

Bond v. Warden, NHSP

CV-03-450-PB 10/13/04

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Kenneth Bond

v.

Civil No. 03-450-PB

Opinion No. 2004 DNH 153

Jane Coplan, Warden, NHSP

O R D E R

Kenneth Bond pleaded guilty to one count of simple assault, one count of obstructing the report of a crime, one count of false imprisonment, one count of criminal threatening, and one count of reckless conduct. He was sentenced to concurrent 12 month House of Correction sentences on the simple assault and obstruction charges, a consecutive 12 month House of Correction sentence on the false imprisonment charge, and 1-1/2 to 3 year suspended state prison sentences on the criminal threatening and reckless conduct charges. He was also sentenced to three years of probation on the latter charges. Bond subsequently violated his probation and was sentenced to 3-1/2 to 7 years in state prison. He argues in his habeas corpus petition that this

sentence should be set aside because the attorney who represented him at the guilty plea hearing was ineffective.

Bond's ineffective assistance of counsel claims are based on the factual premise that his attorney failed to advise him when he plead guilty that he could face an additional prison sentence of up to 3-1/2 to 7 years if he violated the terms of his probation. A state court judge who considered the same arguments that Bond presents in his current petition supportably rejected this premise and Bond has failed to present clear and convincing evidence to rebut the judge's factual findings on this point. That ends the matter. See 28 U.S.C. § 2254(e) (1).

The motion for summary judgment (doc. no. 7) is granted. I commend Attorney Ruoff for the quality of his legal work in this case.

SO ORDERED.

Paul Barbadoro
Chief Judge

October 13, 2004

cc: David Ruoff, Esq.
Kenneth Bond, pro se