

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,)
)
 v.)
) I.D. No. 0203010922
GREGORY DESHIELDS,)
)
)
 Defendant.)

Upon Reconsideration of Motion for Postconviction Relief.
DENIED.

Date Submitted: July 6, 2004
Date Decided: October 28, 2004

ORDER

Scott, J.

This 28th day of October, 2004, upon reconsideration of Defendant's Motion for Post-conviction Relief pursuant to Superior Court Criminal Rule 61, it appears that:

1. Defendant was charged with Robbery in the First Degree,¹ two counts of Possession of a Firearm During the Commission of a Felony,²

¹ 11 *Del. C.* § 832.

² 11 *Del. C.* § 1447A.

Assault Second Degree,³ and Conspiracy Second Degree.⁴ On January 27, 2003, the Defendant entered a guilty plea to Robbery in the First Degree, Possession of a Firearm During Commission of a Felony (PFDCF), and Conspiracy Second Degree. He was sentenced on March 21, 2003, to fifteen years Level V incarceration for the Robbery in the First Degree charge, two years at Level V, suspended for two years Level II for the Conspiracy Second Degree Charge, and five years at Level V for the PFDCF charge. On April 15, 2003, the Defendant moved to modify his sentence pursuant to Delaware Superior Court Criminal Rule 35. The Court denied that motion by an order dated May 15, 2003.

2. Subsequently, on September 10, 2003, Defendant brought his first motion for postconviction relief under Delaware Superior Court Criminal Rule 61. In an order dated October 6, 2003, the Court denied Defendant's motion for postconviction relief. The Court found that the Defendant did have effective assistance of counsel at trial because the plea colloquy reflected that he was satisfied with his attorney.⁵ Furthermore, the record refuted Defendant's contention that his guilty plea was involuntary due to mind-altering depression medications. According to the plea hearing

³ 11 *Del. C.* § 612.

⁴ 11 *Del. C.* § 512.

⁵ *State v. DeShields*, Del. Super., I.D. No. 0203010922, Slights, J. (Oct. 6, 2003) (ORDER).

transcript,⁶ the Defendant's counsel had discussed the medication with him. The Defendant responded that it did not interfere with his cognitive ability. Additionally, the presiding judge inquired into the effects of the medicine and found the Defendant capable of making a knowing and voluntary plea.

3. Before discussing the merits of Defendant's motion here, the Court must assess any procedural bars to postconviction relief. According to Delaware Superior Court Criminal Rule 61(i)(4), "[a]ny ground for relief that was formerly adjudicated, whether in the proceedings leading up to the judgment of conviction, in an appeal, in a postconviction proceeding, or in a federal habeas corpus proceeding, is thereafter barred unless reconsideration of the claim is warranted in the interest of justice." Interest of justice has been narrowly defined to require the movant to show that the trial court lacked authority to convict or punish.⁷ Defendant's claims of ineffective assistance of counsel and involuntary plea agreement are procedurally barred because they were raised and denied in the first motion for postconviction relief. The Defendant has failed to establish his burden that the trial court lacked authority to convict or punish him; therefore, the interests of justice do not require this Court to rule on previously adjudicated claims.

⁶ Plea hearing transcript, 1/27/03, at 7-8.

⁷ *State v. Wright*, 653 A.2d 288, 298 (Del.Super. 1994).

4. Defendant's claim that his plea agreement should be overturned because the elements of First Degree Robbery were not met at the case review must fail. Where a defendant enters into and accepts a valid plea agreement, that agreement serves to satisfy the necessary elements of the crime charged.⁸ Similarly, if the plea was valid, "the fact that a Defendant did not actually commit the offense does not change the effect of the guilty plea."⁹ Here, Defendant argued that no gun was ever found as alleged in the indictment. However, because he knowingly and voluntarily entered into the guilty plea for PFDCF, the gun possession element was satisfied and no relief will be granted.

5. Finally, Defendant's claim that the State breached their plea bargain with the Defendant is without merit. The Defendant contends that he was under the impression that he would receive seven years maximum for the three charges. However, as the record reflects, Judge Goldstein went through each charge with its accompanying sentence. The Defendant responded that he understood that the minimum sentence was five years and the maximum was forty-two.¹⁰ Therefore, the Defendant knowingly and voluntarily excepted the plea agreement with the understanding that he could

⁸ *Frady v. State*, 2000 WL 1897395 *2 (Del.Supr. 2000) (ORDER).

⁹ *Id.*

¹⁰ Plea hearing transcript, 1/27/03, at 7.

serve a possible sentence of more than five years. The Defendant's Motion for Postconviction Relief is **DENIED**.

IT IS SO ORDERED.

Calvin L. Scott, Jr.
Superior Court Judge