

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)	ID. No. 1308023217
)	In and for Kent County
v.)	
)	RK13-10-0016-01
RONALD D. BEAL)	D Deal Tier 4 (F)
)	
Defendant.)	

COMMISSIONER'S REPORT AND RECOMMENDATION

**Upon Defendant's Motion for Postconviction Relief
Pursuant to Superior Court Criminal Rule 61**

Nicole S. Hartman, Esq., Deputy Attorney General, Department of Justice, for the State of Delaware.

Ronald D. Beal, *Pro se*.

FREUD, Commissioner
October 19, 2017

The defendant, Ronald D. Beal (“Beal”), pled guilty on September 16, 2014, the day his trial was scheduled to commence, to one count of Drug Dealing Tier 4, 16 *Del. C.* § 4752(1). He was also facing four additional counts of Drug Dealing Tier 4, two counts of Drug dealing with an Aggravating factor, two counts of Conspiracy in the Second Degree, six counts of Possession of Drug Paraphernalia, one count of Tier 3 Drug Possession with an Aggravating factor, one count of Tier 2 Drug Dealing

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with an Aggravating factor, five counts of Tier 5 Drug Possession, one count of Tier 1 Drug Possession with an Aggravating factor, one count of Possession of a Controlled Substance with an Aggravating factor, and one count of Possession of Marijuana with an Aggravating factor. *Nolle prosequis* were entered by the State on the twenty-four additional charges in exchange for Beal's plea.¹ Due to his past criminal history Beal faced a mandatory sentence of life in prison as an habitual offender had he been convicted at trial. As part of the plea the State agreed not to pursue habitual offender status for Beal and recommended twenty-five years incarceration followed by probation. After a lengthy plea colloquy and sentence comments by counsel and the Court did not accept the State's recommendation and instead sentenced Beal to twenty-five years incarceration suspended after serving twelve years for probation. Beal did not appeal his conviction or sentence to the Delaware Supreme Court. Beal filed a motion for reduction of sentence on December 2, 2014 which the Court denied on December 11, 2014. Next he filed the pending motion for postconviction relief pursuant to Superior Court Criminal Rule 61. Beal's request for appointment of counsel was denied. Next, briefing commenced. After briefing had been completed Beal filed a second motion for reduction of sentence which the Court also denied. Beal appealed the denial to the Delaware Supreme Court and the instant Rule 61 was stayed pending the appeal. The Supreme Court dismissed the matter after Beal withdrew his appeal. Next Beal filed a second request

¹ Beal had been indicted in four separate cases. A re-indictment was entered on April 7, 2014 and the cases were consolidated into ID No. 1308023217.

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for appointment of counsel which was denied. Beal appealed the ruling to the Delaware Supreme Court. This appeal was also dismissed and the mandate issued. After the file was returned from the Delaware Supreme Court the Rule 61 was sent back to Chambers for decision.

Beal had been indicted on several different drug charges of which a number were *nolle prossed* early by the State due to concerns that the drugs in question had been sent to the Office of Chief Medical Examiner (“OCME”). The charge for which Beal pled guilty to involved his sale of a large amount of heroin to an undercover drug detective which occurred on July 10, 2013. The drugs were never sent to the OCME but were instead tested by the Federal Drug Enforcement Administration (“DEA”). Beal admitted while under *Miranda* that he came to Kent County to sell drugs.

BEAL’S CONTENTIONS

In his motion for postconviction relief, Beal raises three grounds for relief:

- Ground one: 16 Del. C. 4757; Illegally labeled as violent felony and sentence should not have been enhanced.
In U.S. Supreme Court decision, *Johnson v. U.S.*, 2015 WL 2473450 the court held that labeling offenses as violent without the risk of serious injury is unconstitutional and violates a defendant’s due process.
- Ground two: Ineffective assistance of counsel.
Attorney failed to fully investigate the scandal at the OCME drug lab. Which directly affected my case, resulting in several

charges being Nolle Prosequi. Therefore putting the whole case in question.

Ground three: Ineffective assistance of counsel. Attorney failed to fully investigate conflicting police reports and or lab reports, that clearly show three (3) different weights of drugs seized by the under cover officer of the State, to the D.E.A. agent, to the chemical analysis report.

