

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. Henley Graves
Resident Judge

SUSSEX COUNTY COURTHOUSE
THE CIRCLE
P.O. BOX 746
GEORGETOWN, DE 19947
(302) 856-5257

February 17, 2004

N440
Rashod T. Bryant
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: Def. ID# 9709006907
Motion for Postconviction Relief (R1)

Dear Mr. Bryant:

You have recently filed a Motion for Postconviction Relief alleging that (1) your constitutional rights were violated; (2) that your attorney was ineffective; (3) that you were seventeen at the time the plea was entered and "there was no adult supervision of the plea agreement,"; and (4) that you had an unfilled plea agreement.

On March 19, 1998, you entered a guilty plea to Robbery in the First Degree, Wearing a Disguise During the Commission of a Felony, and Possession of a Destructive Weapon.

With the benefit of a Presentence Investigation you were sentenced on May 22, 1998. As to the Robbery in the First Degree charge you received a sentence of twelve years. After serving five years at Level V and upon the completion of the Key Program, the balance was suspended for Level IV Residential Substance Abuse Treatment Program, also known as the Crest Program. Upon completion of the Crest Program, you received Level III probation followed by Level II probation. As to each of the remaining sentences you received a suspended sentence.

You have continuously sought modifications of the sentence but have been advised that you needed to complete the Key Program. Apparently, you still refuse to do this. I note that on January 31, 2002, approximately two years ago, you were brought into Court and made aware of the consequences of not completing the Key Program. Those consequences were that you would max out on the robbery charge which is a twelve year sentence. At that time, I also modified the Level II probationary period to Level III noting the Court's concern that you should be on a higher level of probation if you chose to max out your sentence as opposed to going through the Key/Crest continuum.

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It appears that you have been incarcerated since September 19, 1997, which means that you have been in jail for approximately six and one half years when you could have been out much earlier if you had successfully completed the Key Program. There was a reason I imposed the Key/Crest continuum and that is because it is not only for substance abuse problems but also behavior modification. You pled guilty to one robbery in the first degree, but you were involved in at least two per the Presentence Investigation. Inoted at the time of sentencing your lack of remorse or accountability in that you excused your conduct as being a lookout only. It was noted at the time of sentencing that as a lookout you knew others were taking weapons in to commit the robbery and yet you participated the first time and then a second time.

It would appear that your attitude has not changed much even though you have been in for six and one half years. You literally "hold the key" to getting out of jail by completing the Key/Crest continuum. You have refused to do that and that is why I have refused to modify the sentence.

Turning to your present Motion for Postconviction Relief, I think you are aware that it is procedurally barred under Rule 61(i)(1). That provision of the rule allows you to attack your conviction for a period of time up to three years from the date that conviction became final. As you are aware, your petition comes more than five years from your date of sentence. The rule requires finality, and therefore, your Motion for Postconviction Relief is dismissed.

I do hope you consider entering into Key/Crest programs, and by a copy of this letter to the staff at Key and Delaware Correctional Center, I am asking that they make an inquiry to you as to whether or not you wish to try again.

Defendant's Motion for Postconviction Relief is denied.

IT IS SO ORDERED.

Very truly yours,

T. Henley Graves

THG:tll/baj

cc: Prothonotary's Office
Department of Justice
Delaware Correctional Center