

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONALD L. CANNON, III,	§
	§ No. 20, 2007
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0212005958
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 11, 2007
Decided: August 2, 2007

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

ORDER

This 2nd day of August 2007, 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, Ronald L. Cannon, III, filed an appeal from the Superior Court's December 20, 2006 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 judgment of the Superior Court on the ground that it is manifest on the face of the opening brief that the appeal is without merit. We agree and AFFIRM.

(2) On April 8, 2003, Cannon pleaded guilty to Trafficking in Cocaine and Possession With Intent to Deliver Marijuana, and pleaded no contest to Possession of a Firearm By a Person Prohibited. In exchange for his guilty plea, the State dismissed eleven additional drug, weapon and related charges. Cannon was sentenced to a total of 9 years minimum mandatory Level V imprisonment on his three convictions. He also was sentenced to a total of 6 years Level V imprisonment, suspended for decreasing levels of supervision, for a violation of probation. Cannon did not file a direct appeal.

(3) In this appeal, Cannon claims that his counsel provided ineffective assistance a) by failing to discover *Brady* material used by probation officers to secure an administrative search of his residence, request a suppression hearing, and request a *Flowers* hearing to learn the identity of a confidential informant, and b) by coercing him into accepting a guilty plea.

(4) In order to prevail on a claim of ineffective assistance of counsel in connection with a guilty plea, a defendant must demonstrate that, but for his counsel's unprofessional errors, he would not have pleaded guilty, but would have insisted on proceeding to trial.¹ The defendant must

¹ *Hill v. Lockhart*, 474 U.S. 52, 58 (1985).

make concrete allegations of actual prejudice, and substantiate them, or risk summary dismissal.²

(5) The transcript of Cannon's guilty plea colloquy fatally undermines his claim of ineffective assistance of counsel and a coerced guilty plea. When asked by the judge if he had committed the offenses to which he was pleading guilty, he said yes. When asked if he was satisfied with his counsel's representation, he said yes. When asked if he was being coerced into pleading guilty, he said no. In the absence of clear and convincing evidence to the contrary, Cannon is bound by the representations he made during his guilty plea colloquy.³ We, therefore, conclude that Cannon's claim is without merit.

(6) It is manifest on the face of Cannon's opening brief that his appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

² *Younger v. State*, 580 A.2d 552, 556 (Del. 1990).

³ *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

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/ Myron T. Steele
Chief Justice