The three grounds represent all of Beal's contentions. He has not provided any additional memorandum or argument.

DISCUSSION

Under Delaware law, this Court must first determine whether Beal has met the procedural requirements of Superior Court Criminal Rule 61(I) before it may consider the merits of his postconviction relief claim.² This is Beal's first motion for postconviction relief, and it was filed within one year of his conviction becoming final. Therefore, the requirements of Rule 61(i)(1) - requiring filing within one year and (2) - requiring that all grounds for relief be presented in initial Rule 61 motion, are met. None of Beal's claims were raised at the plea, sentencing, or on direct appeal. Therefore, they are barred by Rule 61(i)(3), absent a demonstration of cause for the default and prejudice. Only Beal's second and third claims are based on ineffective assistance of counsel; therefore, he has alleged cause for his failure to have raised them earlier. He has failed to allege cause for not raising his first claim

² *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991).

earlier. Therefore it is clearly barred by Rule 61(i)(3).

At this point, Rule 61(i)(3) does not bar relief as to Beal's second and third grounds for relief, provided he demonstrates that his counsel was ineffective and that he was prejudiced by counsel's actions. To prevail on his claim of ineffective assistance of counsel, Beal must meet the two-prong test of *Strickland v. Washington*.³ In the context of a guilty plea challenge, *Strickland* requires a defendant show: (1) that counsel's representation fell below an objective standard of reasonableness; and (2) that counsel's actions were prejudicial to him in that there is a reasonable probability that, but for counsel's error, he would not have pled guilty and would have insisted on going to trial and that the result of a trial would have been his acquittal.⁴ The failure to establish that a defendant would not have pled guilty and would have proceeded to trial is sufficient cause for denial of relief.⁵ In addition, Delaware courts have consistently held that in setting forth a claim of ineffective assistance of counsel, a defendant must make concrete allegations of actual prejudice and substantiate them or risk summary dismissal.⁶ When examining the representation of counsel pursuant to the first prong of the *Strickland* test, there is a

³ 466 U.S. 668 (1984).

⁴ *Id.* at 687.

⁵ *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997)(citing *Albury v. State*, 551 A.2d 53, 60 (Del. 1988))(citations omitted).

⁶ *See, e.g., Outten v. State*, 720 A.2d 547, 557 (Del. 1998) (citing *Boughner v. State*, 1995 WL 466465 at *1 (Del.)).

strong presumption that counsel's conduct was professionally reasonable.⁷ This standard is highly demanding.⁸ *Strickland* mandates that, when viewing counsel's representation, this Court must endeavor to “eliminate the distorting effects of hindsight.”⁹

Beal suggests his attorney did not adequately investigate the OCME situation. There were more than thirty counts against Beal, all involving drug deals. The State entered a *nolle prosequi* to all counts involving the OCME thus “cleansing” any concerns. At trial, the State was prepared to go forward on the charges relating to two drug deals. The drugs from both of those deals did not go to the OCME, rather, those drugs were tested by the DEA. The assorted problems at the OCME would have been wholly inadmissible at Beal’s trial.

Beal complains his attorney failed to fully investigate inconsistencies between the police and lab reports. Beal also suggests issues with the chain of custody. Beal’s Trial Counsel viewed the drug evidence at the local DEA office several weeks before the scheduled trial date. Trial Counsel reviewed and obtained copies of the chain of custody documents as well as the chemical test reports and found everything was in order.

Beal pled guilty to one count of Drug Dealing in a Tier 4 quantity. The State

⁷ *Albury*, 551 A.2d at 59 (citing *Strickland*, 466 U.S. at 689).

⁸ *Flamer v. State*, 585 A.2d 736, 754 (Del. 1990)(quoting *Kimmelman v. Morrison*, 477 U.S. 365, 383 (1986)).

⁹ *Strickland*, 466 U.S. at 689.

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recommended a prison sentence of twenty-five years. During sentencing comments, the State outlined Beal's lengthy record and pointed out how many cases were not being prosecuted. The Court sentenced Beal to twelve years, far fewer than the State recommended. Beal received a significant benefit from the services of Trial Counsel as well as the situation at the OCME that caused several of his transactions to be *nolle prossed*.

