

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

November 12, 2009

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**RE: Edgar E. Velasquez - Defendant ID No. 0803023797
Decision upon Remand of October 29, 2009**

Dear Counsel:

The Defendant filed a Postconviction Motion alleging he did not know he had to receive a minimum sentence of ten (10) years. The Defendant did not obtain a transcript of the guilty plea. The Court has obtained a transcript of the guilty plea; and after reviewing same, as well as the plea agreement and guilty plea documents, I am satisfied the Defendant knowingly, voluntarily and intelligently entered a guilty plea to rape in the second degree. Specifically, I find the Defendant knew there was a minimum sentence of ten (10) years which was the sentence given Mr. Velasquez.

The guilty plea form is blank as to whether a minimum sentence must be imposed but it does state the Defendant could receive 10-25 years.

The plea agreement states ten (10) years is a minimum. It states the recommendation is "25 years L5 after 10 years L5 (min) balance suspended for 15 yrs L3".

Most important to this review is that during the plea colloquy, I informed the Defendant that the sentence had to start at ten (10) years and could go up to twenty-five (25) years. He understood this and also advised he had not been promised what sentence the Judge would impose. The Court is entitled to rely upon his answers, especially when he told me he was going to be truthful. *Somerville v. State*, 703 A.2d 629 (Del. 1997).

The Defendant's Motion for Postconviction Relief is denied.

IT IS SO ORDERED.

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

THG:baj

cc: Prothonotary