

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

STATE OF DELAWARE)	
)	
v.)	I.D. No. 0710019979
)	
SHARRON WILLIAMS,)	
)	
Defendant.)	

UPON CONSIDERATION OF DEFENDANT’S MOTION TO
WITHDRAW GUILTY PLEA
DENIED

Submitted: July 9, 2008
Decided: July 21, 2008

This 21st day of July, 2008, it appears to the Court that:

1. Sharron Williams (“Williams”) was charged with one count of Falsifying Business Records, one count of Theft of \$1000 or Greater, and one count of Criminal Impersonation. Prior to her guilty plea, Williams’s counsel filed a motion to withdraw as counsel on June 13, 2008. Because Williams’s case was scheduled to go to trial on June 17, 2008, the Court denied counsel’s motion as untimely.

2. On June 17, 2008, Williams pleaded guilty to the charge of Falsifying Business records in exchange for the State agreeing to dismiss the other two charges. Williams’s attorney was present with her at the plea colloquy at which Williams stated that she entered her plea knowingly,

willingly, and voluntarily. Williams was then sentenced on June 25, 2008 to one year at Level V suspended for one year at Level I supervision.

3. Williams filed the instant *pro se* motion to withdraw her guilty plea on July 3, 2008. Williams argues she was dissatisfied with her attorney as evidenced by her request to discharge him before she pleaded guilty. She contends that her attorney advised her to plead guilty to the misdemeanor of Falsifying Business Records because the State had sufficient evidence to convict her of all three charges, and the plea to a misdemeanor charge was the best deal Williams would receive from the State. Although she admits that her attorney did not force her to plead guilty, she argues that her attorney “lead [sic] in the wrong direction” and that she pleaded guilty because she “just wanted it to be all over.”

4. Superior Court Criminal Rule 32 governs a defendant’s request to withdraw her guilty plea. Where a defendant files her motion to withdraw a guilty plea after sentencing, the plea may only be set aside by a motion filed pursuant to Superior Court Criminal Rule 61.¹ Although Williams has not filed a motion pursuant to Rule 61, the Court will consider her motion under that rule.

¹ Super. Ct. Crim. R. 32(d).

5. The Court may permit a defendant to withdraw her guilty plea in the exercise of its sound discretion.² The defendant has the burden to establish that her plea was “[n]ot voluntarily entered or was entered because of misapprehension or mistake as to . . . [defendant’s] legal rights.”³ Motions to withdraw a guilty plea are not granted liberally after the defendant has been sentenced.⁴ In *State v. Friend*,⁵ the Court enunciated five factors to consider when determining whether to vacate a guilty plea:

- (a) Was there a procedural defect in taking the plea;
- (b) Did the defendant knowingly and voluntarily consent to the plea agreement;
- (c) Does the defendant presently have a basis to assert legal innocence;
- (d) Did the defendant have adequate legal counsel throughout the proceedings; and
- (f) Does granting the motion prejudice the State or unduly inconvenience the Court.⁶

6. The Court determines in its discretion that Williams has failed to establish that she misunderstood her legal rights or that she did not enter her plea knowingly and voluntarily. First, since Williams has moved to

² *State v. Phillips*, 2007 WL 3105749, at *1 (Del. Super. Ct. Sept. 20, 2007) (citing *Brown v. State*, 250 A.2d 503, 504 (Del. 1969)).

³ *Id.* (quoting *State v. Drake*, 1995 WL 654131, *2 (Del. Super. Ct. Nov. 1, 1995)).

⁴ *Id.*

⁵ *State v. Friend*, 1994 WL 234120, *1-2 (Del. Super. Ct. May 12, 1994), *aff’d*, 683 A.2d 59, 1996 WL 526005 (Del. Aug. 16, 1996) (Table).

⁶ *Phillips*, 2007 WL 3105749 at *1 (citing *Friend*, 1994 WL 234120 *1-2).

vacate her guilty plea after she was sentenced, her request is improperly before the Court because she has not filed a motion for postconviction relief pursuant to Superior Court Criminal Rule 61. Even if her request were properly before this Court, however, the *Friend* factors persuade the Court that Williams's motion should be denied. The Court notes that Williams has failed to establish that there was a procedural defect when she entered her guilty plea. In fact, she admitted that she committed the crime to which she pleaded guilty and stated that she was entering her plea knowingly, willingly and voluntarily. She also concedes in her motion that she committed the crime, noting it was an "honest mistake." Although she vigorously disputes that she had adequate legal counsel, there is no evidence in the record that her attorney failed to advise her of her rights or otherwise prejudiced Williams.⁷ In fact, Williams admits that she made the decision to enter the plea, not because her attorney forced her to do so, but because she "just wanted it to be all over."

⁷ The Court further notes that there is no evidence suggesting that counsel was ineffective under *Strickland v. Washington*, 466 U.S. 668 (1984). There is no evidence or allegation that (1) counsel's conduct "fell below an objective standard of reasonableness" or that (2) there is a reasonable probability that, but for counsel's unprofessional errors, defendant would not have entered a guilty plea. *See, e.g., Drake*, 1995 WL 654131 at *5 (discussing the *Strickland* standard in the context of the *Friend* factors).

7. Finally, Williams has failed to establish that permitting her to withdraw her plea would not prejudice the State or would not pose an undue inconvenience to the Court. As noted in *State v. Drake*:⁸

[B]ecause defendant “used the plea as a tool to avoid a more serious conviction . . . it would be the height of sophistry to vacate the defendant’s guilty plea [at this late a date].” *Downer [v. State]*, Del. Supr., 543 A.2d [309] at 313 [(Del. 1988)]. . . . The Court is simply not willing to react to the bouncing ball of a defendant’s whims regarding a plea agreement merely because he decides to change his mind. To do so would open the Court up to never ending litigation to the detriment of the Court, the public and, particularly, the innocent victims of the defendant’s crimes.⁹

8. After considering the defendant’s motion and the *Friend* factors, the Court concludes that Williams has failed to meet her burden of establishing that her plea should be withdrawn. Defendant’s motion to withdraw her guilty plea is therefore **DENIED**.

IT IS SO ORDERED.

Peggy L. Ableman, Judge

Original to Prothonotary

cc: Sharron Williams
Francis E. Farren, Esq.
Brian D. Ahern, Esq.

⁸ 1995 WL 654131 (Del. Super. Ct. Nov. 1, 1995).

⁹ *Drake*, 1995 WL 654131 at *5.