EFiled: Dec 06 2024 09:04AM EST
Filing ID 75152090
Case Number 240,2024

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROGER BARLOW,	)	
	)	
Defendant Below-Appellant,	)	
	)	
v.	)	**No. 240, 2024**
	)	
	)	
STATE OF DELAWARE,	)	
	)	
Plaintiff Below-Appellee.	)	

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

STATE'S ANSWERING BRIEF

John Williams (#365)
Deputy Attorney General
Department of Justice
102 West Water Street
Dover, DE 19904-6750
(302) 739-4211 (ext. 3285)
JohnR.Williams@delaware.gov

DATE: December 6, 2024

TABLE OF CONTENTS

PAGE

Table of Citations ii

Nature and Stage of the Proceedings 1

Summary of the Argument.....2

Statement of Facts.....3

Argument

I. THE MOTION TO WITHDRAW GUILTY PLEA WAS PROPERLY DENIED.....10

Conclusion 20

TABLE OF CITATIONS

Cases

Albury v. State, 551 A.2d 53 (Del. 1988) 18

Ashley v. State, 2013 WL 5310615 (Del. Sept. 19, 2013) 18

Blackwell v. State, 736 A.2d 971 (Del. 1999).....10

Hill v. Lockhart, 474 U.S. 52 (1985) 18

Kinderman v. State, 302 A.3d 407 (Del. 2023) 10

McNair v. State, 990 A.2d 398 (Del. 2010).....10

Owens v. State, 301 A.3d 580 (Del. 2023) 10

Patterson v. State, 684 A.2d 1234 (Del. 1996)..... 10, 12

Scarborough v. State, 938 A.2d 644 (Del. 2007) ..... passim

Somerville v. State, 703 A.2d 629 (Del. 1997) 16, 17

State v. Cabrera, 891 A.2d 1066 (Del. Super. Ct. 2005).....12

State v. Friend, 1994 WL 234120 (Del. Super. Ct. May 12, 1994), aff'd,

Friend v. State, 1996 WL 526005 (Del. Aug. 16, 1996)..... 12, 13

Watson v. State, 892 A.2d 366 (Del. 2005) 15

Whede v. State, 2015 WL 5276752 (Del. Sept. 9, 2015).....15

Other Authorities

11 *Del. C.* § 4214(c)..... passim

11 *Del. C.* § 4215A 15

Del. Super. Ct. Crim. R. 32(d) 12

Del. Supr. Ct. R. 25(a) 1

NATURE AND STAGE OF THE PROCEEDINGS

Appellee, the State of Delaware, generally adopts the Nature and Stage of the Proceedings as contained in Appellant Roger C. Barlow's October 14, 2024 Opening Brief.

Pursuant to Del. Supr. Ct. R. 25(a), the State on October 21, 2024 filed a Motion to Affirm in this appeal from the January 8, 2024 Kent County Superior Court bench ruling (A-284-99) denying the June 9, 2023 Motion to Withdraw Barlow's October 3, 2022 guilty plea. (A-139-50). By Order of November 22, 2024, this Court denied the State's Motion to Affirm. This is the State's Answering Brief in opposition to Barlow's appeal.

SUMMARY OF THE ARGUMENT

I. DENIED. After hearing argument from counsel, the Superior Court correctly decided the guilty plea withdrawal motion by utilizing the five-factor analytical paradigm adopted by this Court. (A-284-99). There was no abuse of discretion by the Superior Court in concluding, "The Court finds that none of the five factors weigh in favor of granting Mr. Barlow's motion to withdraw his guilty plea. Mr. Barlow has not shown by clear and convincing evidence that he…should not be bound by his answers during the plea colloquy or his signature on the Truth-In-Sentencing Form." (A-298-99).

STATEMENT OF FACTS

On January 19, 2022 (A-7), the Delaware State Police arrested Roger C. Barlow, Jr. for the March 20, 2021 sexual assault of an adult female behind the Ollies Store at 1732 South Governor's Avenue in Dover, Delaware. (A-352). The Kent County Grand Jury on April 4, 2022 indicted Barlow for three offenses (first degree rape, strangulation, and sexual extortion) occurring during the March 20, 2021 sexual assault. (A-7).

