

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE, )  
 )  
 v. ) ID Nos. 1607015364  
 ) 1607016055  
 RICHARD J. WILLIAMS, )  
 )  
 Defendant. )

Date Submitted: January 2, 2018  
Date Decided: February 15, 2018

ORDER

Upon consideration of Defendant Richard Williams' ("Williams") *pro se* Motion for Postconviction Relief,<sup>1</sup> Defense Counsel's Response,<sup>2</sup> Superior Court Criminal Rule 61, and the record in this case, **IT APPEARS THAT:**

1. On September 15, 2016, in Case Number 1607015364, Williams pled guilty to Resisting Arrest, Assault Second of a K-9, and Leaving the Scene of an Accident.<sup>3</sup> In Case Number 1607016055, Williams pled guilty to Reckless Endangering Second Degree and Reckless Driving.<sup>4</sup> The same day, Williams was sentenced as follows: for Resisting Arrest, two years Level V, suspended after 60 days at Level V for one year of Level III; for Assault Second of a K-9, one year at Level V, suspended for one year of Level III concurrent probation; for Leaving the

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<sup>1</sup> D.I. 7.

<sup>2</sup> D.I. 11. D.I. 12.

<sup>3</sup> September 15, 2016 Sentencing Order, D.I. 4.

<sup>4</sup> *Id.*

Scene of an Accident, a fine of \$500; for Reckless Endangering Second, one year at Level V, suspended for one year of Level III concurrent probation; and for Reckless Driving, a fine of \$100.<sup>5</sup>

2. On September 11, 2017, Williams filed a *pro se* Motion for Postconviction Relief in which he raises the following grounds for relief: (1) Ineffective assistance of counsel and (2) Williams does not believe the arresting officers are really police.<sup>6</sup>

3. Williams argues he received ineffective assistance of counsel when, according to Williams, his counsel told him that taking a plea was in his best interest even though Williams was off his medication, has a history of mental health issues, and was in a car accident the night of his arrest which resulted in a brain injury and mental instability.<sup>7</sup>

4. Before addressing the merits of any claim for postconviction relief, the Court must first determine whether any of the procedural bars under Rule 61(i) are applicable.<sup>8</sup> This is Williams' first Rule 61 motion and it was filed within a year of when the judgment of conviction was made final.<sup>9</sup> The Rule 61(i) procedural bars do not preclude consideration of Williams' Motion.

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<sup>5</sup> *Id.*

<sup>6</sup> D.I. 7 at 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

<sup>9</sup> Because Williams did not file a direct appeal, the judgment of conviction was made final 30 days after Williams' sentence was imposed. Super. Ct. Crim. R. 61(m).

5. Claims of ineffective assistance of counsel are governed by *Strickland v. Washington*'s two-prong test.<sup>10</sup> In order to prevail on a claim of ineffective assistance of counsel in connection with a guilty plea, Williams must show: (1) his counsel's representation fell below an objective standard of reasonableness; and (2) his counsel's actions were so prejudicial that there is a reasonable probability that, but for counsel's errors, Williams would not have pled guilty and would have insisted on going to trial.<sup>11</sup> Absent clear and convincing evidence to the contrary, Williams is bound by his representations to the Court during the guilty plea colloquy.<sup>12</sup>

6. Williams signed a Truth-In-Sentencing form ("TIS") which indicates that he freely and voluntarily decided to plead guilty, no one threatened or forced him to enter the plea, he was satisfied with counsel's representation, and counsel fully advised him of his rights.<sup>13</sup> During the plea colloquy, Williams told the Court multiple times that he read and understood everything in the TIS form.<sup>14</sup>

7. According to Williams' counsel, (a) Williams asked and answered appropriate questions regarding his case, (b) at no time did she believe that

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<sup>10</sup> *Strickland v. Washington*, 466 U.S. 668, 694 (1984); *Hill v. Lockhart*, 474 U.S. 52, 58 (1985) ("[T]he two-part *Strickland v. Washington* test applies to challenges to guilty pleas based on ineffective assistance of counsel.").

<sup>11</sup> *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997).

<sup>12</sup> *Miller v. State*, 105 A.3d 989 at \*3 (TABLE) (Del. 2014).

<sup>13</sup> Transcript of Plea Colloquy, D.I. 10, at 6-7.

<sup>14</sup> *Id.* at 6, 13.

Williams' mental health issues interfered with his ability to understand his case, her role in his case, the court process, and any legal issues discussed, and (c) Williams indicated he wanted a plea offer so he could resolve his case.<sup>15</sup>

Williams' mental health was discussed at the plea colloquy and his counsel said he had a recent admission to a mental health hospital.<sup>16</sup> The Court inquired about the recent admission and Williams said he voluntarily committed himself and was "released back into society and cleared."<sup>17</sup> The Court asked if Williams needed to take medication and he said he did not.<sup>18</sup> According to counsel, Williams indicated that his mental health issues did not play a contributing factor in his charges.<sup>19</sup>

8. The Court accepted Williams' plea only after determining that he was entering it knowingly, intelligently, and voluntarily.<sup>20</sup>

9. Williams has not provided any evidence to support his claim that the accident on July 21, 2016 affected his guilty plea almost two months later. The transcript of the plea colloquy does not indicate that Williams was unable to answer or had any difficulty answering the Court's questions. Williams informed the Court he understood the charges he was pleading guilty to, that he was guilty of those charges, and that he decided it was in his best interest to resolve the case

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<sup>15</sup> D.I. 11. D.I. 12.

<sup>16</sup> D.I. 10 at 14.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> D.I. 11. D.I. 12.

<sup>20</sup> D.I. 10 at 13.

though a plea rather than going to trial.<sup>21</sup>

10. There is no evidence, much less clear and convincing evidence, that at the time Williams entered his plea he was suffering from a brain injury or mental instability, and Williams has failed to establish that his counsel's representation fell below an objective standard of reasonableness.

11. Williams argues that he “[does not] believe that the arresting officers are really police.”<sup>22</sup> This claim is without merit and does not entitle him to postconviction relief.

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<sup>21</sup> *Id.* at 11-12.

<sup>22</sup> D.I. 7 at 3.

**NOW THEREFORE**, for the foregoing reasons, Defendant's Motion for Postconviction Relief is **DENIED**.

**IT IS SO ORDERED.**



Jan R. Jurden, President Judge

Original to Prothonotary:

cc: Richard J. Williams Jr. (SBI# 00245835)  
Cathy A. Johnson, Esq.  
Tianna Bethune, Esq.