

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM P. INGRAM,	§
	§
Defendant Below-	§ No. 255, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr.A. Nos. IK01-03-0562
Plaintiff Below-	§ IK01-04-0003 thru
Appellee.	§ 0005

Submitted: January 10, 2003

Decided: March 6, 2003

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

ORDER

This 6th day of March 2003, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, William P. Ingram, filed an appeal from the Superior Court's May 6, 2002 order denying Ingram's motion to vacate plea agreement and from the Superior Court's May 10, 2002 sentencing order. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In January 2002, Ingram was tried before a Superior Court jury on three counts of Felony New Home Construction Fraud and one count of

Non-Compliance with Bond Conditions. The charges stemmed from the construction of a new home by Ingram for Robert and Janet Sundquist at 286 Troon Road, Dover, Delaware. During the trial, Ingram entered into a plea agreement with the State, pleading guilty to three counts of Misdemeanor New Home Construction Fraud and one count of Criminal Contempt. On March 8, 2002, the Superior Court held an evidentiary hearing on damages and, by order dated April 1, 2002, ordered restitution to the Sundquists in the amount of \$67,354.22. On May 1, 2002, Ingram filed a motion to vacate his guilty plea, which the Superior Court denied.

(3) In this appeal, Ingram claims that the Superior Court: a) abused its discretion by not vacating his guilty plea; and b) abused its discretion by ordering \$67,354.22 in restitution because there was no basis in the record for that amount.

(4) Ingram's claim that the Superior Court should have vacated his guilty plea is based upon his contention that the plea was coerced. There is no indication in the record that the plea was coerced. The plea colloquy and the Truth-in-Sentencing guilty plea form, which was signed by Ingram, clearly reflect that he understood the nature of the plea and its consequences and that he freely and voluntarily decided to plead guilty to several misdemeanors rather

than risk conviction of several felonies. In the absence of clear and convincing evidence to the contrary, Ingram is bound by those representations.¹ There was, therefore, no abuse of discretion on the part of the Superior Court in denying Ingram's motion to vacate his guilty plea.

(5) Ingram's claim that the Superior Court abused its discretion by ordering restitution in the amount of \$67,354.22 is also without merit. We have reviewed the transcript of the evidentiary hearing on damages, the exhibits submitted to the Superior Court at the hearing and the Superior Court's April 1, 2002 order. Those items reflect that \$75,354.22 was paid to another general contractor, Larry Willard, Jr., between July 1999 and March 2000 for repairs to the Sundquists' new home at 286 Troon Road. They further reflect that it was undisputed that Ingram paid \$8,000 for tree removal on the property, which the Superior Court deducted from the \$75,354.22 payment.² The Superior

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

²In its April 1, 2002 order, the Superior Court stated the following: "I believe that a preponderance of the evidence has established the loss. It reflects the amounts paid to Mr. Willard to bring the home to the stage of construction it should have been, had the work been done according to the contract. It also reflects a deduction for the \$8,000.00 claimed by Mr. Ingram for tree removal which appears to have been undisputed. . . . I should also note that while Mr. Ingram did submit a number of documents and made substantial arguments in his behalf, they simply were not persuasive."

Court, thus, was within its discretion in awarding the Sundquists' \$67,354.22 in restitution.

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

BY THE COURT:

s/Joseph T. Walsh
Justice