

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RYAN SAMANS,	§
	§ No. 138, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0707000249
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 14, 2012

Decided: June 1, 2012

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

**ORDER**

This 1<sup>st</sup> day of May 2012, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Ryan Samans, filed an appeal from the Superior Court’s February 22, 2012 order denying his second motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior

Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.<sup>1</sup> We agree and affirm.

(2) The record before us reflects that, on January 9, 2008, Samans entered a guilty plea to the charges of Robbery in the First Degree, Assault in the Second Degree and Possession of a Firearm During the Commission of a Felony. He was sentenced on the robbery conviction to 5 years at Level V incarceration, to be suspended after 3 years and successful completion of the Key Program for 2 years of Level III probation. He was sentenced on the assault conviction to 2 years at Level III, concurrent with his probationary sentence for robbery. On the weapon conviction, Samans received 3 years at Level V, with credit for Level V time served.<sup>2</sup> Samans did not file a direct appeal of his convictions. This Court affirmed the Superior Court's denial of his first postconviction motion.<sup>3</sup>

(3) In this appeal from the Superior Court's denial of his second postconviction motion, Samans claims that a) his sentences violate double jeopardy; b) the sentencing judge violated his due process rights by not assigning a different counsel to his case and by considering the prosecutor's assertion that he was a violent person in his sentencing decision; c) his

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<sup>1</sup> Supr. Ct. R. 25(a).

<sup>2</sup> On October 22, 2008, Samans' sentencing order was corrected to indicate that the minimum mandatory sentence on the weapon conviction was 3, and not 7, years at Level V.

<sup>3</sup> *Samans v. State*, Del. Supr., No. 284, 2009, Steele, C.J. (Aug. 27, 2009).

counsel provided ineffective assistance by not adequately investigating his case; and d) the Superior Court judge had a conflict of interest.

(4) Samans entered a plea of guilty to three of nine criminal charges against him on January 9, 2008. The charge of Assault in the Second Degree to which he pleaded guilty was a lesser-included offense of Assault in the First Degree. Samans confirmed when he entered his guilty plea that he had committed the offenses, that he understood the consequences of pleading guilty and that he was satisfied with his counsel's representation. We conclude, as did the Superior Court, that Samans' plea was entered knowingly and voluntarily.

(5) Samans' claims are unavailing. In the absence of clear and convincing evidence to the contrary, he is bound by the representations he made at the time of his guilty plea.<sup>4</sup> Moreover, his guilty plea constitutes a waiver of any claim of error or defect occurring prior to the entry of the plea.<sup>5</sup> Samans' claim of ineffective assistance of counsel is likewise unavailing. In order to prevail on a claim of ineffective assistance in the context of a guilty plea, Samans must demonstrate a reasonable probability that, but for error on the part of his counsel, he would not have pleaded

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<sup>4</sup> *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

<sup>5</sup> *Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988).

guilty but would instead have proceeded to trial.<sup>6</sup> Given the number of serious charges against him, Samans' guilty plea provided him with a clear benefit. There is no evidence in the record to support an ineffective assistance claim against his counsel. Nor is there any evidence in the record to support a conflict of interest on the part of the Superior Court judge. Finally, any claim by Samans that his sentences are illegal is without merit in the absence of any evidence that they exceed the statutory maximum.<sup>7</sup>

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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<sup>6</sup> *Albury v. State*, 551 A.2d 53, 60 (Del. 1988).

<sup>7</sup> *Ward v. State*, 567 A.2d 1296, 1297-98 (Del. 1989).