

SUPERIOR COURT
OF THE
STATE OF DELAWARE

John E. Babiarz, Jr.
Judge

New Castle County Courthouse
500 North King Street, Suite 10400
Wilmington, Delaware 19801

April 30, 2008

Richard B. Lewis
Young Correctional
1301 E. 12th Street
P.O. Box 9561
Wilmington, DE 19809

RE: *State of Delaware v. Richard B. Lewis*
I.D. No. 0604021526

Dear Mr. Lewis,

I have received your motion for postconviction relief in which you seek a psychiatric evaluation and a new trial because of your alleged schizophrenia. For the reasons I have explained below, your motion is denied.

The relevant facts are as follows. In April 2006, two men, Christian Torres and Gustavo Quazada, sat in a car outside the Admiral Club Apartments. A man approached the car and demanded that the window be opened. The man then reached inside the window, opened the door and demanded money, acting as though he had a weapon hidden in his shirt. When Quazada refused to cooperate, the man tried to pull Quazada out of the car, threatening him with a knife. The other passenger, Torres, gave the man a \$50 bill, and he left. Two weeks later Torres identified you as the robber.

The night after the incident with Quazada, Mario Vargus left his apartment at Admiral Club Apartments and walked past a man who was entering the building. The man turned

around and followed Vargas outside. Holding his hand under his shirt, the man told Vargas he had a gun and demanded all his money. When Vargas' wife opened the window and asked what was happening, the man fled. Later, Vargas identified you as the robber with complete certainty.

These events led to your arrest. You were tried and convicted of two counts of Robbery First Degree, one count of Attempted Robbery First Degree and two counts of Possession of a Deadly Weapon During the Commission of a Felony. You were sentenced to 13 years at Level 5, followed by probation. The Delaware Supreme Court affirmed your convictions and sentence.¹

In your postconviction relief motion, you allege that you are a schizophrenic and that defense counsel was constitutionally ineffective for not obtaining a psychiatric evaluation and for not informing the jury about your mental illness. To prevail on this claim, you must show that counsel's representation fell below an objective standard of reasonableness and that but for this conduct the result of the proceedings would have been different.²

Your attorney, Kester Crosse, Esq., has stated to the Court that he met with you several times in preparation for trial. He did not detect any signs of schizophrenia or any other mental problems. Mr. Crosse stated that you were well aware of what you were doing in turning down the State's plea offers and that you understood that you faced a minimum mandatory sentence of up to 24 years if you were convicted on all charges. His notes do not

¹*Lewis v. State*, 2007 WL 4372815 (Del. Super.).

²*Strickland v. Washington*, 466 U.S. 668, 688, 694 (1986).

reflect that you ever told him you had a history of mental illness. Mr. Crosse frequently spoke to your grandmother, Rev. Janet Harmon, the chaplain of the V.A. Hospital, in the town of Elsmere, Delaware. Neither before or after trial did your grandmother refer to schizophrenia or any other mental illness you may have experienced. Mr. Crosse states that after trial but before sentencing, his colleague, Ray Armstrong, Esquire, told him that you have mental problems.

Court records show that you were in a mental facility for a short time in April 2005, but this is the only such reference in either your juvenile or adult record to mental problems.

You do not assert that you told Mr. Crosse that you have mental problems, or that you raised or attempted to raise this issue on appeal.

The record does not support your assertion that you are a schizophrenic or that Mr. Crosse's representation was professionally unreasonable. Your motion for postconviction relief is *Denied*.

It Is So ORDERED.

Very truly yours,

Judge John E. Babiarez, Jr.

JEB,Jr./ram/bjw
Original to Prothonotary