

Statement of Additional Grounds

State v. Tishchenko

SUPERIOR COURT
NO. 08-1-01497-5

FILED
COURT OF APPEALS
DIVISION II

09 JUL -1 AM 11:51

STATE JUDGE
BY JW DEPUTY

COURT OF APPEALS

NO. 38471-0-II

I, Alexander Paul Tishchenko was sentenced to sixty four months on October 17, 2008.

Prosecutor Scott Ikata stated for the record on that day before Honorable Judge Bennett that an initial offer and clarification made that the range of 20 to 60 months was offered when it was not, and there are no records indicating that this was ever made. The only offer I was made was 90 months or go to trial facing 144 months if convicted. With my score range I was facing only 44 to 84 months. I do not know why my trial lawyer was not aware of this and did not take action. If I was aware of this earlier different action could have taken. I feel that I was forced to go to trial with the 90 months plea offer. I asked why that was and in response from my trial lawyer he said that the state had my points score range not added correctly. I don't know how that is my fault, I was told I had 8 points but at sentence the judge added up only 4 points and I was sentenced to 64 months. I don't know why my trial lawyer did not look into it, but it is not fair to me especially finding that information after trial and being convicted. Also, with this letter will be a copy of the trial script page 455 line 19-25 (Ikata's statement), plea bargain, and my score range statement. Please look into this matter and consider the facts. Thank you.

Sincerely,

Alex Tishchenko

Alex Tishchenko

1 THE DEFENDANT: Yeah, that I'm sorry (inaudible).
2 That I'm not guilty of the delivery charge. The
3 only thing I'm guilty is using the drug, that's it,
4 and (inaudible) the wrong place, the wrong time,
5 with the wrong people. So that's how this turn out
6 to be (inaudible).

7 THE COURT: All right, thank you, sir.

8 The -- of course I heard the evidence at
9 trial and the jury heard the same evidence.
10 They -- they believed that you were involved in the
11 delivery and I think probably because the police
12 officer testified that he overheard the discussion
13 between you and Mr. Hamadeh, and that was the --
14 probably the strongest evidence against you.

15 Did you say there's something else you
16 wanted to --

17 MR. IKATA: Your Honor, I --

18 THE COURT: -- relate?

19 MR. IKATA: Thank you, Your Honor. I just wanted
20 to clarify that there was -- subsequent to the
21 initial offer from earlier this year, there was
22 clarification made that the range was gonna be 20
23 to 60 months (inaudible). I wanted to put that on
24 the record, thank you.

25

CLARK COUNTY PROSECUTING ATTORNEY'S OFFICE OFFER OF SETTLEMENT

TO: DEFENSE ATTORNEY STEVEN W. THAYER, WSBA #07449

The defendant is charged with the following:

Count	Charge	Score	Range	Enhancement	Total Range
01	DELIVERY OF A CONTROLLED SUBSTANCE - METHAMPHETAMINE	8	60+ to 120 mos	24 mos School Bus Enhancem.	84+ to 144 mos

The state makes the following Offer of Settlement. In accepting this offer, the defendant is agreeing to stipulate to its terms, unless otherwise noted. It is based on the accompanying criminal history which the defendant must acknowledge as accurate, true and complete. It may be withdrawn at any time prior to the entry of a guilty plea, or it otherwise expires on: March 12, 2008. It supersedes any previous offer made in this case. Failure of the defendant to declare disputed criminal history or to disclose additional criminal history renders this offer null and void.

If the defendant pleads guilty to the following, the State will recommend confinement, costs, conditions and supervision as outlined in this offer.

Count	Charge	Score	Range	Enhancement	Total Range
01	DELIVERY OF A CONTROLLED SUBSTANCE - METHAMPHETAMINE	8	60+ to 120 mos	Remove school bus enhancem.	60+ to 120 mos

In lieu of a plea, and as a condition precedent, the defendant must waive speedy trial and agree to a delay in setting the trial date, and the state will take the following action:

- Defendant may be referred to the CCPA Diversion Unit for screening on the above charges.
- The State will refer this case for Drug Court screening. Def not eligible for diversion or drug court.

RECOMMENDATION AS TO CONFINEMENT

90 Days Months in Total Confinement, and
 _____ Days Months Partial Confinement [_____ days Work Crew; _____ days Work Release], and

_____ Days Community Service (Eight (8) hours per day)
 _____ Days with _____ days suspended/deferred on a misdemeanor/gross misdemeanor

If the defendant does not qualify for partial confinement program(s), the recommendation will be for total confinement.

TERMS APPLICABLE TO ALL RECOMMENDATIONS

This offer includes credit for time served in custody solely on this case, up to the date of sentencing. It also includes standard conditions of supervision including reporting to DOC.

All recommendations include court costs of \$200.00; crime victim's compensations fee of \$500; fine of \$500; biological collection fee of \$100.00; appointed attorney's fees and related defense costs of \$700.00 restitution of _____ or in an amount to be set by the court at a later date. The defendant agrees to pay restitution to victims of uncharged crimes contained in the discovery, and/or dismissed counts.

Other legal financial obligations include:

Drug Fund of \$1,000.00

Warrant Fees of _____

Lab Fee of \$100.00

DV Penalty Assessment _____

Emergency Response Fee of _____

Extradition Costs of _____

Other of _____ for _____

SUPERVISION

First Offender Option with up to two years of supervision