

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LAMONTE BARHAM,	§	
	§	No. 395, 2002
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County, in Cr.
	§	A. Nos. S01-10-0017, S01-
STATE OF DELAWARE,	§	08-0636, 0641 and 0647.
	§	
Plaintiff Below,	§	Def. ID No. 0108011893
Appellee.	§	

Submitted: August 12, 2002

Decided: September 16, 2002

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

ORDER

This 16TH day of September 2002, upon consideration of the appellant's opening brief and the State of Delaware's motion to affirm, it appears to the Court that:

(1) The appellant, Lamonte Barham, has appealed from the Superior Court's order dated July 3, 2002, denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61 ("Rule 61"). 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 Barham's opening brief that the appeal is without merit.¹ We agree and affirm.

(2) In October 2001, Barham was charged with Trafficking in Cocaine, Possession with Intent to Deliver Cocaine, three counts of Reckless Endangering in the First Degree, Maintaining a Vehicle for Keeping Controlled Substances, Possession of Cocaine within 300 Feet of a Park, three counts of Assault in the Third Degree, Resisting Arrest, Carrying a Concealed Deadly Instrument, and five traffic violations. On January 10, 2002, Barham pleaded guilty to one count each of Possession with Intent to Deliver Cocaine, Reckless Endangering in the First Degree, Assault in the Third Degree, and a traffic violation. Barham was immediately sentenced to a total of eight years at Level V suspended, upon successful completion of the Level V Key Program, for 12 months at a Level IV Residential Substance Abuse Treatment Program suspended, upon successful completion, for two years and six months at Level III Aftercare, followed by three years of decreasing levels of supervision. Barham filed a direct appeal, but he voluntarily dismissed his appeal to pursue postconviction relief.

¹Supr. Ct. R. 25(a).

(3) In May 2002, Barham filed a *pro se* motion for postconviction relief. Barham claimed (i) improper and defective warrant affidavit, (ii) ineffective assistance of counsel, (iii) no factual basis to plead guilty, and (iv) improper coercion. After receiving affidavits from Barham's counsel and Barham, the Superior Court entered its July 3 order denying Barham's postconviction motion. This appeal followed.

(4) We have carefully considered Barham's postconviction claims on appeal and find that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned decision of July 3, 2002. Barham has not sustained his burden of demonstrating that his counsel rendered

ineffective assistance of counsel.² Moreover, Barham’s voluntary guilty plea waives any defects or errors allegedly occurring prior to the entry of the plea.³

(5) It is manifest on the face of Barham’s opening brief that this appeal is without merit. The issues presented on appeal are controlled by settled Delaware law, and to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State’s motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

s/ Joseph T. Walsh
Justice

²In the context of a guilty plea, a defendant must demonstrate “that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted upon going to trial.” *Albury v. State*, 551 A.2d 53, 60 (Del. 1988) (quoting *Hill v. Lockhart*, 474 U.S. 52, 58 (1985)).

³*Vasquez v. State*, 2001 WL 1398441 (Del. Supr.); *Oliver v. State*, 2001 WL 1751246 (Del. Supr.).