In lieu of trial, Barlow on October 3, 2022, with the assistance of Andre M. Beauregard, Esquire as his legal counsel and pursuant to a plea agreement, pled guilty to the lesser included offense of second degree rape, Cr. A. No. IK22-03-0128, in exchange for dismissal of three other pending charges. (A-56-57). Barlow in the written Plea Agreement agreed that he was eligible for habitual offender sentencing pursuant to 11 *Del. C.* § 4214(c), and the Agreement specified that "State to file Habitual Offender petition." (A-56). As part of the plea bargain contract the parties jointly requested a Presentence Investigation (PSI), and "The State agrees to cap its recommendation of unsuspended Level V time at 50 years." (A-56). The Plea Agreement is signed by the State, Barlow and Beauregard. (A-56).

Barlow and defense counsel Beauregard also signed a separate Truth-In-Sentencing (TIS) Guilty Plea Form on October 3, 2022. (A-57). The TIS Form

questions checked "No" include "Have you been promised anything that is not stated in your written plea agreement?" and "Has anyone promised you what your sentence will be?" (A-57). For the offense of second degree rape the TIS Form states that the statutory sentence is 25 years (the minimum mandatory sentence) up to a life sentence as a habitual offender. (A-57).

During the October 3, 2022 Superior Court guilty plea colloquy (A-18-55), the prosecutor initially stated, "the plea offer was 25 years minimum open habitual to Rape in the Second Degree…." (A-21). While discussing the trial priorities that day the Superior Court Judge asked the prosecutor about Barlow's minimum and maximum sentence range if convicted of all charges. (A-27). The prosecutor responded:

> …Mr. Barlow has previously been declared an habitual offender, so all of these numbers are based on the State's intent to pursue habitual offender sentencing if he is convicted. For the first count, Rape in the First Degree, as a habitual offender, he faces minimum-mandatory life imprisonment, and that would be life to life. For the second count of Strangulation, as a habitual offender, he faces five years up to life imprisonment. And then for the sexual extortion, he also faces five years minimum mandatory up to life imprisonment.

(A-28).

Next, Barlow was brought into the courtroom (A-30), and the prosecutor was asked to "outline the charges and the plea as it currently stands, please." (A-30). In

Barlow's presence, the prosecutor stated: "If convicted on all charges and sentenced as a habitual offender as he has been previously, Mr. Barlow faces minimum-mandatory life imprisonment, plus 10 years, up to three life sentences." (A-31). The prosecutor then elaborated upon the previously rejected plea offer encompassing two different cases and stated, "Under that plea, he would be declared a habitual offender and would face open sentencing, between 25 years minimum mandatory up to life imprisonment." (A-31).

The State re-extended the plea offer to Barlow (A-31), and the Superior Court Judge conducted a plea rejection colloquy with Barlow after the defendant was placed under oath. (A-31-32). When Barlow was asked if he wished to discuss the re-extended plea offer with his defense counsel, Barlow indicated that he did wish to discuss the matter further with Beauregard. (A-37). Following additional discussion between Barlow and his defense counsel, the court was advised that defense counsel had "an executed plea agreement and a guilty plea form." (A-40).

A guilty plea colloquy with Barlow ensued. (A-43-53). The prosecutor stated that Barlow would plead guilty to a lesser included offense (LIO) of second degree rape, all other charges would be *nolle prossed*, the parties requested a PSI, and the State will "cap its recommendation of unsuspended Level V time at 50 years." (A-44). Next, the prosecutor added: "To be clear, Your Honor, so the Defendant is

facing 25 years minimum mandatory up to 50 years with the State's recommendation. The Defendant also agrees that he is a habitual offender, and therefore, subject to sentencing pursuant to 11 Del. Code 4214(c)." (A-44). In concluding her description of the plea offer, the prosecutrix noted: "The State is to file a habitual offender petition." (A-45).

Barlow's defense counsel at the plea pointed out that the defendant "has executed both the guilty plea form and the plea agreement." (A-45). Attorney Beauregard added: "Due to his record, he is looking at 25 years to life. We know that there's a cap on that for 50 years that the State has given. He is being sentenced that way because he is habitual." (A-45). Thus, at several points in his guilty plea colloquy Barlow was told that he would be sentenced as a habitual offender and that he had previously been declared a habitual offender. (A-44-45).