As noted, Beal was facing mandatory life in prison had he been convicted, and the sentence and plea were reasonable under all the circumstances, especially in light of the overwhelming evidence against him. Prior to the entry of the plea, Beal and his attorney had a lengthy discussion about the case. The plea bargain was clearly advantageous to Beal especially in light of the fact that the Court sentenced him to thirteen years less than recommended by the State. Counsel's representation was certainly well within the range required by *Strickland*. Additionally, when Beal entered his guilty plea, he stated he was satisfied with defense counsel's performance. He is bound by his statement unless he presents clear and convincing evidence to the contrary.¹⁰ Consequently, Beal has failed to establish that his counsel's representation was ineffective under the *Strickland* test.

Even assuming, *arguendo*, that counsel's representation of Beal was somehow deficient, Beal must satisfy the second prong of the *Strickland* test, prejudice. In setting forth a claim of ineffective assistance of counsel, a defendant must make

¹⁰ *Mapp v. State*, 1994 WL 91264, at *2 (Del. Mar. 17, 1994)(citing *Sullivan v. State*, 636 A.2d 931, 937-38 (Del. 1994)).

concrete allegations of actual prejudice and substantiate them or risk dismissal.¹¹ In an attempt to show prejudice, Beal simply asserts that his counsel was ineffective. His statements are insufficient to establish prejudice. Therefore, I find Beal's ground for relief are meritless.

To the extent that Beal alleges his plea was involuntary, the record contradicts such an allegation. When addressing the question of whether a plea was constitutionally knowing and voluntary, the Court looks to a plea colloquy to determine if the waiver of constitutional rights was knowing and voluntary.¹² At the guilty-plea hearing, the Court asked Beal whether he understood the nature of the charges, the consequences of his pleading guilty, and whether he was voluntarily pleading guilty. The Court asked Beal if he understood he would waive his constitutional rights if he pled guilty; if he understood each of the constitutional rights listed on the Truth-in-Sentencing Guilty Plea Form ("Guilty Plea Form"); and whether he gave truthful answers to all the questions on the form. The Court asked Beal if he had discussed the guilty plea and its consequences fully with his attorney. The Court asked Beal if he was giving the plea of his own free will because he was in fact guilty of the charge. The Court also asked Beal if he was satisfied with this counsel's representation. Beal answered each of these questions affirmatively.¹³ I

¹¹ *Larson v. State*, 1995 WL 389718, at *2 (Del. June 23, 1995)(citing *Younger v. State*, 580 A.2d 552, 556 (Del. 1990)).

¹² *Godinez v. Moran*, 509 U.S. 389, 400 (1993).

¹³ *State v. Beal*, Del. Super., ID No. 1308023217 (Sept. 16, 2014) Tr. at 13 - 31.

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find counsel's representations far more credible than Beal's self-serving, vague allegations.

Furthermore, prior to entering his guilty plea, Beal signed a Guilty Plea Form and Plea Agreement in his own handwriting. Beal's signatures on the forms indicate that he understood the constitutional rights he was relinquishing by pleading guilty and that he freely and voluntarily decided to plead guilty to the charges listed in the Plea Agreement. Beal is bound by the statements he made on the signed Guilty Plea Form, unless he proves otherwise by clear and convincing evidence.¹⁴ I confidently find that Beal entered his guilty plea knowingly and voluntarily and that Beal's grounds for relief are completely meritless.

Turning briefly to Beal's remaining claim, in addition to being barred by Rule 61(i)(3) it is completely meritless. Beal claims his sentence was "enhanced" based on it being a violent offense. The record reflects that nothing in Beal's sentence was enhanced based on a violent classification. This claim is meritless.

¹⁴ *Somerville*, 703 A.2d at 632.

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CONCLUSION

I find that Beal's counsel represented him in a competent and effective manner and that Beal has failed to demonstrate any prejudice stemming from the representation. I also find that Beal's guilty plea was entered knowingly and voluntarily. I recommend that the Court *deny* Beal's motion for post conviction relief as procedurally barred and completely meritless.

/s/ Andrea M. Freud
Commissioner

AMF/dsc