

SUPREME COURT OF DELAWARE

Broadnax v. State

991 A.2d 17 (Del. 2010) · No. No. 368, 2009 · Decided February 23, 2010

SUMMARY

The Delaware Supreme Court affirmed James A. Broadnax's convictions and habitual-offender sentences following his guilty pleas to second-degree assault and possession of a deadly weapon during the commission of a felony. The court rejected claims concerning ineffective assistance of counsel, involuntariness of the guilty plea, and procedural defects in habitual-offender sentencing, concluding that the appeal lacked any arguably meritorious issue.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Henry DuPont Ridgely, Justice; Steele, Chief Justice; Jacobs, Justice; Ridgely, Justice
JURISDICTION	Delaware
DECIDED	February 23, 2010
DOCKET	No. 368, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from guilty-plea convictions, habitual-offender adjudication, and sentencing in the Superior Court of Delaware. Appointed appellate counsel filed a Delaware Supreme Court Rule 26(c) brief and motion to withdraw.
STANDARD OF REVIEW	Under Delaware Supreme Court Rule 26(c), counsel must conscientiously examine the record and law for arguably appealable claims, and the Court independently reviews the record to determine whether the appeal is devoid of any arguably appealable issue. An unpreserved involuntary-guilty-plea claim is reviewed for plain error. Ineffective-assistance claims generally are not considered for the first time on direct appeal.
PRECEDENTIAL VALUE	Published Delaware Supreme Court opinion
PARTIES	James A. Broadnax v. State of Delaware

TOPICS

appellate procedure

standard of review

ineffective assistance

plea bargaining

criminal procedure

PRACTICE AREAS

criminal procedure

appellate procedure

post-conviction and habeas procedure

QUESTIONS PRESENTED

1. Whether appellate counsel satisfied Delaware Supreme Court Rule 26(c) and whether the appeal presented any arguably appealable issue.
2. Whether Broadnax's ineffective-assistance claim could be considered for the first time on direct appeal.
3. Whether Broadnax's guilty plea was involuntary because of coercion or psychiatric medication.
4. Whether the Superior Court was required to hold a separate hearing on Broadnax's habitual-offender status.
5. Whether the Superior Court improperly reviewed the habitual-offender motion for the first time at sentencing.

HOLDINGS

1. The Court may grant counsel's motion to withdraw and affirm when counsel has conscientiously examined the record and law, and the Court's independent review shows that the appeal is devoid of any arguably appealable issue.
2. The Court generally will not consider an ineffective-assistance-of-counsel claim raised for the first time on direct appeal.
3. An involuntary-guilty-plea claim not raised in the Superior Court is reviewed only for plain error; the record here did not establish plain error or involuntariness.
4. A separate hearing on habitual-offender status was not required where the motion was addressed before sentencing, without objection, and defense counsel stipulated to the defendant's qualifying prior convictions and eligibility.

KEY QUOTATIONS

“First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.” (¶ 2)

“Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.” (¶ 2)

“Under these circumstances, a separate hearing on Broadnax's habitual offender status was not required.” (¶ 7)

FACTUAL BACKGROUND

On April 28, 2009, James A. Broadnax pleaded guilty to second-degree assault and possession of a deadly weapon during the commission of a felony. On May 27, 2009, the Superior Court declared him a habitual

offender and imposed the agreed sentence of eight years at Level V for assault and two years at Level V followed by six months of probation for the weapons offense. The record showed that the State filed the habitual-offender motion before sentencing, the court addressed it before sentencing, and defense counsel stipulated to Broadnax's qualifying prior convictions and eligibility.

PROCEDURAL HISTORY

Broadnax pleaded guilty in the Superior Court to second-degree assault and possession of a deadly weapon during the commission of a felony. He was later declared a habitual offender and sentenced pursuant to the plea agreement. On direct appeal, counsel filed a Rule 26(c) motion to withdraw, Broadnax submitted pro se claims, and the State moved to affirm. The Supreme Court affirmed and granted the State's motion to affirm, rendering the withdrawal motion moot.

DISPOSITION

affirmed

CASES CITED

- Penson v. Ohio, 488 U.S. 75, 83 (1988)
- McCoy v. Court of Appeals of Wisconsin, 486 U.S. 429, 442 (1988)
- Anders v. California, 386 U.S. 738, 744 (1967)
- Duross v. State, 494 A.2d 1265, 1269 (Del. 1985)
- Somerville v. State, 703 A.2d 629, 632 (Del. 1997)
- Johnson v. State, 2001 WL 379454 (Del. Supr.)