Barlow was then again placed under oath (A-46), and questioned about his understanding of his guilty plea. (A-46-52). The defendant was first asked if everything his attorney said was accurate, and Barlow answered in the affirmative. (A-47). When next asked: "is it your intention to enter into this plea because you are, in fact, guilty of Rape Second Degree?," Barlow said, "Yes, ma'am." (A-48). Barlow also acknowledged his understanding "that this particular charge has the potential of up to life imprisonment as one of the maximum penalties." (A-48).

At the guilty plea colloquy Barlow said he answered all the questions on the written plea documents (A-56-57) "accurately and truthfully." (A-50). Barlow also informed the court that he was satisfied with his attorney (A-52), and agreed that he was "knowingly and voluntarily entering into this plea because you are, in fact, guilty of Rape Second Degree." (A-52). Thus, twice in the guilty plea colloquy, Barlow specifically agreed that he was guilty of the crime of Rape Second Degree. (A-48, 52). The Superior Court Judge ruled: "I am satisfied that the plea is knowingly and voluntarily made with an understanding of the nature of the charge and the consequences and the plea is hereby accepted." (A-53). A PSI was ordered by the court. (A-53).

On November 22, 2022 (A-9), the State filed a Motion to Declare Barlow a Habitual Offender pursuant to 11 *Del. C.* § 4214(c). (A-58-108). Next, the State on December 13, 2022 (A-9), filed its Sentencing Memorandum, recommending a 50 year unsuspended Level V sentence. (A-109-16).

Attorney Beauregard on December 20, 2022 (A-9) docketed a Response opposing the State's Habitual Offender Motion. (A-117-28). The defense Response argued that the State's Habitual Offender Motion was untimely even though it was filed prior to sentencing (A-120-21), and that it was deficient because it "does not provide the text of the convictions to ensure Mr. Barlow was, in fact, guilty of the

conduct charged." (A-119, 122-24). At the end of the defense Response, Beauregard also argued that two of the prior drug conviction felonies relied upon to declare Barlow habitual (drug trafficking and possession with intent to deliver) are based upon repealed statutes. (A-125). The State on January 3, 2023 (A-10) submitted a Reply to the defense motion opposing the Habitual Offender petition. (A-129-37).

Barlow's sentencing was rescheduled on January 23, 2023 (A-10), and new defense counsel to replace attorney Beauregard was assigned on February 3, 2023. (A-10). A Motion to Withdraw the October 3, 2022 Guilty Plea (A-139-50) was filed by Barlow's new defense counsel on June 9, 2023. (A-13). The State on July 6, 2023 (A-13) docketed a written Response to the plea withdrawal motion. (A-151-209). After additional filings by counsel (A-210-31), the Superior Court on January 8, 2024 conducted a hearing on the guilty plea withdrawal motion. (A-232-305).

Neither Barlow nor his former counsel Beauregard testified at the January 8, 2024 hearing. The trial court heard oral argument from counsel (A-234-83), and following a recess (A-283), announced a bench ruling denying Barlow's motion to withdraw his 2022 guilty plea. (A-284-99).

At sentencing on May 24, 2024 (A-306-41), new defense counsel for Barlow withdrew the December 2022 defense opposition to State's habitual offender motion

(A-308-09), and the motion was "granted as unopposed." (A-309). Barlow was declared a habitual offender. (A-309-11). Barlow was then sentenced to 75 years Level V, suspended after 50 years for decreasing levels of probation supervision. (A-328-37). The first 25 years of Barlow's sentence is minimum mandatory time. (A-334-35).

ARGUMENT

I. THE MOTION TO WITHDRAW GUILTY PLEA WAS PROPERLY DENIED

QUESTION PRESENTED

Did Roger Barlow present a "fair and just reason" to withdraw his October 3, 2022 guilty plea to the lesser included offense (LIO) of Second Degree Rape?

STANDARD AND SCOPE OF REVIEW

"This Court reviews the denial of a motion to withdraw a guilty plea for abuse of discretion."[1] An abuse of discretion occurs when a court has "exceeded the bounds of reason in light of the circumstances or so ignored rules of law or practice so as to produce injustice."[2]

MERITS OF THE ARGUMENT

After his January 19, 2022 arrest (A-7), Roger C. Barlow, Jr. was indicted by the Kent County Grand Jury on April 4, 2022 for three offenses (first degree rape, strangulation and sexual extortion). (A-7). The charges stemmed from a March 20, 2021 sexual assault of an adult female behind a Dover, Delaware retail store. (A-352).

