

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

P.O. Box 746
COURTHOUSE
GEORGETOWN, DE 19947

July 30, 2004

Julian Brown
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: State v. Brown, Def. ID# 0207001618

DATE SUBMITTED: June 15, 2004

Dear Mr. Brown:

Pending before the Court is the motion of defendant Julian Brown (“defendant”) seeking postconviction relief. What defendant actually requests is that a portion of his sentence be corrected pursuant to Super. Ct. Crim. R. 35(a). Accordingly, I will treat the motion as one for correction of an illegal sentence.

On July 11, 2003, defendant pled guilty to two counts of rape in the third degree, and was sentenced thereon. A condition of the plea agreement was that he pay the costs of extradition. The Court imposed extradition costs of \$433.14. Defendant now argues that the imposition of the extradition costs was unconstitutional. He argues no other people who have been brought back to Delaware have had to pay these costs and the State of Delaware has funds to cover these costs.

He asserts the imposition of the fee constitutes equal protection, ex post facto, and due process violations.

The requirement that the defendant pay costs of extradition is statutory. 11 Del. C. § 2524(b).¹ Acts of the General Assembly are presumed to be constitutional. Helman v. State, 784 A.2d 1058, 1068 (Del. 2001). A person attacking the constitutionality of a statute has the burden of demonstrating its invalidity. Id. In this case, defendant makes conclusory assertions of unconstitutionality. His contention that others who are extradited do not have to pay an extradition fee is factually incorrect. Defendant has not attempted to meet his burden in this matter, and his claim fails.

For the foregoing reasons, defendant's attack on the portion of his sentence which imposes a fee for extradition costs is denied.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

cc: Prothonotary's Office
James Adkins, Esquire
E. Stephen Callaway, Esquire

¹In 11 Del. C. § 2524(b), it is provided as follows:

Upon the conviction of any individual returned to this State by requisition proceedings, the court shall assess the costs of requisition in the same manner as other costs of the case.