OPINION

Broadnax v. State 991 A.2d 17

PER CURIAM.

JAMES A. BROADNAX, Defendant Below, Appellant, v. STATE OF DELAWARE, Plaintiff Below, Appellee. No. 368, 2009. Supreme Court of Delaware. Submitted: December 1, 2009.[1] Decided: February 23, 2010. Before STEELE, Chief Justice, JACOBS and RIDGELY, Justices.

ORDER

HENRY DuPONT RIDGELY, Justice. This 23rd day of February 2010, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) On April 28, 2009, the appellant, James A. Broadnax, pled guilty in the Superior Court to charges of Assault in the Second Degree and Possession of a Deadly Weapon During the Commission of a Felony. On May 27, 2009, Broadnax was declared a habitual offender pursuant to title 11, section 4214(a) of the Delaware Code, and was sentenced, in accordance with the plea agreement, to eight years at Level V for Assault in the Second Degree and to two years at Level V

followed by six months of probation for Possession of a Deadly Weapon During the Commission of a Felony. This is Broadnax's direct appeal.

(2) On appeal, Broadnax's defense counsel has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c) ("Rule 26(c)"). The standard and scope of review of a motion to withdraw and an accompanying brief under Rule 26(c) is two-fold. First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.[2] Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.[3]

(3) Broadnax's defense counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. Defense counsel states that he provided Broadnax with a copy of the motion to withdraw and the accompanying brief and appendix. Defense counsel also advised Broadnax that he had a right to supplement the brief and to file a response to the motion to withdraw. Broadnax responded with a written submission that raises several issues for this Court's consideration. The State has responded to the brief and appendix, including Broadnax's submission, and has moved to affirm the judgment of the Superior Court.

(4) In his first issue on appeal, Broadnax alleges that his defense counsel "was more or less working for the prosecution." Generally, this Court will not consider allegations of ineffective assistance of counsel that are raised for the first time on direct appeal.[4] Accordingly, we decline to review Broadnax's claim of ineffective assistance of counsel.

(5) Next, Broadnax claims that his guilty plea was involuntary due to "coercion" and because he was "under medication for psychiatric care" at the time he entered the plea. The record reflects that Broadnax did not move to withdraw his guilty plea or otherwise raise his claim of involuntary guilty plea in the Superior Court. As a result, we review the claim now only for plain error.[5] Having reviewed the Superior Court record, including the Truth-in-Sentencing Guilty Plea Form signed by Broadnax and the transcript of the guilty plea colloquy, we can discern no basis upon which to suggest that Broadnax's guilty plea was involuntary through coercion, because of impaired judgment as a result of medication, or for any other reason.[6]

(6) Finally, Broadnax claims that there were procedural defects in his sentencing as a habitual offender because the Superior Court did not hold a separate hearing on the habitual offender motion, and because the Superior Court reviewed the motion for the first time at sentencing. Broadnax's claims are not supported by the record and are otherwise without merit.

(7) It appears from the record that the State filed the habitual offender motion on May 11, 2009. It further appears that the Superior Court addressed the motion prior to Broadnax's May 27, 2009 sentencing, without objection, and that defense counsel at that time stipulated to Broadnax's prior requisite convictions and eligibility for sentencing as a habitual offender. Under these circumstances, a separate hearing on Broadnax's habitual offender status was not required.[7]

(8) The Court has reviewed the record carefully and has concluded that Broadnax's appeal is

wholly without merit and devoid of any arguably appealable issue. We also are satisfied that defense counsel made a conscientious effort to examine the record and the law and properly determined that Broadnax could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

NOTES

[1] On December 1, 2009, substitute counsel entered an appearance on behalf of the appellant and thereby replaced the appellant's defense counsel whose contract with the Superior Court Criminal Conflicts Program was terminated effective November 30, 2009.

[2] *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

[3] *Id.*

[4] *Duross v. State*, 494 A.2d 1265, 1269 (Del. 1985).

[5] Del. Supr. Ct. R. 8.

[6] *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

[7] *Johnson v. State*, 2001 WL 379454 (Del. Supr.).