

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CURTIS L. EVANS,	§
	§
Defendant Below-	§ No. 1, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN97-12-1559,1561
Plaintiff Below-	§ 1562,1567,1574
Appellee.	§

Submitted: March 15, 2002

Decided: April 17, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices

ORDER

This 17th day of April 2002, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Curtis L. Evans, filed an appeal from the December 19, 2001 order of the Superior Court denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we **AFFIRM**.

(2) In this appeal, Evans claims that: a) his counsel provided ineffective assistance by failing to file the appropriate pre-trial motions, conduct an adequate investigation, interview or subpoena witnesses, and

effectively utilize discovery; b) his guilty plea was involuntary due to his attorney's improper advice; c) the Superior Court abused its discretion in failing to conduct an evidentiary hearing on his postconviction motion; d) the Superior Court violated his rights when it accepted his guilty pleas because there was no factual basis for them; e) his arrest was illegal; and f) the arrest warrants obtained by the police were based upon perjured statements.

(3) In March 1999 Evans pleaded guilty to Attempted Murder in the First Degree, Reckless Endangerment in the First Degree, Possession of a Firearm During the Commission of a Felony, Robbery in the First Degree, and Conspiracy in the Second Degree. Evans was sentenced to a total of 32 years incarceration at Level V, to be suspended after 23 years for decreasing levels of probation. Evans did not file a direct appeal of any of his convictions or sentences.

(4) In order to prevail on his claim of ineffective assistance of counsel, Evans 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.¹ Although not insurmountable, the Strickland standard is highly demanding and leads to a “strong presumption that the representation was professionally reasonable.”² Evans’ claim of ineffective assistance of counsel fails under this standard. Evans fails to provide any factual support for his claim that alleged errors on the part of his attorney resulted in prejudice to him.³

(5) In order to prevail on his claim that his guilty plea was involuntary due to his attorney’s improper advice, Evans must show that, but for counsel’s error, he would not have pleaded guilty and would have insisted on going to trial.⁴ Evans’ claim fails under this standard. The record, including the transcript of the plea colloquy, reveals no error on the part of Evans’ counsel and no indication that his guilty plea was involuntary.⁵

¹*Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

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

³Under these circumstances, the Superior Court was clearly within its discretion to decide Evans’ claim of ineffective assistance of counsel without a hearing. SUPER. CT. CRIM. R. 61(h) (1) and (3) (2002).

⁴*Albury v. State*, 551 A.2d 53, 58 (Del. 1988).

⁵Evans signed the plea agreement and the guilty plea form. Even though he originally indicated dissatisfaction with his attorney, in his plea colloquy he stated that he was satisfied with his attorney’s performance. In the absence of clear and convincing evidence to the contrary, Evans is bound by his representations. *Somerville v. State*, 703 (continued...)

(6) Evans' remaining claims are also without merit. As noted in the Superior Court's decision below, there is no basis in the record for Evans' claims of error and abuse of discretion on the part of the Superior Court, nor is there any evidence that his arrest was illegal. Moreover, Evans' voluntary guilty plea waives all defects allegedly occurring before he entered the plea.⁶

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

BY THE COURT:

s/Joseph T. Walsh
Justice

⁵(...continued)
A.2d 629, 632 (Del. 1997).

⁶*Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988). The only exception is a claim of lack of subject matter jurisdiction, which has not been asserted by Evans and for which we find no support in the record.