

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES A. EDWARDS,	§
	§
Defendant Below-	§ No. 1, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0601004409
Plaintiff Below-	§
Appellee.	§

Submitted: March 24, 2008

Decided: June 3, 2008

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

**ORDER**

This 3<sup>rd</sup> day of June 2008, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Charles Edwards, filed this appeal from the Superior Court's denial of his first motion for postconviction relief. The State of Delaware has moved to affirm the judgment below on the ground that it is manifest on the face of Edwards' opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that, on July 7, 2006, Edwards pled no contest to one count of third degree rape. Prior to sentencing, Edwards filed several motions, including a motion to withdraw his plea and a motion to

disqualify his counsel. The Superior Court denied the motions and ultimately sentenced Edwards to twenty-five years at Level V incarceration, to be suspended after serving ten years for decreasing levels of supervision. Edwards did not file a direct appeal. Instead, he moved for postconviction relief in April 2007. After receiving responses from defense counsel and the State, the Superior Court denied Edwards' motion. This appeal followed.

(3) Edwards' opening brief on appeal is a single-page letter with over one hundred pages of attachments. The gist of Edwards' argument appears twofold: First, he appears to contend that, if his attorney had provided him with all of the evidence against him in advance of the scheduled trial date, he would not have pled guilty but would have insisted on going to trial. Second, he argues that if the facts set forth in his attachments had been presented to a jury for its consideration, he would not have been found guilty of any crime.<sup>1</sup>

(4) To prevail on a claim of ineffective assistance of counsel, a defendant is required to show that: (i) counsel's representation fell below an objective standard of reasonableness; and (ii) but for counsel's alleged deficiencies, the defendant would not have pled guilty but would have

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<sup>1</sup> To the extent Edwards' postconviction motion raised any other issues, those claims are deemed waived by his failure to brief them on appeal. *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997).

insisted on going to trial.<sup>2</sup> Counsel's performance is entitled to a strong presumption of reasonableness.<sup>3</sup>

(5) Edwards first asserts that his counsel was ineffective for failing to inform him of the contents of the victim's 9-1-1 call to police. Based on defense counsel's sworn affidavit, however, the Superior Court found that counsel had informed Edwards of the 9-1-1 call, and Edwards declined the opportunity to listen to the tape. Given counsel's sworn assertion, we find no abuse of the Superior Court's discretion in rejecting this claim on its merits.

(6) Edwards also appears to argue that counsel was ineffective for failing to provide Edwards with the results of a urine test, which reflected the additional fact that the victim had tested positive for cocaine use as well as alcohol use. The victim's intoxication from alcohol consumption was going to form the basis of Edwards' defense if his case went to trial. The Superior Court concluded that, even if counsel had erred in failing to provide the results of the urine test to Edwards, there was no prejudice to Edwards because the additional fact that the victim tested positive for cocaine in addition to her admitted alcohol use would not have exculpated Edwards,

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<sup>2</sup> *Dawson v. State*, 673 A.2d 1186, 1190 (Del. 1996).

<sup>3</sup> *Flamer v. State*, 585 A.2d 736, 753-54 (Del. 1990).

since there was no proof of when the victim had used the cocaine or whether she was under the influence of it at the time of the assault. We find no error in this conclusion.

(7) Edwards next appears to argue that counsel was ineffective for failing to provide him with phone records showing that the victim had called her boyfriend before she made the 9-1-1 call. The Superior Court concluded, however, that Edwards could not establish prejudice from this because the 9-1-1 call itself revealed that the victim had called her boyfriend first since the boyfriend's voice is heard on the tape. We find no error in this conclusion.

(8) Finally, Edwards alleges his counsel was ineffective for failing to obtain evidence that the victim had recanted her allegations of being raped. In her sworn affidavit in response to Edwards' petition, defense counsel asserted that she had made several attempts to contact the victim to discuss Edwards' allegation that the victim had recanted. The victim did not respond to defense counsel. The Superior Court concluded that there was no evidence to support Edwards' allegation that the victim had recanted. As the court noted, the victim was present at Edwards' hearing on his motion to withdraw his plea. She did not express any desire to recant at the time.

Under the circumstances, we find no error in the Superior Court's conclusion that there was no merit to Edwards' allegations.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/Henry duPont Ridgely  
Justice