

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY A. COOPER, JR.,	§
	§ No. 438, 2005
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.A.Nos. IN03-02-0136 R1
	§ IN03-02-0138 R1
Plaintiff Below-	§
Appellee.	§

Submitted: February 24, 2006

Decided: May 19, 2006

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

ORDER

This 19th day of May 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Anthony A. Cooper, Jr., filed an appeal from the Superior Court's June 27, 2005 order 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 September 2003, on the day his trial was to begin, Cooper pleaded guilty to Assault in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony. He was sentenced to a total of

14 years incarceration at Level V, to be suspended after 8 years for 2 years of probation. Cooper's convictions and sentences were affirmed by this Court on direct appeal.¹

(3) In this appeal, Cooper claims that: a) the Superior Court abused its discretion by failing to schedule an evidentiary hearing on his claim of ineffective assistance of counsel; b) at trial, the Superior Court abused its discretion by failing to provide him with substitute counsel on the ground that his appointed counsel had provided ineffective assistance; and c) the Superior Court abused its discretion by denying his postconviction motion without supplying its reasons for doing so.

(4) Cooper's first claim is that the Superior Court should have scheduled an evidentiary hearing on his postconviction claim of ineffective assistance of counsel. Underlying this claim is Cooper's contention that the Superior Court did not properly address his ineffective assistance of counsel claim in its June 27, 2005 order.² In order to prevail on a claim of ineffective assistance of counsel in connection with a guilty plea, a defendant must show that, but for his counsel's unprofessional errors, he

¹ *Cooper v. State*, Del. Supr., No. 604, 2003, Berger, J. (June 30, 2004).

² The Superior Court, without citing to any legal authority, states only that, after reviewing Cooper's plea colloquy, his appeal and his postconviction motion, it finds that Cooper is not entitled to relief.

would not have pleaded guilty but would have insisted on proceeding to trial.³

(5) There is no evidence in the record that any error by Cooper's counsel caused him to plead guilty. To the contrary, the transcript of the plea colloquy reflects that Cooper's guilty plea was knowing and voluntary and that he was satisfied with his counsel's performance. In the absence of clear and convincing evidence to the contrary, Cooper is bound by those representations.⁴ Moreover, the guilty plea provided Cooper with a clear benefit. Cooper faced the possibility of 30 years of Level V incarceration, but received only 14 years, to be suspended after 8 years for probation, and five additional charges were dismissed by the State. Thus, while the Superior Court did not provide a complete rationale in its June 27, 2005 order, we, nevertheless, find that it correctly denied Cooper's claim of ineffective assistance of counsel with respect to the entry of his guilty plea.

(6) As for Cooper's claim that the Superior Court should have scheduled an evidentiary hearing, it is within the discretion of the Superior Court to schedule an evidentiary hearing if, upon a review of the materials in the record, the Superior Court deems it to be desirable. If, on the other hand, the Superior Court does not deem an evidentiary hearing to be desirable,

³ *Hill v. Lockhart*, 474 U.S. 52, 58 (1985).

⁴ *Somerville v. State*, 703 A.2d 629, 631-32 (Del. 1997).

“the judge shall make such disposition of the motion as justice dictates.”⁵

Given that Cooper’s claim of ineffective assistance was based solely on his claim of unprofessional errors by his counsel that improperly caused him to plead guilty, and because there is no merit to that claim, we do not find that the Superior Court abused its discretion by not scheduling an evidentiary hearing.

(7) Cooper’s next claim is that the Superior Court abused its discretion by failing to provide him with substitute counsel because his appointed counsel had provided ineffective assistance. Under settled Delaware law, a voluntary guilty plea constitutes a waiver of any alleged defects or errors occurring prior to the entry of the guilty plea.⁶ Because Cooper’s guilty plea was entered knowingly and voluntarily, he has waived his right to assert this claim. Moreover, in the absence of clear and convincing evidence to the contrary, he is bound by his representation at the plea colloquy that he was satisfied with his counsel’s performance.⁷

(8) Cooper’s final claim is that the Superior Court failed to provide an adequate rationale for its decision. The supplying of reasons for a judicial decision is part of established law in this State. The failure of a trial

⁵ Super. Ct. Crim. R. 61(h) (1) and (3).

⁶ *Downer v. State*, 543 A.2d 309, 311-12 (Del. 1988).

⁷ *Somerville v. State*, 703 A.2d at 631-32.

judge to give reasons for the court's disposition constitutes a per se abuse of discretion.⁸ Here the Superior Court's order denying Cooper's postconviction motion cited Rule 61(d)(4). While more could have been said, we do not believe that any purpose would be served by remanding this matter to the Superior Court. It is within our discretion to affirm a decision of the trial judge "if, upon a reading of the record in relation to the order, the reasons [for the decision] appear obvious."⁹ In this case, the transcript of the plea colloquy provides a clear basis for the denial of Cooper's claims and we have determined that the Superior Court's decision was correct.

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

BY THE COURT:

/s/Henry duPont Ridgely
Justice

⁸ *Ball v. Division of Child Support Enforcement*, 780 A.2d 1101, 1104-05 (Del. 2001). This is true even if the Superior Court summarily dismisses a postconviction motion. Super. Ct. Crim. R. 61(d) (4).

⁹ *Id.* at 1105.