

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SALEEM EL-BAY a.k.a	§
ALEX M. WATSON,	§ No. 576, 2011
	§
Defendant Below-	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware, in and
v.	§ for New Castle County
	§ Cr. ID No. 1103009261
STATE OF DELAWARE,	§
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 29, 2012

Decided: April 5, 2012

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

ORDER

This 5th day of April 2012, upon consideration of the appellant’s opening brief and the appellee’s second motion to affirm¹ pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Saleem El-Bay a.k.a Alex M. Watson (“El-Bay”), filed an appeal from the Superior Court’s October 4, 2011 sentencing order. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court’s judgment on the ground that it is manifest on

¹ On January 26, 2012, the Court issued an Order denying the State’s motion to affirm and remanding the matter to the Superior Court for preparation of the transcript of the appellant’s guilty plea and sentencing. Upon return of the record following remand, a new briefing schedule was issued.

the face of the opening brief that the appeal is without merit.² We agree and affirm.

(2) The record before us reflects that, on October 4, 2011, El-Bay, after deciding to proceed *pro se*, entered a plea of guilty to Possession With Intent to Deliver Cocaine. In connection with the guilty plea, the State dismissed several other drug-related charges. El-Bay was sentenced to 10 years of Level V incarceration, to be suspended for 18 months of Level III probation. This is El-Bay's direct appeal.

(3) In his first and second opening briefs, El-Bay claims that a) the Superior Court lacked jurisdiction to sentence him; and b) his guilty plea was involuntary.

(4) El-Bay's first claim is that the Superior Court lacked jurisdiction to sentence him. Under the Delaware Constitution as well as statutory law, the Superior Court had jurisdiction over El-Bay's drug charges and had jurisdiction to sentence him after he was convicted of those charges.³ El-Bay's first claim, thus, is without merit.

(5) El-Bay's second claim is that his guilty plea was involuntary. Our review of the transcript of El-Bay's guilty plea colloquy reflects that he

² Supr. Ct. R. 25(a).

³ Del. Const. art. IV, §7; Del. Code Ann. tit. 11, §2701(c); *Slater v. State*, 606 A.2d 1334, 1337 (Del. 1992).

acknowledged having signed a waiver of the right to counsel, that the judge was not bound by the sentence recommendation of the State, that he actually committed the crime of which he was accused, and that he was pleading guilty voluntarily. In the absence of clear and convincing evidence to the contrary, El-Bay is bound by the representations he made during his plea colloquy.⁴ Thus, there is no merit to El-Bay's claim that his guilty plea was entered involuntarily.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁴ *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).