---

[1] *Kinderman v. State*, 302 A.3d 407, 413 (Del. 2023), *See Blackwell v. State*, 736 A.2d 971, 972 (Del. 1999); *Patterson v. State*, 684 A.2d 1234, 1237 (Del. 1996).
[2] *Owens v. State*, 301 A.3d 580, 588 (Del. 2023) (quoting *McNair v. State*, 990 A.2d 398, 401 (Del. 2010).

In lieu of a Superior Court trial, Barlow on October 3, 2022, with the assistance of legal counsel and pursuant to a plea bargain agreement, pled guilty to the LIO of second degree rape in exchange for dismissal of three other pending charges. (A-18-57). Barlow agreed in the written Plea Agreement that he was eligible for habitual offender sentencing pursuant to 11 *Del. C.* §4214(c). (A-56). The State on November 22, 2022 (A-9) filed a Motion to Declare Barlow a Habitual Offender under 11 *Del. C.* §4214(c). (A-58-108).

A presentence investigation (PSI) was ordered after Barlow's October guilty plea. (A-53). Prior to sentencing, new counsel was appointed on February 3, 2023 (A-10) to replace Andre M. Beauregard, Esquire, Barlow's original defense attorney at the October 2022 guilty plea. (A-10). New defense counsel on June 9, 2023 filed a Motion to Withdraw Barlow's guilty plea. (A-139-50).

The Superior Court on January 8, 2024 heard argument from counsel about the guilty plea withdrawal motion. (A-234-83). Neither Barlow nor Beauregard testified at the January 8 court proceeding. (A-232-305). At the conclusion of argument, the trial court announced a bench ruling denying Barlow's motion to withdraw his guilty plea. (A-284-99), There was no abuse of discretion in denying the plea withdrawal motion. (A-284-99).

Del. Super. Ct. Crim. R. 32(d) permits withdrawal of a guilty plea prior to sentencing "upon a showing by the defendant of any fair and just reason." In 1994 the New Castle County Superior Court announced a five-factor review test to determine if a fair and just reason existed.[3]

This Court has subsequently utilized the five-factor analytical paradigm crafted in *Friend*.[4] Thus, in deciding whether there is a "fair and just reason" under Del. Super. Ct. Crim. R. 32(d) to permit withdrawal of a guilty plea prior to Barlow's May 29, 2024 sentencing (A-306-41), the Superior Court in January 2024 had to consider five factors or questions.[5] The Superior Court properly analyzed Barlow's plea withdrawal motion under the *Friend/Scarborough* five-factor or question test. (A-284-99).

As to the first *Friend/Scarborough* factor, the trial court correctly noted that Barlow conceded (A-235) that there was no procedural defect in his October 2022 guilty plea. (A-291).

---

[3] *State v. Friend*, 1994 WL 234120, at *1-2 (Del. Super. Ct. May 12, 1994), *aff'd*, *Friend v. State*, 1996 WL 526005 (Del. Aug. 16, 1996).
[4] *See Patterson v. State*, 684 A.2d 1234, 1238-39 (Del. 1996).
[5] *See Scarborough v. State*, 938 A.2d 644, 649 (Del. 2007); *State v. Cabrera*, 891 A.2d 1066, 1069-70 (Del. Super. Ct. 2005).

The second factor in the five-part test is: "Did the defendant knowingly and voluntarily consent to the plea agreement."[6] At the 2022 guilty plea colloquy the trial judge found that based upon Barlow's answers, his plea to a lesser included offense was knowing and voluntary. (A-53). Barlow was placed under oath at the guilty plea colloquy. (A-46). During the colloquy questioning (A-46-52), Barlow informed the trial court that he was satisfied with his attorney (A-52), and agreed that he was "knowingly and voluntarily entering into this plea because you are, in fact, guilty of Rape Second Degree." (A-52)

During the January 8, 2024 hearing on the plea withdrawal motion (A-232-305), new defense counsel for Barlow argued that the 2022 guilty plea was involuntary because prior counsel (Beauregard) "told his client that he was not a habitual offender…." (A-236). This plea withdrawal argument is contradicted by the written Plea Agreement that states that Barlow agrees he is a Habitual Offender subject to sentencing under 11 *Del. C.* §4214(c). (A-56). This written Plea also notes: "State to file Habitual Offender petition." (A-56).

