

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

STATE OF DELAWARE,)
) IK00-02-0438-R1
 5.)
)
 ANTONY L. IRVIN,)
 (ID. No. 0002010165))
)
 Defendant.)

Submitted: April 6, 2001

Decided: June 7, 2001

Marie O. Graham, Esq., Dover, Delaware. Attorney for the State.

Anthony L. Irvin, *Pro se*.

*Upon Consideration of the Defendant's
Motion For Postconviction Relief Pursuant
To Superior Court Criminal Rule 61*

DENIED

VAUGHN, Resident Judge

State v. Anthony L. Irvin
ID. No. 0002010165
June 7, 2001

ORDER

Upon consideration of defendant's Motion for Postconviction Relief, the Commissioner's Report and Recommendation, and the record in this case, it appears:

1. On June 6, 2000 the defendant pled guilty to one count of Assault in the Second Degree, 11 *Del. C.* § 612, and was sentenced to five years incarceration suspended for time served, followed by probation. In addition to the charge the defendant pled guilty to, he was also charged with Unlawful Imprisonment Second Degree and Terroristic Threatening. A *nolle prosequi* was entered as on those charges as a result of the plea agreement.

2. The defendant did not appeal his conviction or sentence to the State Supreme Court but rather filed the pending Motion for Postconviction Relief. In his motion the defendant raises three grounds for relief: 1) his public defender promised and failed to have the no-contact order dropped; 2) defendant was told by Public Defender that his ex-girlfriend planned to plead the fifth; and 3) the public defender failed to represent him to the fullest.

3. The Motion for Postconviction Relief was referred to the Court Commissioner Andrea Maybee Freud for proposed findings and recommendation pursuant to 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 61.

4. Initially, the Commissioner determined that the defendant's allegations were essentially based on an ineffective assistance of counsel claim. The Commissioner ascertained, after a thorough review of the record, that the defendant entered his guilty plea knowingly and voluntarily. She also concluded that the

State v. Anthony L. Irvin

ID. No. 0002010165

June 7, 2001

defendant's counsel represented him in a competent and effective manner and that the defendant failed to substantiate any prejudice as a result of counsel's representation. Commissioner Freud recommended that the defendant's Motion for Postconviction Relief be **denied**. A copy of the Commissioner's report is attached hereto and no written objections having been filed.

NOW, THEREFORE, IT IS ORDERED that:

- a. Having conducted *de novo* review of the proceedings I adopt the well-reasoned Commissioner's Report and Recommendation;
- b. The defendant's Motion for Postconviction Relief is **denied**

Resident Judge

Enclosure

oc: Prothonotary
cc: Marie O. Graham, Esq.
Mr. Anthony L. Irvin
File