

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

STATE OF DELAWARE,)
)
 v.)
)
STEVEN J. LUCAS,) ID. No. 9604013921
)
Defendant.)

Submitted: March 14, 2008
Decided: April 28, 2008

On Defendant Steven J. Lucas's Motion for
Appointment of Counsel. **DENIED.**

ORDER

Steven J. Lucas, Defendant, *Pro Se*

JOHNSTON, J.

1. On May 5, 1997, Lucas pled guilty to: (1) Attempted Assault in the First Degree; (2) Possession of a Firearm during the Commission of a Felony; (3) Assault in the Second Degree; and (4) Possession of a Deadly Weapon during the Commission of a Felony. Lucas was sentenced to 43 years at Level V (suspended after 37 years for decreasing levels of probation).

2. On March 16, 2000, Lucas filed a *pro se* Motion for Postconviction Relief. On July 27, 1999, Lucas filed a request for appointment of counsel. On September 1, 1999, the Superior Court appointed counsel to represent Lucas in his Motion for Postconviction Relief. On October 5, 2000, the Court denied Lucas' Motion for Postconviction Relief. On August 15, 2003, Lucas appealed the Superior Court's denial of his Motion for Postconviction Relief. The Supreme Court affirmed the judgment of the Superior Court. On June 8, 2007, Lucas filed a Letter Requesting Re-examination of Defendant's Guilty Plea. Lucas' request was denied.

3. On March 14, 2008, Lucas filed a second Motion for Appointment of Counsel. Lucas requests counsel to appeal his guilty plea in a Motion for Postconviction Relief. Under Delaware law, "there is no constitutional right

to counsel during post-conviction proceedings.”¹ “The court will appoint counsel...only in the exercise of discretion and for good cause shown, but not otherwise.”²

4. Lucas claims that on April 8, 1997, he was offered 11 ½ years of incarceration in exchange for his guilty plea. The State prosecutor then realized Lucas had two prior felonies, which would increase the minimum mandatory sentence on each of his weapon charges from three to five years. Lucas was permitted to withdraw his plea. Lucas was offered, and accepted, a second plea, taking into account the corrected minimum mandatory sentences. Lucas now claims the Court is bound to honor the sentence Lucas agreed to in the initial plea.

5. In 1999, the Court appointed counsel to represent Lucas in a Motion for Postconviction Relief. Lucas’s counsel argued: (1) Movant was denied his 8th and 14th Amendment rights to be free from cruel and unusual punishment by virtue of the Court’s unlawful aggravation of Movant’s sentence; and (2) Movant was denied his 6th and 14th Amendment rights to effective assistance of counsel by virtue of counsel’s misrepresentations to Movant, causing Movant to enter his guilty plea in a manner that was neither

¹ *HFloyd v. State*, 1992 WL 183086, at *1 (Del.)H.

² Super. Ct. Crim. R. 61(e)(1).

knowing, intelligent or voluntary, specifically, Movant was misled by counsel as to the consequence of entering a plea of “guilty” to the various charges, including the sentences he would receive.

6. Lucas already has had the benefit of appointed counsel when challenging the plea agreement in his first Motion for Postconviction Relief. Even with counsel, his plea was upheld by both the Superior and Supreme Courts of Delaware. Therefore, Lucas has not demonstrated good cause for the Court to re-appoint counsel in a second Motion for Postconviction Relief based on the same facts and circumstances.

THEREFORE, the Defendant’s Motion for Appointment of Counsel is hereby **DENIED**.

IT IS SO ORDERED.

The Honorable Mary M. Johnston