

SUPREME COURT OF THE STATE OF DELAWARE

Pasquale v. State

Pasquale v. State · No. No. 697, 2013 · Decided September 22, 2014

SUMMARY

The Delaware Supreme Court affirmed the Superior Court's denial of Michael J. Pasquale's serial motions challenging his sentence for seventh-offense DUI. The Court held that his sentence was lawful, his guilty plea was voluntary, and his claims of ineffective assistance, prosecutorial breach, and judicial bias were unsupported by the record. The Court granted the State's motion to affirm under Supreme Court Rule 25(a).

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Henry duPont Ridgely; Holland; Ridgely; Valihura
JURISDICTION	Delaware
DECIDED	September 22, 2014
DOCKET	No. 697, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's denial of motions for correction of illegal sentence and related relief; the State moved to affirm under Delaware Supreme Court Rule 25(a).
STANDARD OF REVIEW	The Supreme Court considered the appeal under its discretionary review of the record, including transcripts it requested, and affirmed under the Rule 25(a) standard because it was manifest from the opening brief that the appeal was without merit.
PRECEDENTIAL VALUE	Published Delaware Supreme Court per curiam order; precedential status not otherwise specified in the opinion text.
PARTIES	Michael J. Pasquale v. State of Delaware

TOPICS

- sentencing
- criminal procedure
- post-conviction relief
- plea bargaining
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Pasquale's sentence was illegal because it exceeded statutory limits, violated double jeopardy, was ambiguous or inconsistent, or omitted a required term.
2. Whether Pasquale's guilty plea was involuntary.
3. Whether defense counsel provided ineffective assistance.
4. Whether the prosecutor breached the plea agreement.
5. Whether the sentencing judge imposed the sentence with a closed mind based on preconceived bias.

HOLDINGS

1. The sentence was lawful because Pasquale pleaded guilty to DUI seventh offense or more and received a sentence within the applicable statutory limits; the record did not establish a double-jeopardy violation, ambiguity, inconsistency, or omission of a required term.
2. Those claims were without merit because they were belied by the record, which showed that Pasquale voluntarily pleaded guilty and was sentenced legally and appropriately.
3. The sentencing judge did not sentence with a closed mind because the transcript showed consideration of aggravating and mitigating factors and an opportunity for Pasquale to address the court.

KEY QUOTATIONS

“It is well-established that a sentence is illegal if it exceeds the statutory limits, violates double jeopardy, is ambiguous or inconsistent, or omits a required term.” (at 4)

“A judge sentences with a closed mind when the sentence is based on a preconceived bias without consideration of the nature of the offense or the character of the defendant.” (at 5)

FACTUAL BACKGROUND

Pasquale pleaded guilty on November 11, 2011, to DUI seventh offense or more based on nine prior DUI-related convictions. The plea-hearing transcript showed that he understood both the offense and its potential penalty of up to fifteen years' imprisonment. On March 9, 2012, the Superior Court sentenced him to ten years at Level V, suspended after six years for lower levels of supervision and probation. The record reflected that the judge considered aggravating and mitigating factors and allowed Pasquale to address the court before sentencing.

PROCEDURAL HISTORY

Pasquale pleaded guilty to seventh-offense-or-more driving under the influence and received a ten-year Level V sentence suspended after six years, followed by decreasing levels of supervision. He repeatedly sought sentence reduction, modification, reconsideration, habeas relief, correction of an illegal sentence, appointment of counsel, and related relief in the Superior Court; those requests were denied, and he did not appeal several earlier denials. The Superior Court denied his serially filed motions on December 12, 2013, and this appeal followed.

DISPOSITION

affirmed

CASES CITED

- State v. Pasquale, Del. Super., Cr. ID No. 1012012086 (Dec. 12, 2013) (order)
- Smith v. State, 2009 WL 2888258, at *1 (Del. Sept. 10, 2009)
- Brittingham v. State, 705 A.2d 577, 578 (Del. 1998)
- Weston v. State, 832 A.2d 742, 746 (Del. 2003)

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