May 28, 2002

Eddie D. Kline
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

James Adkins, Esquire
Department of Justice
114 East Market Street
Georgetown, DE 19947

Ruth M. Smythe, Esquire
Office of the Public Defender
Mellon Bank Building, 2nd Floor
Georgetown, DE 19947

RE: State of Delaware v. Eddie D. Kline
Def. ID#0104005057
Memorandum Opinion Motion for Postconviction Relief

Dear Mr. Kline and Counsel:

This is my decision on defendant Eddie D. Kline, Sr.'s motion for postconviction relief. Kline was charged by Information on June 26, 2001 with one count of Rape in the First Degree, two counts of Rape in the Second Degree, and four counts of Unlawful Sexual Contact in the Second Degree. Kline entered a Robinson Plea on December 5, 2001 to two counts of Rape in the Second Degree and one count of Unlawful Sexual Contact in the Second Degree. I sentenced Kline to 10 years at Level V on each of the two counts of Rape in the Second Degree, and to two years at Level V, suspended for two years at Level II, on the count of Unlawful Sexual Contact in the Second Degree.

Kline filed his motion for postconviction relief on February 19, 2002. Kline sets forth two grounds for relief. One, Kline alleges that he was coerced by his attorneys, Ruth Smythe and Carole Dunn, into taking the plea. Two, Kline alleges that he has brain damage and could not understand the charges and the sentence that he received. Kline took no direct appeal to the Supreme Court. This is Kline's first motion for postconviction relief and it was filed in a timely manner. Therefore, there are no procedural bars to Kline's motion for postconviction relief.[1]

There is no factual basis to support Kline's argument that his attorneys coerced him into taking the plea. In response to Kline's motion for postconviction relief, I ordered Ms. Smythe to file a response to Kline's allegations. In her response, Ms. Smythe stated that she and her co-counsel, Carole Dunn, merely reviewed all of the evidence with Kline and told him that, in their opinion, the State had a solid case against him. Ms. Smythe and Ms. Dunn also discussed the sentencing range that Kline faced if found guilty, 35 years to life plus 52 years, as well as the State's plea offer of 22 years. It was, according to Ms. Smythe, only after considering all the evidence against him, the possible penalties that he faced, and the State's plea offer, that Kline elected to take the plea. When asked during the plea colloquy if anyone had "threatened" or "coerced" him into taking the plea, Kline said "No." Kline is bound by his sworn statements made during the plea colloquy.[2] Similarly, on the Truth-In-Sentencing Guilty Plea Form, Kline answered "Yes" when asked if he was freely and voluntarily pleading to the charges listed in the

---

[1]Younger v. State, 580 A.2d 552, 554 (Del. 1990).

[2]Somerville v. State, 730 A.2d 629, 632 (Del. 1997).

plea agreement. I find no evidence of coercion by Kline's counsel. Instead, it appears to me that Kline made an informed and voluntary choice among his various alternatives after being fully informed of them.

Kline also argues that he could not understand the charges against him and the penalties that he faced because he has brain damage, takes medication for his brain damage that affects his thinking, and cannot read or write. Kline did not file a motion for a mental examination. However, he was evaluated by Paula Fleisher, a psycho-forensic evaluator, of the Public Defender's Office. Ms. Fleisher concluded that, while Kline suffered from short-term memory loss, a lower intelligence level, and mild mental retardation, he was competent to stand trial. Ms. Smythe and Ms. Dunn orally explained all of the evidence to Kline. They did not leave him to read anything that was written. Kline was also given an opportunity to review the Child Advocacy Center tapes, but declined to do so. On the Truth in Sentencing Guilty Plea Form, Kline disclosed that he was taking Tegrital for seizures. He assured his attorneys that this medication was not affecting his thinking. Kline was asked, during the plea colloquy, if he understood the nature of the charges against him. His initial response was that he did not. I then adjourned the proceedings so that Ms. Smythe could further explain the nature of the charges to Kline. When we reconvened, I again asked Kline if he understood the nature of the charges against him. Kline said "Yes." Kline was told of the maximum sentences that he faced. When asked if he understood this, he said "Yes." Once again, I cannot find any reason to accept Kline's allegation that he failed to understand the charges against him and the penalties that he faced.

To the extent that Kline alleges ineffective assistance of counsel, he must meet the two-prong test set forth in *Strickland v. Washington*.[3] 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 would not have pled guilty and would have insisted on going to trial. I cannot find any fault in Ms. Smythe's and Ms. Dunn's representation of Kline. They explained all of the State's evidence to Kline. They explained the range of sentences that he faced. They had him evaluated for competency. They gave him their honest opinion of his likelihood for success at trial. They explained the State's plea offer to him. I find no evidence at all that Kline's attorneys coerced him into entering a plea or that they did not fully explain the plea offer to him. For the reasons set forth above, Kline's motion for postconviction relief is denied.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

ESB:tll

[3]466 U.S. 668, 1045 S. Ct. 2052, 80 L. Ed. 2d 674 (1984).