

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MONTY C. PEPPER,	§
	§
Petitioner Below-	§ No. 349, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ C.A. No. 05M-11-009
Respondent Below-	§
Appellee.	§

Submitted: August 28, 2006

Decided: October 17, 2006

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

**ORDER**

This 17<sup>th</sup> day of October 2006, upon consideration of the appellant's opening brief, his motion to remand, and the State's motion to affirm, it appears to the Court that:

(1) Appellant Monty Pepper filed this appeal from the Superior Court's denial of his petition for return of property. The State has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Pepper's opening brief that the appeal is without merit. We agree and affirm.

(2) Pepper sought the return of computer hardware and software that had been seized by the State during the execution of a search warrant which led to Pepper's arrest and subsequent guilty plea on charges of second degree rape, two

counts of unlawful use of a computer to depict a child engaging in a prohibited sexual act, and three counts of possession of child pornography. Pepper's signed plea agreement, as well as the Superior Court's written sentencing order, specifically provided that one of the conditions of the agreement was that Pepper forfeit all computers. Among other things, Pepper argues that this condition was not orally pronounced by the Superior Court at sentencing and, therefore, is not a valid condition of the sentence and that the forfeiture issue was in dispute at the time of the guilty plea.

(3) The transcript of the plea colloquy reflects that the forfeiture issue was discussed in open court. Pepper acknowledged his understanding of the charges and the plea agreement and his knowing and voluntary waiver of his rights. A defendant is bound the answers in his plea agreement and by his sworn testimony prior to the acceptance of the plea.<sup>1</sup> Accordingly, we find no error in the Superior Court's denial of Pepper's petition for return of property.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to remand is moot.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>1</sup> *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).