

(3) to six (6) years in a State Correctional Institution and that the sentence imposed for Count 3 Conspiracy be a concurrent sentence. The sentence imposed by this Court on February 22, 2010 was in compliance with the plea agreement.

As to the Defendant's ineffective assistance of counsel argument, where an allegation of ineffective assistance of counsel is made in connection to the entry of a plea agreement, such allegation will only serve as a basis for relief if the ineffectiveness caused the accused to enter an unknowing or involuntary plea. See Commonwealth v. Fluharty, 632 A.2d 312 (Pa.Super.1993). In determining whether a plea is entered knowingly, voluntarily, and intelligently, the court must at a minimum address the following six (6) areas: 1) whether the Defendant understands the nature of the charges to which he is pleading; 2) whether there is a factual basis for the plea; 3) whether the defendant understands that he has a right to a jury trial; 4) whether the defendant is aware that he is presumed innocent until proven guilty; 5) whether the defendant is aware of the permissible range of sentences for the offenses charged; and 6) whether the defendant understands that the judge is not bound by the terms of the plea agreement unless he or she accepts the agreement. Fluharty at 313. Therefore, whether or not the Defendant's attorney thoroughly explained the concept of mitigating circumstances or the sentencing procedure to him before he entered his plea is irrelevant in determining whether the Defendant entered a knowing, voluntary, and intelligent plea. A review of the transcripts of the guilty plea hearing held before the Honorable Kenneth D. Brown on December 14, 2009, establishes that Judge Brown did review all of the necessary information with the Defendant, with the exception of informing the Defendant that the judge is not bound by the terms of the plea agreement; however, at the sentencing hearing before the Honorable Nancy L. Butts on February 23, 2010, the Defendant was made aware that Judge Butts was not required to sentence in accordance with the plea agreement.

Conclusion

As the Defendant's arguments are without merit, it is respectfully suggested that this Court's Order of March 29, 2011, which dismissed the Defendant's PCRA Petition, be affirmed.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc: DA
Todd Leta, Esq.
Gary L. Weber (LLA)