

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

STATE OF DELAWARE)	
)	
v.)	ID No.9601017344
)	
ERIC RINGGOLD)	
)	
Defendant.)	

Submitted: February 4, 2003
Decided: April 17, 2003

ORDER

On Defendant's *Pro Se* Motion for Postconviction Relief. Denied.

Steven Wood, Department of Justice, 820 N. French Street, Wilmington, Delaware. Attorney for State of Delaware.

Eric Ringgold, Multi-Purpose Criminal Justice Facility, P.O. Box 9561, Wilmington, Delaware 19809. *Pro Se* Defendant.

CARPENTER, J.

On this 17th day of April, 2003, upon consideration of Defendant's *pro se* Motion for Postconviction Relief it appears to the Court that:

1. Eric Ringgold (hereinafter "Defendant"), has filed this *pro se* Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61. Upon consideration of the Defendant's Motion and the record in this case, Defendant's Motion for Postconviction Relief is DENIED.

2. In the instant motion, the Defendant argues that this Court lost subject matter jurisdiction by failing to abide by Delaware's Uniform Agreement on Detainers. Specifically, the Defendant asserts that the State failed to bring him to trial within 180 days after he had made a request in accordance with the provisions of the statute, thereby losing jurisdiction to handle the matter.¹ As such, the Defendant

¹ See DEL. CODE ANN. tit. 11, § 2542(a) (Supp. 2002):

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial within 180 days after the prisoner shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of imprisonment and the request for a final disposition to be made of the indictment, information or complaint; provided, that for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner.

argues that his conviction must be reversed.

3. While incarcerated in Pennsylvania on unrelated offenses, a Rule 9 warrant was issued for Defendant's arrest on February 20, 1996 for two counts of Robbery Second Degree as well as Misdemeanor Theft. At that time, Delaware filed an Authorization for Extradition Form for the Defendant. After posting bail on the Pennsylvania offense on March 20, 1996, the Defendant continued to be held in Pennsylvania as a result of the detainer from Delaware. On October 11, 1996 the Defendant began serving a Pennsylvania sentence. While the Defendant was held on the detainer, he filed the appropriate paperwork under the Uniform Agreement on Detainers², requesting disposition of the Delaware charges within the 180 day period required by the statute. The forms were dated June 16, 1997, and filed with the Prothonotary on June 18, 1997.

The Defendant's initial appearance in Delaware occurred at a bail hearing on September 16, 1997. Defendant subsequently appeared before this Court on October 14, 1997, when he pled guilty to Robbery Second Degree and the State agreed to *Nolle Prosequi* all remaining charges in the indictment. Defendant was sentenced on December 5, 1997. Following his sentencing, the Defendant filed a motion seeking

see also, Beebe v. State, 346 A.2d 169, 170-71 (Del. 1975).

² See DEL. CODE ANN. tit. 11, §§ 2540 - 2550 (Supp. 2002).

additional credit for time served. This motion was granted on March 22, 2000, crediting the Defendant for 205 days representing the amount of time he was held in Pennsylvania solely on the Delaware detainer. In all other regards, the sentencing order of December 5, 1997 remained the same. Following numerous subsequent motions for modification of sentence which were denied, as well as letters to this Court, the Defendant has now filed a motion pursuant to Rule 61 seeking reversal of his conviction.³

4. A review of the record reveals that there are no procedural bars under Rule 61 to Defendant's claims. Rule 61(I)(5) specifically states that "[t]he bars to relief in paragraphs (1), (2), and (3) of this subdivision shall not apply to a claim that the court lacked jurisdiction. . . ." Therefore, as this matter has not formerly been adjudicated in a prior proceeding, this Court will address the claims of the Defendant.

5. As an initial matter, the crimes for which Defendant was charged with, and later plead guilty to, are within the jurisdiction of this Court. The Superior Court has jurisdiction "over all crimes, except where jurisdiction is exclusively vested in

³ The Defendant subsequently amended his claims. Defendant sought to add a claim of ineffective assistance of counsel for his trial counsel's failure to investigate and argue a violation of the Uniform Agreement on Detainers; Defendant sought the appointment of counsel; and, Defendant later sought to withdraw his Motion for Postconviction Relief. After further correspondence with this Court, Defendant elected to proceed with the motion.

another court.”⁴ Defendant was charged with two counts of Robbery Second Degree as well as Misdemeanor Theft which are specifically within this Court’s jurisdiction.⁵ Therefore, the Court finds the argument that this Court lacks jurisdiction to be without merit. What the Defendant is really asserting is a violation of the Uniform Agreement on Detainers which will be addressed in the remainder of this Order.

6. Under the Uniform Agreement on Detainers, once the State indicts a prisoner who is incarcerated in another state and against whom a detainer is lodged, a prisoner may request extradition for purposes of trial under title 11, section 2542 of the Delaware Code.⁶ “In such a case, the State *must* respond and bring the prisoner to trial within 180 days after written notice is delivered to the prosecutor’s office.”⁷ Furthermore, subsection (g) of the Uniform Agreement on Detainers provides that “written notice” means actual receipt of notice by the State and the Court:

(g) Written notice shall not be deemed to have been caused to be

⁴ DEL. CODE ANN. tit. 11, § 2701(c) (Supp. 2002).

⁵ See DEL. CONST. art. IV, § 7; DEL. CODE ANN. tit. 11, § 2701 (Supp. 2002) (granting jurisdiction to the Superior Court “over all crimes, except where jurisdiction is exclusively vested in another court”); tit. 11, § 831 (defining robbery in the second degree); tit. 11, § 841 (defining misdemeanor theft). Cf. *Samuel v. State*, 765 A.2d 952 (Del. 2000) (TABLE) (finding that the Superior Court has jurisdiction over first degree robbery as well as associated possession of a deadly weapon during the commission of a felony).

⁶ See *Bruce v. State*, 781 A.2d 544, 548 (Del. 2001).

⁷ See *Pittman v. State*, 301 A.2d 509, 512 (Del. 1973); see also, *State v. Davis*, 1993 WL 138993 (Del. Super. Ct.).

delivered to the prosecuting officer and the appropriate court of this State in accordance with subsection (a) of this section until such notice or notification has actually been received by the appropriate court and by the appropriate prosecuting attorney of this State, the prosecuting attorney's deputy, an assistant or any other person empowered to receive mail on behalf of said attorney.⁸

The commencement of a trial beyond this time limit is the denial of a prisoner's right to a speedy trial, and under the statute the indictment must be dismissed with prejudice.⁹

7. The Defendant argues that the State violated its statutory duty to try him within the time period required by the Uniform Agreement on Detainers.¹⁰ The Defendant claims that he was held in custody on the detainer from March 20, 1996 (when Delaware lodged its detainer) until October 11, 1996, a total of 205 days. In support thereof, the Defendant points to documentation by this Court correcting his sentence by crediting him for this period of time. Consequently, the Defendant asserts that he was held beyond the 180 days that the State was afforded to bring him to trial.

⁸ See DEL. CODE ANN. tit. 11, § 2542(g) (Supp. 2002); see also *State v. Davis* 1993 WL 138993, at *4-5 (Del. Super. Ct.) (holding that written notice means actual notice received by the prosecuting attorney and the appropriate court, thereby "giving effect to the plain meaning of § 2542(g)").

⁹ DEL. CODE ANN. tit 11, § 2542(d) (Supp. 2002); see also *Pittman*, 301 A.2d at 513-14.

¹⁰ See tit. 11, § 2542.

8. The Defendant's argument is misplaced and without merit. Delaware code and case law firmly establish that the Defendant's right to a trial within 180 days under the Uniform Agreement on Detainers does not begin until the Defendant submits a written demand. The statute clearly provides that "the prisoner shall be brought to trial within 180 days *after the prisoner shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice . . .*"¹¹ Further, as previously explained, written notice is not deemed to be delivered in accordance with the Uniform Agreement on Detainers until notice has *actually been received* by the appropriate court and by the appropriate prosecuting attorney of the State.

9. The record shows that the Defendant submitted the appropriate documentation on June 16, 1997, and that it was received by the Court on June 18, 1997. It can be presumed for purposes of this motion that the prosecuting attorney received notice at approximately this same date. Consequently, the 180 days in which the State was afforded began on June 18, 1997. On October 14, 1997, 118 days later, the Defendant pled guilty to Robbery Second. At this point, the State fulfilled its requirements for a speedy trial as demanded by the Defendant.¹²

¹¹ See tit. 11, § 2542(a) (emphasis added).

¹² See e.g., *State v. Clayton*, 2001 WL 1729149 (Del. Super. Ct.) (citing tit. 11, § 2542).

10. While it is clear that the ending date to calculate this time frame is the date of trial or other resolution of the case, *i.e.*, a plea, even if the Court assumed *arguendo*, that the time period runs until the date of sentencing as the Defendant suggests, the motion still fails. The record shows that the Defendant was sentenced on December 5, 1997. This is still within the 180-day requirement provided for by the code. Therefore, the Defendant's case was disposed of within 180 days of the State having received written notice of his request, as required under the Uniform Agreement on Detainers. As such, there is no basis to overturn the Defendant's conviction.

11. Because he was incarcerated in Pennsylvania when charges were brought by Delaware, a detainer is the appropriate mechanism to secure his custody. As such, the Defendant's argument that the State incorrectly held him on the detainer when he made bail in Pennsylvania is without merit. Once the detainer is lodged it is the responsibility and obligation of the defendant to complete the necessary notice demands to activate the provisions of the Uniform Agreement on Detainers. While it was appropriate for the Court to credit the total time the Defendant was held before his Pennsylvania sentence began, this does not equate to the time counted under the Uniform Agreement on Detainers. They are separate and distinct calculations with different criteria.

12. Defendant's request for appointment of counsel is denied as well. The Court finds no claim made by the Defendant that appointed counsel would be of any benefit. Finally, Defendant's amended argument that trial counsel failed to investigate the violation of the Uniform Agreement on Detainers, and therefore provided ineffective assistance of counsel, is without merit since as set forth in this Order no violation of the Act occurred.

13. For the reasons set forth above, the Defendant's Motion for Postconviction Relief is DENIED.

IT IS SO ORDERED.

Judge William C. Carpenter, Jr.