

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD M. LEWIS,	§
	§
Defendant Below-	§ No. 551, 2007
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0305000877
Plaintiff Below-	§
Appellee.	§

Submitted: April 11, 2008

Decided: July 10, 2008

Before **STEELE**, Chief Justice, **HOLLAND**, and **JACOBS**, Justices.

ORDER

This 10th day of July 2008, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Edward Lewis, filed this appeal from the Superior Court's denial of his first motion for postconviction relief. Lewis' postconviction motion raised several claims of ineffective assistance of counsel. We find no merit to Lewis' appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that a Superior Court jury convicted Lewis in 2004 of third degree assault, possession of a deadly weapon during the commission of a felony, aggravated menacing, reckless endangering,

disorderly conduct, and endangering the welfare of a child. The Superior Court granted a judgment of acquittal on the latter charge. Thereafter, Lewis was sentenced as an habitual offender to a total period of twenty-seven years and 30 days at Level V imprisonment to be suspended after serving twenty years for decreasing levels of supervision. This Court affirmed Lewis' convictions and sentence on direct appeal.¹ Lewis moved for postconviction relief in December 2006. After receiving responses from defense counsel and the State, the Superior Court denied the motion. This appeal followed.

(3) In his opening brief on appeal, Lewis contends that the Superior Court abused its discretion in rejecting his claims of ineffective assistance of trial counsel. To prevail on a claim of ineffective assistance of counsel, a defendant is required to show that: (i) counsel's representation fell below an objective standard of reasonableness; and (ii) but for counsel's alleged deficiencies, the outcome of the trial would have been different.² Counsel's performance is entitled to a strong presumption of reasonableness.³

(4) In his motion filed in the Superior Court, Lewis alleged that his trial counsel was ineffective because she: (i) failed to move to suppress his statements to police as involuntary due to Lewis' intoxication; (ii) failed to

¹ *Lewis v. State*, 2004 WL 3220296 (Del. Feb. 24, 2004).

² *Dawson v. State*, 673 A.2d 1186, 1190 (Del. 1996).

³ *Flamer v. State*, 585 A.2d 736, 753-54 (Del. 1990).

investigate and call witnesses for the defense; (iii) never advised him of the prosecutor's plea offer; and (iv) as a public defender, had a disqualifying conflict of interest due to the public defender's office providing representation to the victim of Lewis' assault in her related criminal case. We find no merit to any of these contentions. Accordingly, we affirm the Superior Court's denial of postconviction relief.

(5) First, there was no legal or factual basis to move for suppression of Lewis' statement due to his alleged intoxication. Lewis' own testimony at trial was that he had had only one beer prior to the altercation with the victim, who was his girlfriend. Second, defense counsel's affidavit set forth the efforts of her investigator to interview potential witnesses, one of whom was called at trial. Under the circumstances, we agree with the Superior Court's conclusion that Lewis established no error by his counsel in this regard. Similarly, with respect to the plea offer, defense counsel's sworn affidavit stated that she had informed Lewis of the offer but that he had rejected accepting a plea because he believed that the victim would not testify against him. Thus, we find no support for this ground of Lewis' ineffectiveness claim. Finally, Lewis' claim of a conflict by the public defender's office is unsupported by the record. The victim, who was also charged as a result of her altercation with Lewis, was not represented by a

public defender in her criminal case. Accordingly, there is no merit to this contention.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice