

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Michael Joseph Paradiso and Anthony Richard Bonnacci v. United States

482 F.2d 409 (3d Cir. 1973) · No. No. 72-1705 · Decided August 1, 1973

SUMMARY

The Third Circuit affirmed the denial of Michael Joseph Paradiso and Anthony Richard Bonnacci's motions under 28 U.S.C. § 2255 and Federal Rule of Criminal Procedure 32(d) seeking to challenge their sentences or withdraw their guilty pleas. The court held that the defendants' expectation of concurrent sentences was based on their counsel's advice rather than a prosecutorial promise, that Rule 11 was satisfied, and that withdrawal after sentencing was not required to prevent manifest injustice. The court also recommended that district courts place plea negotiations on the record and advise defendants that the court is not bound by sentencing agreements.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Rosenn, Circuit Judge; Hunter, Circuit Judge; Bechtle, District Judge
JURISDICTION	Federal
DECIDED	August 1, 1973
DOCKET	No. 72-1705
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellants appealed the denial of their motions under 28 U.S.C. § 2255 challenging their sentences and, alternatively, under Federal Rule of Criminal Procedure 32(d) seeking withdrawal of their guilty pleas.
STANDARD OF REVIEW	The district court's ruling on withdrawal of a guilty plea was reviewed for abuse of discretion; post-sentence withdrawal requires a showing of manifest injustice. Compliance with Rule 11 was reviewed based on the particular record and circumstances.
PRECEDENTIAL VALUE	Published precedential opinion of the United States Court of Appeals for the Third Circuit.
PARTIES	Michael Joseph Paradiso, Anthony Richard Bonnacci v. United States of America

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QUESTIONS PRESENTED

1. Whether appellants were denied due process because their guilty pleas were based on an expectation of concurrent sentences.
2. Whether the district court complied with Federal Rule of Criminal Procedure 11 by explaining the charges, determining voluntariness and understanding of the consequences, and establishing a factual basis for the pleas.
3. Whether appellants were entitled under Federal Rule of Criminal Procedure 32(d) to withdraw their guilty pleas after sentencing because denial would result in manifest injustice.
4. Whether the district courts in the Third Circuit should adopt prophylactic procedures requiring plea negotiations and their terms to be placed on the record.

HOLDINGS

1. A guilty plea is not rendered involuntary or fundamentally unfair under Santobello when the defendant's expectation of concurrent sentences was based solely on defense counsel's advice and was not induced by a promise or understanding with government counsel.
2. Reading the indictment may satisfy Rule 11's requirement that the court determine whether the defendant understands the nature of the charge, although whether additional explanation is necessary depends on the circumstances of the particular case.
3. The plea colloquy complied with Rule 11 where the court advised appellants of their trial rights, maximum penalties, and the absence of promises or coercion, and determined that the pleas were voluntary and understood.
4. Rule 11's factual-basis requirement was satisfied on this record by reading the indictments and obtaining appellants' acknowledgments that they understood that guilty pleas admitted the charged conduct.
5. Because appellants sought withdrawal after sentence and their claims rested on disappointment with the sentences imposed, they were required to show manifest injustice; denial of withdrawal did not constitute an abuse of discretion.
6. As a prophylactic measure, district courts in the Third Circuit should inform defendants that plea bargaining is approved and that they may disclose negotiations without fear of judicial disapproval, inquire of counsel about negotiations, and place any agreement's terms on the record.

KEY QUOTATIONS

"Should inquiry reveal the presence of plea negotiations, counsel for the parties should be required to state plainly the terms of record and the defendant should state of record whether he understands them and

concur.” (§ 24)

“The more severe standard is applied to avoid motions for withdrawal based on disappointment in the terms of the sentence.” (§ 42)

FACTUAL BACKGROUND

Appellants were indicted in New Jersey for conspiracy to possess stolen goods and possession of goods stolen from interstate commerce, and were separately indicted in the Eastern District of New York for possessing different stolen goods. They pleaded guilty to one New Jersey count and the transferred New York charge after counsel advised them that concurrent sentences were probable, although no government attorney promised concurrent sentences. When the district court imposed consecutive five-year sentences, appellants immediately sought to withdraw their pleas. The plea colloquy included explanations of the charges, maximum penalties, trial rights, voluntariness, and the absence of promises or inducements.

PROCEDURAL HISTORY

Appellants pleaded guilty in the District of New Jersey to a conspiracy charge and to a transferred Eastern District of New York possession charge. After receiving consecutive five-year sentences, they sought to withdraw their pleas on the ground that they expected concurrent sentences; the district court denied the requests and imposed the sentences. The district court later denied their § 2255 and Rule 32(d) motions, and the Third Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Santobello v. New York, 404 U.S. 257, 92 S. Ct. 495, 30 L. Ed. 2d 427 (1972)
- Masciola v. United States, 469 F.2d 1057 (3d Cir. 1972)
- Wellnitz v. Page, 420 F.2d 935 (10th Cir. 1970)
- Castro v. United States, 396 F.2d 345 (9th Cir. 1968)
- Walters v. Harris, 460 F.2d 988 (4th Cir. 1972)
- People v. West, 3 Cal. 3d 595, 91 Cal. Rptr. 385, 477 P.2d 409 (1970)
- United States v. Davis, 470 F.2d 1128 (3d Cir. 1972)
- Woodward v. United States, 426 F.2d 959 (3d Cir. 1970)
- Kress v. United States, 411 F.2d 16 (8th Cir. 1969)
- Majko v. United States, 457 F.2d 790 (7th Cir. 1972)
- United States v. Cody, 438 F.2d 287 (8th Cir. 1971)
- Halliday v. United States, 380 F.2d 270 (1st Cir. 1967)
- United States v. Steele, 413 F.2d 967 (2d Cir. 1969)
- McCarthy v. United States, 394 U.S. 459, 467 n. 20, 89 S. Ct. 1166, 22 L. Ed. 2d 418 (1969)

- Berry v. United States, 412 F.2d 189 (3d Cir. 1969)
- United States v. Stayton, 408 F.2d 559 (3d Cir. 1969)
- United States ex rel. Callahan v. Follette, 418 F.2d 903 (2d Cir. 1969)

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