

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

1 THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

November 5, 2004

Hector Maldonado, a/k/a Aristeo Gonzalez
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

RE: State v. Maldonado, Def. ID# 0304012282

DATE SUBMITTED: September 23, 2004

Dear Mr. Maldonado:

Pending before the Court is a motion for postconviction relief pursuant to Superior Court Criminal Rule 61 ("R. 61") which defendant Hector Maldonado ("defendant") has filed.

Although defendant does not specify the relief he desires, I assume it to be to withdraw the

Robinson plea¹ he entered on August 7, 2003, to a charge of assault in the first degree.

The plea resulted after "intense negotiations and many phone calls between the defendant and his family." Transcript of Proceedings on August 7, 2003, at 3 ("Tr. at __."). During the negotiations and plea colloquy, a Spanish interpreter aided defendant. Defendant confirmed, under oath, that he was satisfied with his attorney's representation of him; that he had had enough time

¹Robinson v. State, 291 A.2d 279 (Del. 1972) (permitting the acceptance of a guilty plea in the absence of an admission of guilt).

to go over his case with his trial counsel; that he had read and reviewed the Truth-in-Sentencing Guilty Plea Form (“Plea Form”); that he had reviewed the Plea Form with trial counsel and the Spanish interpreter; that he had truthfully answered the questions on the Plea Form; that he was freely and voluntarily entering into the plea; and that he understood all the trial rights he was giving up by entering into the plea, including the right to hear and question the witnesses against him. Before he entered into the plea, it was clarified for him that he would be sentenced for five (5) years at Level 5; would serve two (2) of those five years in jail; and after doing two (2) years in jail, would be on probation for a further period of two (2) years. The following passage in the transcript of the plea colloquy clarified defendant understood he would be serving two (2) years at Level 5:

THE COURT: Anything you would like to say, sir, before I give the sentence?

THE INTERPRETER: Just that the only thing I want to say is, I just do two years of jail, right, and then probation?

THE COURT: Yes. It will be five years. You do two years, then you are on probation.

THE INTERPRETER: So two?

THE COURT: Five years. You serve two years and you are on probation. If you slip up on probation, you can go to jail for another three years. I explained that to you earlier.

THE INTERPRETER: So two years, then probation?

THE COURT. Yes. All right?

THE INTERPRETER: Yes, I understand.

Tr. at 16.

After defendant entered into the Robinson plea, the Court imposed the negotiated

sentence.

Defendant filed his motion for postconviction relief on July 14, 2004. Therein, he alleged that he did not truly understand the agreement because he does not speak English. He maintains he thought he was agreeing to two years probation only. He further claims ineffective assistance of counsel. In connection with this claim, he asserts:

Due to the fact that defendant is Spanish speaking only. [sic] Counsel did not thoroughly explain the outlines of the plea agreement, nor was the defendant given the right to confront his accuser or witnesses and the plea agreement he signed was coerced. Again, he did not understand.

The usual first step of this Court would be to examine the procedural impediments to the Rule 61 claims. However, where, as here, it is more expedient to address the claims' lack of merit, I will, for judicial economy's sake, not waste time reviewing the procedural bars.

Defendant freely and voluntarily entered the plea with full and absolute understanding of what rights he was giving up and what his sentence would be. He has not produced any evidence at all which would prevent this Court from considering him to be bound by his sworn statements and the written documents submitted during the taking of the plea. Rogers v. State, Del. Supr., No. 473, 2002, Holland, J. (April 29, 2003); Fullman v. State, 560 A.2d 490 (Del. 1989). The motion for postconviction relief is denied on these grounds.

Defendant's final "ground" concerns a sentence modification. Defendant makes an argument of ineffective assistance of counsel, which frankly, is nonsensical. He claims that trial counsel was ineffective when defendant filed a motion for sentence modification because he, who is pro se, did not know his rehabilitation courses were not complete at the time he filed that modification motion. This frivolous final ground has nothing to do with the proceedings leading

to defendant's conviction, and is denied.

For the foregoing reasons, defendant's motion for postconviction relief is denied.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary's Office
David Hume, IV, Esquire
Merritt Burke, III, Esquire