

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE)	
)	
v.)	I.D. No. 1103020298
)	
DEAN M. PRITCHETT,)	
)	
Defendant.)	

UPON CONSIDERATION OF DEFENDANT’S MOTION TO
WITHDRAW GUILTY PLEA
DENIED

Submitted: December 1, 2011
Decided: January 6, 2012

This 6th day of January, 2012, it appears to the Court that:

1. On May 9, 2011, Defendant Dean M. Pritchett (“Pritchett”) was charged by indictment with several drug offenses, including Trafficking in Heroin. On October 3, 2011, Pritchett pled guilty to two drug-related charges in the indictment and two counts of conspiracy, which were charged by information. Pritchett was to be sentenced in January 2012. In a signed Truth-in-Sentencing Guilty Plea Form and at his plea colloquy, Pritchett asserted that his plea was knowing, willing, and voluntary.¹ Pritchett now moves to withdraw his guilty plea. His motion states that he felt “overly pressured” by his counsel to accept the plea offered by the State because his

¹ Docket 10 (Pre-Sentence Investigation).

counsel informed him that he would be found guilty at trial and sentenced to life in prison.² Pritchett also contends that his counsel had him sign a guilty plea agreement containing charges that were not included in the indictment.³

2. The State opposes Pritchett’s motion, arguing that Pritchett failed to make the required showing that his written plea agreement and the subsequent colloquy were not knowing, intelligent, and voluntary. Furthermore, the State notes that Pritchett has previously entered guilty pleas to felony drug charges on four separate occasions, which would render him less easily susceptible to pressure from his counsel to accept a guilty plea against his will.

3. Superior Court Criminal Rule 32 governs a defendant’s request to withdraw his guilty plea. Under Rule 32(d), prior to the implementation of sentence, the Court may permit a defendant to withdraw his guilty plea upon the showing of “any fair and just reason.” The decision to permit a defendant to withdraw his guilty plea rests in the sound discretion of the Court.⁴ The defendant has the burden to establish that the plea was “[n]ot

² Docket 9 (Defendant’s Mot. to Withdraw Guilty Plea).

³ *Id.*

⁴ *State v. Phillips*, 2007 WL 3105749, at *1 (Del. Super. Sept. 20, 2007) (citing *Brown v. State*, 250 A.2d 503, 504 (Del. 1969)).

voluntarily entered or was entered because of misapprehension or mistake as to . . . [the defendant's] legal rights.”⁵

4. In *State v. Friend*,⁶ the Court enunciated five factors considered upon motion to vacate a guilty plea:

- (a) Whether there was a procedural defect in taking the plea;
- (b) Whether the defendant knowingly and voluntarily consented to the plea agreement;
- (c) Whether the defendant presently has a basis to assert legal innocence;
- (d) Whether the defendant received adequate legal counsel throughout the proceedings; and
- (f) Whether granting the motion would prejudice the State or unduly inconvenience the Court.⁷

5. Pritchett has not satisfied his burden of demonstrating that his plea was involuntary or the result of a misapprehension or mistake as to his rights. Although Pritchett asserts that he “felt [...] overly pressured” by his counsel, he identifies no procedural error in the taking of his plea. Moreover, in his signed Truth-in-Sentencing form, Pritchett acknowledged that he was entering into a plea agreement voluntarily, and with an understanding of the rights he waived. The Court confirmed that Pritchett’s plea was knowing, intelligent, and voluntary at the subsequent plea colloquy

⁵ *Id.* (quoting *State v. Drake*, 1995 WL 654131, at *2 (Del. Super. Nov. 1, 1995)).

⁶ *State v. Friend*, 1994 WL 234120, at *1-2 (Del. Super. May 12, 1994), *aff’d*, 683 A.2d 59, 1996 WL 526005 (Del. Aug. 16, 1996) (TABLE).

⁷ *Phillips*, 2007 WL 3105749, at *1 (citing *Friend*, 1994 WL 234120, at *1-2).

before accepting his plea of guilty. Pritchett's claims that his counsel coerced him into accepting the plea by informing him that he would be convicted and sentenced to life in prison if he went to trial is essentially conclusory and insufficient to merit withdrawal of the plea.⁸ Pritchett has not offered an argument as to legal innocence. He was represented at the time his plea was taken. His conclusory claim that counsel dismissed the possibility of acquittal if the case went to trial does not merit withdrawal of his plea. Indeed, Pritchett's assertion that his counsel had advised him that he would be convicted and sentenced to life in prison if he went to trial suggests zealous representation rather than coercion or ineffective assistance. Upon consideration of the factors set forth in *Friend*, the Court finds no basis for permitting Pritchett to withdraw his plea.

6. For the foregoing reasons, Pritchett's motion to withdraw his guilty plea is hereby **DENIED**.

IT IS SO ORDERED.

/s/ **Peggy L. Ableman**

Peggy L. Ableman, Judge

Original to Prothonotary

⁸ *Stow v. State*, 966 A.2d 348, 2009 WL 724133, at *2 (Del. Jan. 16, 2009) (TABLE).