

Superior Court  
of the  
State of Delaware

Jan R. Jurden  
Judge

New Castle County Courthouse  
500 North King Street, Suite 10400  
Wilmington, Delaware 19801-3733  
Telephone (302) 255-0665

Date Submitted: December 12, 2005

Date Decided: January 26, 2006

Raymond L. Bruton  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, Delaware 19977

Brian J. Chapman, Esquire  
Deputy Attorney General  
Carvel State Building  
820 North French Street  
Wilmington, Delaware 19801

**RE: Raymond L. Bruton v. State of Delaware  
Case I.D. # 81000348DI**

*On Defendant's Pro Se Request for Presentence Investigation Report*—**DENIED**

Dear Mr. Bruton:

This letter shall serve as the Court's Opinion on your *pro se* Motion to Request Presentence Investigation Report (the "Report"). The aforementioned Motion is hereby DENIED. Your counsel reviewed the Report and you effectively waived your right to do so by your failure to raise the issue at or before the time of sentencing more than twenty-five years ago. Further, the Court finds you have failed to establish that any plain error or prejudice resulted from your alleged inability to view the Report.

On March 5, 1981, you were found guilty of Delivery of a Narcotic Schedule I Controlled Substance (Heroin). At that time, a presentence investigation was ordered. On September 10, 1981, a sentencing hearing was held and you were sentenced to twenty-five years at Level V, effective March 6, 1981. On February 11, 1982, you escaped from custody. You were returned to custody on October 12, 1984, and on January 25, 1985, you were resentenced to an additional 974 days. Since that date, you have filed numerous Rule 35 Motions for Modification/Reduction of Sentence and Rule 61 Motions for Postconviction Relief, all of which

have been either dismissed or denied. On December 12, 2005, you filed the current Motion to Request the Presentence Investigation Report, alleging that during sentencing the Court relied on “uncorroborated evidence” from the Report that was not made available to you.

In your brief letter to the Court, you cite *Moore v. State*, a recent Delaware Supreme Court decision that allows defendants the opportunity “to explain or rebut any uncorroborated evidence upon which the Court relies in making its sentencing determination.”<sup>a</sup> However, that case does not apply to your situation. *Moore* deals with a redacted Report that omitted the victim’s statement, on which the Court later relied in sentencing the defendant. By contrast, you seek general access to the Report without any allegations of plain error or prejudice.

The record indicates that your counsel at the sentencing hearing made numerous references to the Report, indicating that he was, in fact, given the opportunity to review the facts contained therein, as well as to rebut any inaccuracies or possible prejudice, as provided for in Superior Court Criminal Rule 32(c)(3).<sup>b</sup> Moreover, the Court finds that *Eaddy v. State* bars your access to the Report.<sup>c</sup> In *Eaddy*, the Supreme Court held that failure to raise the right to review the Report prior to sentencing constitutes a waiver of that right unless plain error can be established.<sup>d</sup> Even disregarding the above evidence that your Counsel had an opportunity to review the Report, your present Motion fails to allege any issues of plain error or prejudice resulting from that missed opportunity that warrant an exception to your waiver of the right of review.

For the aforementioned reasons, your Motion to Request Presentence Investigation Report is hereby **DENIED**.

**IT IS SO ORDERED**

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Jan R. Jurden, Judge

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<sup>a</sup> *Moore v. State*, 887 A.2d 466 (Del. 2005).

<sup>b</sup> D.I. 43 at 9.

<sup>c</sup> *Eaddy v. State*, 679 A.2d 469 (Del. 1996).

<sup>d</sup> *Id.* at 2.