

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

E. SCOTT BRADLEY  
JUDGE

1 THE CIRCLE, SUITE 2  
COURTHOUSE  
GEORGETOWN, DE 19947

April 15, 2003

Wayne H. Thompson  
Sussex Correctional Institution  
P.O. Box 500  
Georgetown, DE 19947

Melanie C. Withers, Esquire  
Department of Justice  
114 East Market Street  
Georgetown, DE 19947

Karl Haller, Esquire  
P.O. Box 824  
Georgetown, DE 19947

RE: State of Delaware v. Wayne H. Thompson  
Def. ID# 0107001877  
**Memorandum Opinion - Motion for Postconviction Relief**

Dear Counsel and Mr. Thompson:

This is my decision on defendant Wayne H. Thompson's motion for postconviction relief.<sup>1</sup> Thompson pled guilty on December 5, 2001 to charges of Burglary in the Second Degree, Assault in the Second Degree and Endangering the Welfare of a Child. As to the charge of Burglary in the Second Degree, Thompson was sentenced to three years at supervision level V, suspended after serving eighteen months at supervision level V for six months at supervision level IV Work Release, followed by one year at supervision level III. Thompson is

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<sup>1</sup>Defendant Wayne H. Thompson is hereinafter referred to as "Thompson."

to be held at supervision level V until space is available at supervision level IV Work Release. As to the charge of Assault in the Second Degree, Thompson was sentenced to two years at supervision level V, suspended for two years at supervision level III. As to the charge of Endangering the Welfare of a Child, Thompson was sentenced to one year at supervision level V, suspended for one year at supervision level I.

Thompson filed his motion for postconviction relief on September 17, 2002. Thompson took no direct appeal to the Supreme Court. This is Thompson's first motion for postconviction relief and it was filed in a timely manner. Therefore, there are no procedural bars to Thompson's motion for postconviction relief.<sup>2</sup>

Thompson's motion is based on a claim of ineffective assistance of counsel. Thompson alleges that his attorney, Karl Haller, Esquire, denied him the benefit of 11 Del. C. §§ 464 and 465. Thompson argues that the alleged victim of his offenses, Marcellina Fortt, was the aggressor and that he was defending himself and his property. In response to Thompson's motion for postconviction relief, I directed Mr. Haller to submit an affidavit responding to Thompson's allegations, which he did. I also held a hearing on Friday, March 28, 2003, so that Thompson and Haller could supplement their written filings.

Thompson must meet the two-prong test set forth in *Strickland v. Washington*.<sup>3</sup> In the context of a guilty plea challenge, Strickland requires a defendant to show that: (1) counsel's representation fell below an objective standard of reasonableness; and (2) counsel's actions were so prejudicial that there is a reasonable probability that, but for counsel's errors, the defendant

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<sup>2</sup>Younger v. State, 580 A.2d 552, 554 (Del. 1990).

<sup>3</sup>466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984).

would not have pled guilty and would have insisted on going to trial. I am satisfied that Mr. Haller made a satisfactory investigation of this matter. Mr. Haller was certainly aware of Thompson's self-defense claim. Mr. Haller was also aware of what Ms. Fortt, the alleged victim, would testify to at trial. While Mr. Haller and Thompson obviously disagree about the likelihood of success of Thompson's self-defense claim, it does not mean that Mr. Haller was deficient in his investigation of this matter and his preparation for trial. Quite simply, Thompson's only allegation against Mr. Haller is that he was skeptical of the likelihood of success of Thompson's self-defense claim.

For the reasons set forth above, Thompson's motion for postconviction relief is denied.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

ESB:tl

cc: Prothonotary's Office