton's guilty plea was entered knowingly and voluntarily. The Commissioner also found that Layton had not demonstrated that his defense counsel was ineffective.

(6) After considering Layton's objections to the Commissioner's report and upon *de novo* review of the matter, the Superior Court issued an order on January 29, 2013, adopting the Commissioner's report and denying Layton's motion for postconviction relief. This appeal followed.

(7) In his opening brief on appeal, Layton claims that his defense counsel could have negotiated a better plea offer had he conducted an investigation, and that his defense counsel did not provide him with his co-defendant's statements and other discovery. Layton also contends that the Superior Court should have conducted an evidentiary hearing on his ineffective assistance of counsel claim.

(8) Having carefully considered the parties' positions on appeal and the Superior Court record, we conclude that the Superior Court's summary disposition of Layton's postconviction claims on the expanded record was appropriate, and an evidentiary hearing was not required.¹ The transcript of the plea colloquy and the guilty plea forms clearly refute Layton's claim that

¹ Del. Super. Ct. Crim. R. 61(d)(4).

his guilty plea is involuntary. Moreover, there is no support in the record for Layton's allegations that his defense counsel did not meet reasonable professional standards and that, but for his defense counsel's alleged ineffectiveness, Layton would have not pleaded guilty and would have insisted on proceeding to trial.²

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

² In the context of a guilty plea, a defendant claiming ineffective assistance of counsel has the burden of demonstrating that, but for his counsel's deficient performance, he would not have pleaded guilty and would have insisted on proceeding to trial. *Albury v. State*, 551 A.2d 53 (Del. 1988).