

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. Henley Graves
Resident Judge

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947
(302) 856-5257

December 17, 2004

N440
Lynn R. Burse
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: Defendant ID No. 0303018039

Dear Mr. Burse:

On December 6, 2004, the Court received your Motion for Postconviction Relief concerning the sentencing on January 9, 2004 to three felonies. On the burglary of Criminal Action No. 03-04-0037, you received a period of 3 years incarceration with credit for time served. This sentence could be suspended upon successful completion of the Key program.

In Ground One, you complain that you have been incarcerated and not moved to the Key program. You complain that it was an unfulfilled plea agreement. My review of the file indicates that you were sentenced with the benefit of a presentence investigation and that there was no specific recommendation in the plea agreement. Even if there had been a specific recommendation, the Court reserves final discretion over all sentencing decisions.

I have inquired as to why you are not in the Key program. The Department of Correction informs me that it is your behavior that has placed you into maximum security, thereby precluding your participation in the Key program at this time. You will need to work on the behavior issues so that you can move to a lower level of security where the Key program is provided.

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Your complaint concerning ineffective assistance of counsel names Alicia Howard. Commissioner Howard is a commissioner of this Court and is not an employee or lawyer for the Public Defenders' Office, nor has she ever been. Your conclusory allegations as to ineffective assistance of counsel are just that and therefore are summarily dismissed.

In Ground Three you complain that the Department of Correction is dysfunctional. Specifically, you complain of being investigated and understaffed. These allegations have nothing to do with your conviction.

The Defendant's Motion for Postconviction Relief is denied as being without merit, being conclusory, and being frivolous.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj

cc: Prothonotary
Department of Justice
Jayne Jackson, Classification Officer, DCC
Patricia S. Ditto, Treatment Administrator, SCI