

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

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

June 10, 2010

Tynise Adkins
Women's Correctional Institution
660 Baylor Road
New Castle, DE 19720

**RE: State of Delaware v. Tynise Adkins
Defendant ID No. 0903012751 (R-1)
Defendant ID No. 0907001171 (R-1)
Motion for Postconviction Relief**

Dear Ms. Adkins:

On May 14, 2010, the Court received your first Motion for Postconviction Relief arising out of the January 29, 2010 sentencing. It was necessary to order a transcript to address some of your claims, and that was received by the Court on June 8, 2010.

After reviewing your Motion, the transcript, and the documents filed at the time of your plea, I am satisfied your Motion must be denied.

BACKGROUND

The Grand Jury indicted you on forty-two (42) forgery and theft related offenses. On September 9, 2009, you entered a guilty plea to four (4) counts of forgery in the second degree, and three (3) counts of theft by false pretenses. All of these charges are felonies. At the time the plea was entered, you were advised that the State intended to file a habitual offender petition pursuant to 11 *Del. C.* §4214(a). I presided over the taking of the guilty plea.

A presentence investigation was ordered and on January 29, 2010, Judge Richard F. Stokes sentenced you as follows:

- (a) Forgery Second Degree 09-03-0845: Four (4) years Level 5 with credit for six days previously served pursuant to 11 *Del. C.* §4214(a). While at Level 5, you were ordered to successfully complete the Village Key program.
- (b) Forgery Second Degree 09-03-1005: Two (2) years Level 5 suspended for one (1) year Level 4 Crest. Upon successful completion of Crest, the balance of the Level 4 suspended for one (1) year Level 3 Crest Aftercare.
- (c) Forgery Second Degree 09-04-0580: Two (2) years Level 5 suspended for one (1) year Level 3 concurrent followed by one (1) year Level 1 restitution only consecutive.
- (d) On all remaining charges you received an identical sentence of two (2) years Level 5 suspended for one (1) year Level 2 followed by one (1) year Level 1 restitution only consecutive.

You did not appeal the sentence.

Motions for Modification of Sentence filed to Judge Stokes have been heretofore denied.

POSTCONVICTION GROUNDS

GROUND ONE: In your Motion for Postconviction Relief, you allege your attorney was ineffective for not advocating in your best interests as guaranteed by the United States Constitution. You argue that he told you that you would not get a better deal but you have learned that you should have received a sentence of two (2) years instead of the four(4) years imposed under the habitual offender statute.

Claims of ineffective assistance of counsel require that you establish that your attorney committed an error or an oversight which actually prejudiced you as to your decision to enter a guilty plea. *Strickland v. Washington*, 466 U. S. 668 (1984).

You entered a guilty plea to seven (7) counts of the forty-two (42) count indictment and agreed to restitution on all counts included in the indictment. The sentence order contains the restitution amounts. The guilty plea form which you signed evidences that you were aware that you could receive a sentence from zero (0) years to life imprisonment as a habitual offender. There was an agreement between the State and the defense that the habitual offender statute would only apply to one (1) of the forgery counts and you received four (4) years on that charge, not life imprisonment.

There is nothing in your allegations to support that your attorney was ineffective as to his advice recommending that you accept the “deal”. It was within the discretion of Judge Stokes to sentence you from zero (0) years to life imprisonment, and you have not established that there was any error or mistake on Judge Stokes’ part in imposing four (4) years. This claim is denied.

GROUND TWO: You allege a due process violation in that you were not fully informed of your options and the charges against you. You allege your defense counsel knew you suffered from depression and bipolar disorder but he did not pursue a defense of guilty but mentally ill.

You further state you are not claiming that you should be exonerated for the criminal charges, but that you should be treated fairly because of your mental impairment. You allege that the Court should have conducted a further investigation because you are bipolar. Finally, you state you do not claim that you were incompetent to stand trial or enter the pleas.

There is nothing which you have provided the Court that would qualify for a guilty but mentally ill plea. Just because one may have a mental illness does not mean that a guilty plea should be guilty but mentally ill as opposed to a straight guilty plea. There is nothing to establish that any mental illness contributed to your lifelong passion to steal from others. Having presented no basis for a guilty but mentally ill plea to be entered, this ground is denied.

GROUND THREE: In Ground Three you allege you entered an involuntary plea and did not knowingly waive your constitutional rights to a fair trial and the benefits of a confrontation with your accusers. In this claim you state you knew just enough to go through the motions of the guilty plea and did not fully comprehend that you were facing a mandatory two (2) years to life. You are mistaken as to the mandatory two (2) years to life because there was no mandatory since this was not a crime of violence.

What is important is that you understood when you entered the guilty plea that the Court had the ability to impose a life sentence. Having that knowledge moots your attempts to argue that you did not understand what you were doing.

Also I note that a review of the transcript establishes that you advised the Court you would be truthful, were satisfied with your lawyer, had had enough time to discuss these matters with him, and fully understood you were giving up your trial and appellate rights. You reported you fully understood the guilty plea form and had gone through it line by line with your lawyer and understood it.

There is no basis in the record nor in your Motion to establish that you entered the plea involuntarily.

GROUND FOUR: You allege the ability to repay restitution. I presume you are alleging the inability to pay restitution. To this extent you argue that you should be on probation so you could receive strict monitoring and begin making restitution. This does not attack the conviction. There is no basis to provide postconviction relief under this claim.

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
Department of Justice