At the plea colloquy Barlow's attorney pointed out that the defendant "has executed both the guilty plea form and the plea agreement." (A-45). Lawyer Beauregard added: "Due to his record, he is looking at 25 years to life. We know

[6] *Scarborough*, 938 A.2d at 649; *Friend*, 1994 WL 234120, at *2.

that there's a cap on that for 50 years that the State has given. He is being sentenced that way because he is habitual." (A-45). At several points in his 2022 guilty plea colloquy Barlow was told that he would be sentenced as a habitual offender and that he had previously been declared a habitual offender. (A-44-45). The trial court pointed to Beauregard's in-court statement that Barlow "is habitual" (A-45), and noted: "Mr. Barlow affirmed that he heard everything that plea counsel said to the Court and that those statements were accurate." (A-295-96).

The same Superior Court Judge who conducted Barlow's guilty plea colloquy in 2022 (A-18), also ruled on the motion to withdraw that guilty plea. (A-232). In her January 8, 2024 denial of the plea withdrawal motion, the trial judge initially pointed out that "Mr. Barlow signed a Truth-In-Sentencing Form that indicated his status as habitual offender." (A-290). Later, the trial judge added: "The Truth-In-Sentencing Form as well as the terms of the Plea Agreement both indicate Mr. Barlow's eligibility for classification as a habitual offender." (A-293).

In rejecting Barlow's argument as to the second *Friend/Scarborough* factor, the trial judge correctly concluded: "Given the many references to Mr. Barlow's status as a habitual offender on the forms he signed when entering into the plea, Mr. Barlow cannot show he entered into the plea without knowing he faced sentencing as a habitual offender. The record and plea documents are replete with references to

Mr. Barlow's habitual status." (A-294). All of the Superior Court Judge's references to the plea documents and Barlow's oral responses in 2022 about the defendant's status as a habitual offender are accurate and refute Barlow's appellate argument as to the second plea withdrawal factor.

On appeal, Barlow disputes the trial court finding that Barlow knew he was a habitual offender. It is argued that "To support his contention, Mr. Barlow pointed to the Opposition to the State's Motion to Declare Mr. Barlow an Habitual Offender filed by former counsel wherein he argued the State's reliance on two prior felony drug convictions where the statutes were subsequently repealed, produce patent ambiguity as to whether such convictions qualify as predicate felonies."[7]

Any argument that a change in status of prior predicate felony convictions for enhanced sentencing is meritless. As this Court has pointed out, "The later reclassification of some of the crimes underlying [defendant's] predicate felony convictions as misdemeanors does not make those convictions non-predicate convictions under Section 4214. The status of the crime at the time of the conviction is controlling."[8]

---

[7] Opening Brief at 20.

[8] *Whede v. State*, 2015 WL 5276752, at *3 (Del. Sept. 9, 2015) (citing *Watson v. State*, 892 A.2d 366, 369-70 (Del. 2005)). *See also* 11 Del. C. § 4215A

In addressing Beauregard's opposition filing to the State's habitual offender motion, the Superior Court Judge properly observed: "The motion filed by plea counsel contesting Mr. Barlow's status as a habitual offender focused on alleged technical defects in the State's motion, but does not directly contest Mr. Barlow's eligibility to be declared a habitual offender." (A-293). Equally meritless are Beauregard's arguments in his opposition to the State's habitual motion are claims that the motion is untimely and that the paperwork establishing Barlow's predicate felonies is insufficient.

A criminal defendant in the absence of clear and convincing contrary evidence is bound by this prior admissions and representations in the plea documents (A-56-57), as well as his statements under oath in open court during the plea colloquy.[9] (A-45-48). Based on the plea record, the Superior Court properly found as it did at the 2022 colloquy (A-53), that Barlow's plea was knowing and voluntary. (A-292-94). Barlow had previously been declared a habitual offender, and there was no reason for a change in his status when sentenced for the second degree rape conviction.

The third *Friend/Scarborough* plea withdrawal factor is whether the defendant presently has a basis to assert legal innocence.[10] "[A] defendant's

[9] *See Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).
[10] *Scarborough*, 938 A.2d at 649.

statements to the Superior Court during the guilty plea colloquy are presumed to be truthful."[11] Twice during his 2022 guilty plea colloquy Barlow answered in the affirmative when asked if he was entering a plea to second degree rape because he was, in fact, guilty of that crime. (A-48, 52). Barlow is bound by his in court under oath admissions of guilt.

