# IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,	
${f v}_{ullet}$	) Case No. 1008000827
KAITMARIE TEAGUE,	)
Defendant	)

Submitted: May 6, 2013 Decided: May 13, 2013

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Attorney for Defendant

## MEMORANDUM OPINION AND ORDER ON DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

Defendant Kaitmarie Teague moved to withdraw her guilty plea to one count of Driving Under the Influence of Alcohol. The State opposed the Motion. On April 16, 2013, a hearing was held before this Court and decision was reserved. For the reasons set forth below, the Court **DENIES** the Motion.

#### FACTUAL AND PROCEDURAL HISTORY

On March 31, 2011, Ms. Teague pled guilty to one count of Driving Under the Influence of Alcohol ("DUI") in exchange for a nolle prosequi on the three additional charges<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> Ms. Teague had also been charged with Failure to Have License in Possession, Failure to Have Insurance Identification in Possession, and Failure to Have Registration Card in Possession.

and entry into the First Time Offender's Program. A hearing was held on April 16, 2013, on Ms. Teague's motion to withdraw her guilty plea to the DUI offense.

The Court heard testimony from Ms. Teague concerning the events that occurred prior to the entry of the guilty plea. Ms. Teague testified that she was arrested for DUI in the early morning hours of August 2, 2010. Ms. Teague testified that on the night she was arrested she called 911 from the side of the road because the man who had been driving her abandoned her on the side of the road and she was too drunk to drive. Ms. Teague stated that 911 instructed her to keep the keys in the ignition. Ms. Teague testified that she pled guilty to the DUI offense although she was innocent.

Ms. Teague stated that, at the time of the DUI case review, she lived in Elkton, Maryland and had a Delaware driver's license. Ms. Teague alleged that the Public Defender at case review told her that Delaware does send to the Maryland authorities notice of guilty pleas for DUI offenses. Upon learning this information, Ms. Teague subsequently surrendered her Delaware license and obtained a Maryland license after the case review, but before the DUI trial.

The DUI trial was scheduled for March 31, 2011, and Ms. Teague entered a guilty plea in exchange for entry into the First Time Offender's Program. However, she testified that she took the guilty plea "for the best possible solution." Ms. Teague executed the guilty plea form and waived her rights to trial. During this proceeding, the Court conducted a plea colloquy with Ms. Teague where her attorney indicated she was entering the plea knowingly, intelligently, and voluntarily. The Court asked her if she understood that "when you say

guilty, you are admitting that you committed the offense, you will not have a trial." Her response to this inquiry was yes.<sup>2</sup>

Matthew Warren, the Public Defender who represented Ms. Teague at the time of her plea, testified he had a vague recollection of Ms. Teague's case due to his large caseload. He recalled that there was a 911 tape of the night she was arrested which could have presented a triable issue. Mr. Warren, however, could not recall the contents of the 911 tape. Additionally, Mr. Warren could not recall if he informed Ms. Teague that Maryland would not be notified of the Delaware conviction for purposes of her driver's license. Mr. Warren also testified that he never forces a client to plead guilty, and that many times defendants choose to plead guilty even if they are innocent to avoid a more severe sentence if they lose at trial.

#### PARTIES' CONTENTIONS

Ms. Teague argues that her guilty plea should be withdrawn because she was innocent of the DUI and was misinformed about the revocation of her Maryland license. Ms. Teague alleges that she would not have entered a guilty plea had she known that her Maryland license would be affected by the Delaware conviction. The State argues that Ms. Teague's guilty plea was entered knowingly, voluntarily, and intelligently and therefore the Court should deny the motion.

#### **DISCUSSION**

The decision to withdraw a guilty plea is within the sound discretion of the trial court.<sup>3</sup> The timing of a motion to withdraw a guilty plea is "[a]n important factor in the

<sup>&</sup>lt;sup>2</sup> Transcript of the plea colloquy on March 31, 2011, pg. 3.

exercise of that discretion . . . "4 Court of Common Pleas Criminal Rule 32.1(d) provides that if a motion to withdraw a guilty plea is made prior to the "imposition or suspension of sentence or disposition without entry of a judgment of conviction," then the Court may allow withdrawal if the defendant provides a "fair and just reason." 5

After the sentence has been imposed, however, a motion to withdraw a guilty plea must be considered pursuant to *Court of Common Pleas Criminal Rule 61* because the motion then operates as a collateral attack on the conviction.<sup>6</sup> *Rule 61* requires a defendant to put forth a higher threshold to establish cause.<sup>7</sup> The defendant bears the burden of showing that there is a fair and just reason to permit the withdrawal.<sup>8</sup> In evaluating whether to permit a defendant to withdraw a guilty plea, the Court must address five questions: (1) was there a procedural defect in taking the plea; (2) did defendant knowingly and voluntarily consent to the plea agreement; (3) does defendant have a legal basis to assert legal innocence; (4) did

<sup>&</sup>lt;sup>3</sup> Schofield v. State, 38 A.3d 1255, at \*1 (Del. Feb 22, 2012) (ORDER) (citing State v. Insley, 141 A.3d 619, 622 (Del. 1958)).

<sup>&</sup>lt;sup>4</sup> Blackwell, 736 A.2d 971, 972 (Del. 1999).

<sup>&</sup>lt;sup>5</sup> CCP Crim. R. 32.1(d).

<sup>&</sup>lt;sup>6</sup> Id.; see also Blackwell, 736 A.2d at 972-73. ("After sentencing, a motion to withdraw a guilty plea constitutes a collateral attack against the conviction and is subject to the requirements of Rule 61, including its bars of procedural default. . . .").

<sup>&</sup>lt;sup>7</sup> Patterson v. State, 684 A.2d 1234, 1237 (Del. 1983). See also McNeill v. State, 810 A.3d 350, 2002 WL 31477132, at \*1 (Del. Nov. 4, 2002) (ORDER) ("Rule 32(d), as opposed to Rule 61, contemplates a lower threshold of cause sufficient to permit withdrawal of a guilty plea . . . .").

<sup>&</sup>lt;sup>8</sup> Sykes v. State, 55 A.3d 839, 2012 WL 5503846, at \*3 (Del. Super. Nov. 13, 2012) (ORDER).

defendant have adequate legal counsel at the time the plea was entered; and (5) does granting the motion prejudice the State or unduly inconvenience the Court.<sup>9</sup>

Ms. Teague's motion to withdraw was filed after the imposition of the sentence, therefore I will analyze the Motion pursuant to *Court of Common Pleas Criminal Rule 61(i)(3)*. First, Ms. Teague has failed to demonstrate any procedural defect in the plea. She signed the agreement and stated yes when the Court inquired whether she understood there will be no trial. Further, Ms. Teague offers no reason as to why she did not appeal this matter one year ago when the sentenced was imposed and she discovered her Maryland license would be affected. <sup>10</sup>

Second, the record indicates she knowingly, intelligently, and voluntarily entered the plea as a part of the negotiation process. As a part of this negotiation, the State dropped several offenses and recommended the First Offender's Program. Furthermore, Ms. Teague admitted that she took the plea to reach the best possible solution. Ms. Teagues's mistaken belief that she could surreptitiously switch her Delaware driver's license to a Maryland license to avoid the revocation of her license does not warrant the withdrawal of her guilty plea.

Third, Ms. Teague brings this motion after being cited on several occasions for violation of probation in that she failed to complete the first offense DUI program as ordered by the Court. She admits that when the police observed her in the vehicle she was in

<sup>9</sup> State v. Cox, 2011 WL 5316739, at \*1 (Del. Super. Sept. 23, 2011).

<sup>&</sup>lt;sup>10</sup> See Jamison v. State, 825 A.2d 238, 2003 WL 21295908, at \*2 (Del. June 3, 2003) ("To the extent he alleges that his guilty plea was involuntary due to Superior Court error, Jamison's opening brief asserts no cause for why he did not raise these claims on direct appeal . . . Accordingly, we conclude that Jamison's allegations of court error are barred by Rule 61(i)(3). . . .").

her vehicle with the keys in the ignition. Under Delaware law, these facts could reasonably support a finding of being in control of the vehicle. Therefore, I do not find a basis for Ms. Teague to assert legal innocence.

Fourthly, Ms. Teague was represented by counsel at the time the plea was entered; she signed the plea agreement and was questioned by the Judge. Further, the fact that she changed her license from Delaware to Maryland indicates she was aware of consequences to one's driving privileges in DUI proceedings.

I need not reach the fifth point because the facts as I find them show an individual who attempted to circumvent the system and ended up wanting. Therefore, I find that Ms. Teague fails to satisfy the standard of Court of Common Pleas Criminal Rule 61(i)(3).

### **CONCLUSION**

Accordingly, IT IS HEREBY ORDERED this 13th day of May, 2013 that Defendant's Motion to Withdraw Guilty Plea is **DENIED**.

The Honorable Alex J. Smalls.

Chief Judge