

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ILLINOIS, EASTERN DIVISION

United States v. Theodorou

576 F. Supp. 1007 (N.D. Ill. 1983) · No. Nos. 80 CR 312-1, 80 CR 370-1 · Decided December 30, 1983

SUMMARY

The United States District Court for the Northern District of Illinois denied Andrew Theodorou's motion under 28 U.S.C. § 2255 to vacate sentences imposed after guilty pleas in two criminal cases. The court held that alleged pressure from codefendants did not constitute impermissible coercion, misunderstandings about sentencing consequences did not invalidate the pleas, and Rule 11 did not require advice regarding possible consecutive sentences under a separate indictment.

CASE DETAILS

COURT	United States District Court for the Northern District of Illinois, Eastern Division
WRITING FOR THE COURT	Philip G. Leighton
JURISDICTION	Illinois
DECIDED	December 30, 1983
DOCKET	Nos. 80 CR 312-1, 80 CR 370-1
DISPOSITION	denied
PROCEDURAL POSTURE	Defendant moved under 28 U.S.C. § 2255 to vacate judgments and sentences entered after guilty pleas, withdraw the pleas, and obtain collateral relief.
STANDARD OF REVIEW	A § 2255 motion may be summarily dismissed when the motion and the prior proceedings plainly show that the prisoner is entitled to no relief; an evidentiary hearing is unnecessary when the files and records conclusively show the prisoner is not entitled to relief.
PRECEDENTIAL VALUE	Published federal district court memorandum opinion; persuasive authority within the district and not binding precedent outside the court.

TOPICS

- federal habeas corpus
- plea bargaining
- criminal procedure
- sentencing
- due process

PRACTICE AREAS

criminal procedure

post-conviction relief

habeas corpus

plea bargaining

sentencing

QUESTIONS PRESENTED

1. Whether pressure arising from codefendants' insistence on a collective plea agreement rendered Theodorou's guilty pleas involuntary or violated Federal Rule of Criminal Procedure 11.
2. Whether Theodorou's mistaken belief that a New Jersey indictment would be dismissed entitled him to § 2255 relief when the indictment was ultimately dismissed and no additional sentence resulted.
3. Whether receiving a sentence longer than anticipated, despite being advised of the mandatory minimum and maximum penalties, invalidated the guilty pleas or warranted § 2255 relief.
4. Whether Rule 11 or due process required the court to advise Theodorou before pleading guilty that a sentence under a separate indictment could run consecutively to sentences imposed in the first case.

HOLDINGS

1. Pressure originating from codefendants, rather than threats or coercion by the prosecutor, government, or court, did not violate Rule 11 or render Theodorou's guilty pleas constitutionally involuntary.
2. Theodorou was not entitled to § 2255 relief based on his mistaken belief that the New Jersey indictment would be dismissed because the indictment was ultimately dismissed and he received no additional sentence.
3. A defendant who receives a sentence longer or more severe than anticipated is not entitled to § 2255 relief when the defendant was informed in open court of the applicable mandatory minimum and maximum possible penalties and understood the consequences of the plea.
4. Neither Rule 11 nor the Due Process Clause required the sentencing court to advise Theodorou before his plea that a sentence imposed under a separate indictment could run consecutively to sentences imposed in the first indictment.

KEY QUOTATIONS

“Essentially, a guilty plea will be considered valid and binding on the defendant if the plea was made voluntarily and intelligently.” (576 F. Supp. at 1009)

“A defendant who receives a longer or more severe sentence than he anticipated is not entitled to relief under 28 U.S.C. § 2255.” (576 F. Supp. at 1011)

“It is not a violation of Rule 11 if the sentencing court fails to advise a defendant that a sentence to be imposed may be imposed to run consecutive to other sentences.” (576 F. Supp. at 1011)

FACTUAL BACKGROUND

Theodorou pleaded guilty to multiple counts in two indictments. In the first case, he agreed to plead guilty to four counts in exchange for dismissal of seven counts, with an understood mandatory minimum of seven years and possible maximum of sixteen years; he received two consecutive five-year terms and a fine. In the second

case, he pleaded guilty to one count without an agreed sentence and received two years consecutive to the sentences in the first case. He later alleged that pressure from the prosecution coerced his pleas and that he misunderstood the status of a New Jersey indictment, the length of his sentences, and the possibility of consecutive sentences.

PROCEDURAL HISTORY

Theodorou pleaded guilty in two federal criminal cases, 80 CR 312 and 80 CR 370, and received consecutive sentences. He filed a § 2255 motion alleging that his pleas were coerced and that he misunderstood the possible and consecutive sentences. The district court denied the motion.

DISPOSITION

denied

CASES CITED

- Heflin v. United States, 358 U.S. 415, 79 S. Ct. 451, 3 L. Ed. 2d 407 (1959)
- United States v. Davis, 212 F.2d 264 (7th Cir. 1954)
- United States v. Kranz, 86 F. Supp. 776 (1949)
- United States v. Scott, 292 F.2d 49 (6th Cir. 1961), cert. denied, 368 U.S. 879, 82 S. Ct. 128, 7 L. Ed. 2d 79 (1961)
- United States v. Tammaro, 93 F.R.D. 826 (N.D. Ga. 1982)
- Davis v. United States, 417 U.S. 333, 94 S. Ct. 2298, 41 L. Ed. 2d 109 (1974)
- Brady v. United States, 397 U.S. 742, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970)
- McCarthy v. United States, 394 U.S. 459, 89 S. Ct. 1166, 22 L. Ed. 2d 418 (1969)
- United States v. Timmreck, 441 U.S. 780, 99 S. Ct. 2085, 60 L. Ed. 2d 634 (1979)
- United States v. Martinez, 486 F.2d 15 (5th Cir. 1973)
- Melnick v. United States, 356 F.2d 493 (9th Cir. 1966)
- United States v. Webster, 468 F.2d 769 (9th Cir. 1972), cert. denied, 410 U.S. 934, 93 S. Ct. 1385, 35 L. Ed. 2d 597 (1973)
- Cochran v. United States, 365 F.2d 310 (6th Cir. 1966)
- Paradiso v. United States, 482 F.2d 409 (3d Cir. 1973)
- Ruiz v. United States, 494 F.2d 1 (5th Cir. 1974), cert. denied, 419 U.S. 899, 95 S. Ct. 181, 42 L. Ed. 2d 144 (1974)
- United States v. Scarborough, 527 F. Supp. 380 (W.D. Tex. 1981)
- Motley v. United States, 230 F.2d 110 (5th Cir. 1956)
- United States v. Page, 229 F.2d 91 (2d Cir. 1956)
- Rosenbaum v. United States, 290 F. Supp. 70 (S.D. Fla. 1968), aff'd, 413 F.2d 298 (5th Cir. 1969)
- United States v. Kent, 397 F.2d 446 (7th Cir. 1968), cert. denied, 393 U.S. 1081, 89 S. Ct. 860, 21 L. Ed. 2d 773 (1969)

- Johnson v. United States, 460 F.2d 1203 (9th Cir. 1972), cert. denied, 409 U.S. 873, 93 S. Ct. 206, 34 L. Ed. 2d 125 (1972)

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