The Superior Court Judge correctly rejected Barlow's belated claim of actual innocence and ruled:

> Conclusory allegations of innocence are not sufficient to require withdrawal of a guilty plea, especially when the defendant has admitted his guilt in the plea colloquy. Once the defendant admits to an offense as Mr. Barlow has done, he cannot later assert innocence in the absence of some other support. Mr. Barlow has not presented any new evidence in support of his assertion that he is innocent.

(A-298).

Although Barlow argues in this appeal that he has a basis to assert his legal innocence,[12] the trial court properly ruled that "…absent some other support, this Court cannot find Mr. Barlow has a basis to assert his legal innocence." (A-298). Attacking the rape victim and arguing that there was some limited DNA evidence for the neck injury does not establish legal innocence. Likewise, Barlow's changing

[11] *Somerville*, 703 A.2d at 632.
[12] Opening Brief at 24-25.

his original story (A-287) to the police that he did not know the victim (A-355) to claim a consensual sexual encounter is not convincing. The Superior Court properly rejected the legal innocence argument. (A-297-98).

Ineffective assistance of legal counsel is the fourth *Friend/Scarborough* factor.[13] In the context of a guilty plea, to establish ineffective assistance of counsel it must be shown that counsel's representation fell below an objective standard of reasonableness, and that there is a reasonable probability that but for counsel's deficient performance the defendant would not have pled guilty and would have insisted on going to trial.[14] The Superior Court also pointed out that "There is a strong presumption that counsel's representation falls within an acceptable spectrum of reasonableness." (A-294).

The trial court correctly rejected Barlow's argument that this Court's suspension of attorney Beauregard overcomes the presumption of reasonably effective assistance of counsel in Barlow's case. (A-294-95). The Superior Court Judge stated: "Further, the court knows of no authority nor can find any to suggest that disciplinary action by the Delaware Supreme Court renders disciplined

[13] *Scarborough*, 938 A.2d at 649.
[14] *See Hill v. Lockhart*, 474 U.S. 52, 58 (1985); *Albury v. State*, 551 A.2d 53, 58-59 (Del. 1988); *Ashley v. State*, 2013 WL 5310615, at *1 (Del. Sept. 19, 2013).

counsel's representation automatically suspect or presumed to be substandard." (A-295).

Barlow argued that Beauregard was ineffective in two respects: (1) erroneous advice that Barlow was not subject to habitual offender sentencing; and (2) counsel did not review the State's evidence with Barlow. (A-295-97). The first argument is similar to the second *Friend/Scarborough* factor previously addressed. The trial court correctly rejected the second ineffectiveness claim because "Mr. Barlow's statements during his pre-sentence investigation reflect that he had a fairly accurate appraisal of the evidence against him." (A-297). There was no abuse of discretion in finding that Barlow had not demonstrated ineffective assistance of counsel at his plea.

The fifth *Friend/Scarborough* plea factor or question is: "Does granting the motion prejudice the State or unduly inconvenience the court."[15] The Superior Court accurately found this final factor not to be determinative in Barlow's case. (A-291). Since Barlow has acknowledged that if his plea is withdrawn "he would likely proceed to trial." (A-291), the question is of no significance in this instance.

Barlow's motion to withdraw his 2022 guilty plea was properly rejected (A-284-99), and there was no abuse of discretion by the Superior Court.

[15] *Scarborough*, 938 A.2d at 649.

CONCLUSION

The judgment of the Superior Court should be reversed.

/s/ John Williams
John Williams (#365)
JohnR.Williams@delaware.gov
Deputy Attorney General
Delaware Department of Justice
102 West Water Street
Dover, Delaware 19904-6750
(302) 739-4211, ext. 3285

Dated: December 6, 2024

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROGER BARLOW,	)	
	)	
Defendant Below-Appellant,	)	
	)	
v.	)	**No. 240, 2024**
	)	
	)	
STATE OF DELAWARE,	)	
	)	
Plaintiff Below-Appellee.	)	

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENT AND TYPE-VOLUME LIMITATION

1. This answer brief complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Time New Roman 14-point typeface using Microsoft Word 2016.

2. This answer brief complies with the type-volume limitation of Rule 14(d)(i) because it contains 3,778 words, which were counted by Microsoft Word 2016.

/s/ John Williams
John Williams (Bar No. 365)
Deputy Attorney General
Delaware Department of Justice

DATE: December 6, 2024