

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KAMIL IFRIQI,	§	
	§	
Defendant Below-	§	No. 531, 2003
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	Cr. A. Nos. 00-05-0674; 0676;
	§	0677
	§	05-05-1774; 1775
Plaintiff Below-	§	
Appellee.	§	

Submitted: March 9, 2004
Decided: May 5, 2004

Before **HOLLAND**, **BERGER** and **STEELE**, Justices

ORDER

This fifth day of May 2004, 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, Kamil Ifriqi, filed an appeal from the Superior Court's September 29, 2003 order denying his 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 Ifriqi's opening brief that the appeal is without merit.¹ We agree and affirm.

(2) In May 2001, Ifriqi pleaded guilty to Robbery in the First Degree, Assault in the First Degree, and three counts of Possession of a Firearm During the Commission of a Felony. He was sentenced to 20 years incarceration at Level V, to be suspended after 13 years for decreasing levels of probation.

(3) In this appeal, Ifriqi claims that: a) his guilty plea was coerced; b) his sentence is illegal; and c) his counsel provided ineffective assistance in connection with his guilty plea.

(4) Ifriqi's claim of a coerced guilty plea is refuted by the record. On his guilty plea form, Ifriqi stated that: a) he had freely and voluntarily decided to plead guilty to the charges; b) no one, including his attorney, had threatened him or forced him to enter the plea; and c) his attorney had fully advised him of his rights in connection with the entry of the plea and he was satisfied with her representation. Absent clear and convincing evidence to the contrary, Ifriqi is bound by the representations he made at the time his plea was entered.²

(5) Ifriqi next claims that, because he pleaded guilty to only two substantive felonies (robbery and assault), but pleaded guilty to three weapon

¹ Supr. Ct. R. 25(a).

² *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

offenses (possession of a firearm during the commission of a felony), one of those weapon offenses must be vacated. This Court has ruled that, even where the underlying felony charge has been dismissed, a defendant may still be convicted of a related weapon charge.³ This claim is, therefore, without merit.

(6) Ifriqi's final claim is that his counsel provided ineffective assistance. In order to prevail on that claim, Ifriqi must show that his counsel's representation fell below an objective standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that the outcome of the proceedings would have been different.⁴ Although not insurmountable, the Strickland standard is highly demanding and leads to a "strong presumption that the representation was professionally reasonable."⁵ This claim fails because Ifriqi has not shown that any alleged error on the part of his counsel resulted in prejudice to him.⁶

(7) It is manifest on the face of Ifriqi's opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled

³ *Fletcher v. State*, 435 A.2d 1040, 1041 (Del. 1981).

⁴ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

⁵ *Flamer v. State*, 585 A.2d 736, 753 (Del. 1990).

⁶ Ifriqi also claims that he has improperly been deprived of good time credits on his weapons convictions. This claim was not presented to the Superior Court in the first instance and we decline to rule on it here. Supr. Ct. R. 8. We note that Ifriqi has presented no factual support for this claim.

Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice