

SUPERIOR COURT
OF THE
STATE OF DELAWARE

FRED S. SILVERMAN
JUDGE

NEW CASTLE COUNTY COURTHOUSE
500 North King Street, Suite 10400
Wilmington, DE 19801-3733
Telephone (302) 255-0669

June 27, 2013

Ipek K. Medford, Esquire
Deputy Attorney General
Carvel State Office Building
820 North French Street
Wilmington, DE 19801

Michael W. Modica, Esquire
715 North King Street, Suite 300
P.O. Box 437
Wilmington, DE 19899

RE: *State v. Raymond D. Williams*
ID # 1211020919

***Upon Defendant's "Motion to Withdraw Guilty Plea" and Defense Counsel's
Motion to Withdraw – DENIED.***

Dear Counsel:

Because the judge who took Defendant's plea on April 24, 2013 is not available due to retirement and I am responsible for sentencing tomorrow, I reviewed the pending motions and the record. That includes a transcript of the plea colloquy.

First, Defendant is represented by counsel. Accordingly, his motion is out of order. While Defendant had the right to plead guilty or not as he saw fit, he does not have the right to file motions as he sees fit. Perhaps, if Defendant had reviewed the matter with counsel, counsel would have re-convinced Defendant that the plea was lawful and in his best interest, and this effort would have been unnecessary.

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Second, much of Defendant's motion is double-talk. For example, Defendant writes, *verbatim et literatim*:

I take full and total responsibility for that of my actions that were wrong and in violation of level 4 custody. I am not negating the fact that I may be eligible to be sentenced or declared under the 4214 habitual Criminal Statue, but the severity of the penalty could be different according to the charges I may or may not be guilty of.

That example underscores how Defendant's motion is misguided and without merit.

Third, Defendant's claim that he has "a basis to assert legal innocence [*sic*]," is belied by what he told the court when he pleaded guilty. After Judge Babiarz reviewed the lead charge, Escape After Conviction, Defendant not only told the court that he understood what he was charged with, but Defendant agreed that he had committed the offense. So much for Defendant's actual innocence.

The record supports the finding that on October 26, 2012, while he was serving a Level 4 sentence at a work release facility, Defendant left the facility at 12:26 p.m. with permission to go to work. When he had not appeared at work by 3:30 p.m., Defendant was declared "on escape." Defendant did not return to custody until November 27, 2012, when he was arrested for a crime at a casino.

Defendant now emphasizes the fact that he had permission to leave the work release center, so he does not see his departure as an escape. He ignores, however, the fact that he was absent from supervised custody for over a month before he was captured. The things Defendant did squarely meet all the elements of the

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crime to which he pleaded guilty, escape after conviction.¹ Put another way, were Defendant allowed to withdraw his guilty plea and go to trial, the proper verdict would be guilty as charged. Of course, were the plea withdrawn, Defendant would also face conviction on all the counts in both indictments, not just the escape after conviction and resisting arrest charges to which he pleaded guilty.

As to Defendant's accusations of ineffectiveness against his privately-retained lawyer, counsel denies them. Furthermore, when he pleaded guilty, Defendant told the court, in writing and orally, that he was satisfied with his counsel's efforts and no one was forcing him to plead guilty. By the same token, Defendant told the court that he believed he understood what he was doing. And, this was far from the first time Defendant had pleaded guilty.

In summary, the court agrees with counsel that Defendant's motion represents nothing more than "buyer's remorse." As Defendant assured the court when he entered the plea, and as the court then found, the plea was knowing, voluntary and intelligent.

Finally, while the court appreciates that Defendant's motion has put Defense counsel in an awkward position, this is not an uncommon situation where a defendant turns against his counsel. Here, Defendant has presented nothing that undermines counsel's ability to argue for the minimum/mandatory on the lead charge, and probation on the companion charges. Defendant's unfounded accusations do not interfere with counsel's ability to represent Defendant. If Defendant, nonetheless, prefers to represent himself tomorrow, the court will consider it.

For the foregoing reasons, Defendant's motion to withdraw guilty plea

¹ 11 *Del. C.* § 1253; see *Smith v. State*, 361 A.2d 237, 239 (Del. 1976) (Conviction for escape after conviction affirmed where defendant failed to return from furlough.) ("[D]efendant was 'in custody' while on furlough, and [. . .] his unauthorized departure from the limits of that custody constituted an escape.").

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and Defense counsel's motion to withdraw are **DENIED**. Sentencing will take place as scheduled.

IT IS SO ORDERED.

Very truly yours,

/s/ Fred S. Silverman

FSS: mes

oc: Prothonotary (Criminal)

Raymond D. Williams, Defendant