

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE)	
)	
v.)	I.D. No. 9911016961
)	
DARREL PAGE,)	
)	
Defendant.)	

**UPON DEFENDANT’S SECOND MOTION FOR POSTCONVICTION RELIEF
DENIED**

Submitted: March 17, 2011
Decided: March 30, 2011

This 30th day of March, 2011, it appears to the Court that:

1. Before the Court is a second Motion for Postconviction Relief filed by Darrel Page (“Page”), who was convicted by a jury in 2003 of three counts of First Degree Murder, one count of Robbery Second Degree, one count of Conspiracy First Degree, and one count of Endangering the Welfare of a Child, as well as various weapons charges. This Court sentenced Page to life in prison without possibility of probation or parole on each of the murder counts. Page’s conviction and sentence were affirmed by the Delaware Supreme Court on direct appeal.

2. Page and co-defendant Michael Jones were members of a drug-dealing ring led by one of their eventual victims, Cedric Reinford. As the Supreme Court detailed in its decision on appeal, the State’s theory of the case against Page was that he planned the murders to escape obligations to Reinford:

In early 1999, Page was arrested for trafficking in cocaine. In exchange for Reinford providing Page money to pay for bail and counsel, Page agreed to sell drugs for Reinford without taking any share of the profits. After nine months of this arrangement, Page formulated a plan to end it by killing Reinford. He enlisted Jones to help him carry out his plan.

On November 20, 1999, Jones, Page and Reinford were together in Reinford's car in Wilmington. Jones killed Reinford by shooting him three times in the back of the head. Page and Jones doused Reinford's car with gasoline and set it on fire with Reinford's body inside it. They next proceeded to Reinford's house to take Reinford's drug money from a safe. At the house, Jones shot and killed Reinford's fiancé, Maneeka Plant. He also shot Reinford's brother, Muhammad, between the eyes and left him for dead. Page and Jones fled to Philadelphia. Muhammad miraculously survived the shooting and called 911. He identified Page and Jones to the police. . . . After a ten-month manhunt that included an "America's Most Wanted" episode, Page was tracked down in Atlanta, Georgia and arrested on November 3, 2000.¹

Crucial evidence against Page came from his ex-girlfriend, Kim Still. After Muhammad Reinford named Page and Jones as his attackers, investigators questioned Still, who provided statements to police explaining Page's motivation and plan to kill Reinford.² The prosecution sought to introduce video of Still's out-of-court statements during trial, pursuant to 11 *Del. C.* § 3507. After finding the out-of-court statements voluntary and conducting a *Getz* analysis,³ the Court admitted both Still's videotaped statements and live testimony regarding Page's

¹ *Page v. State*, 934 A.2d 891, 894 (Del. 2007).

² *Id.*

³ *Getz v. State*, 538 A.2d 726, 734 (Del. 1988) (establishing guidelines to govern the admissibility of evidence of other crimes).

past crimes and bad acts, which the Court deemed relevant to establish motive, intent, preparation, plan, and knowledge.

3. In his direct appeal, Page argued that delays in proceeding to trial in his case violated his speedy trial right, a position the Supreme Court rejected. In addition, the Supreme Court held that the videotape of Still's out-of-court statements was properly admitted under § 3507, and that this Court did not err in permitting the State to present images and video of the crime scene at trial.⁴

4. Page filed his first Motion for Postconviction Relief in 2008. Page's first Rule 61 motion raised several arguments: that structural error in the State's appointed-counsel program and his trial counsel's ineffective assistance infringed his speedy trial rights; that the Court erred in admitting photographs and video of the crime scene; that the Court erred in admitting video of Still's out-of-court statement to police and permitting it to be used as a trial exhibit; and that trial counsel was ineffective for failing to raise motions and better prepare him for trial.⁵ After a hearing on remand to consider Page's speedy trial allegations, the Court denied his motion. The Court held that Page had not demonstrated that his speedy trial right was infringed by either ineffective assistance of his trial counsel or systemic problems with the State's appointment program. The Court also found

⁴ *Page*, 934 at 900.

⁵ Docket Item 161. (Docket Items will be cited hereafter as "D.I. __.")

that Page's contentions that trial counsel were ineffective for failing to raise motions or prepare him for trial were wholly conclusory, and therefore could not satisfy the *Strickland v. Washington* standard for ineffective assistance claims.⁶ Page's arguments regarding the admissibility of Still's videotaped § 3507 statements were procedurally barred, as they had been adjudicated on direct appeal. The Supreme Court affirmed the denial of Page's first postconviction relief motion.⁷

5. Page filed the instant second Motion for Postconviction Relief on March 11, 2011. The Court has some difficulty discerning the arguments Page intends to assert by his twenty-two page *pro se* filing, much of which concerns the testimony of Kim Still and Muhammad Reinford. The gravamen of Page's motion appears to be that his trial counsel were ineffective for failing to file a post-trial motion asserting that Still and Reinford perjured themselves during the trial. As to Still, Page also contends that her out-of-court statements to police were false, and thus the end result of the Court's *Getz* analysis was to permit the jury to hear false evidence of prior bad acts.

6. According to Page, Still lied during her out-of-court statements and trial testimony by stating that Cedric Reinford advanced money to Page to assist in

⁶ *State v. Page*, 2009 WL 1141738, at *4 (Del. Super. Apr. 28, 2009).

⁷ *Page v. State*, 994 A.2d 745, 2010 WL 2169506 (Del. May 11, 2010) (TABLE).

his defense on the 1999 trafficking charge, and that Page's desire to escape his debt to Reinford motivated him to commit the murders. Still testified at trial that she took money to the attorney who represented Page on the drug charges. Page contends that these statements were revealed as perjury by the testimony of his former attorney's assistant, Alice Lara, who did not know Still and had no recollection or record of Still submitting payments on Page's behalf. Page also notes that his former attorney recorded charges of \$4,500 for his trafficking case, whereas Still testified that Reinford paid approximately \$10,000 for Page's defense. Finally, Page disputes the veracity of Still's statements that Cedric Reinford guaranteed Page's bail bond. Page argues that neither Still nor Reinford "had the legal financial reputation to secure a bond of over \$60,000," and submits an affidavit from his mother, Lorna Stamp, who asserts that she secured the bond.⁸ Page also argues that if Still's testimony that he had been earning \$3,000 per day selling drugs was accepted, the State's theory of his motivation must be rejected, because in the months between his arrest on the trafficking charge and the murders he would have earned more than enough to cover a few thousand dollars in debt to Reinford.

7. In addition, Page asserts that Muhammad Reinford also committed perjury which should have been brought to the Court's attention by his trial

⁸ D.I. 210, at 9 & Ex. A.

counsel.⁹ During the trial of Page's co-defendant Michael Jones, which occurred after Page's trial, attorneys questioned Muhammad about the fact that he attempted to call Maneeka's grandmother and his brother Cedric before calling 911, despite the fact that he had been shot and was seriously injured. Defense counsel for Jones asked questions implying that Muhammad may have been trying to arrange for his brother's drugs to be removed from the house before police arrived. Muhammad denied knowing that there were significant quantities of drugs in the house, and claimed that he did not know Cedric was a major drug dealer until after he was shot. At Page's trial, by contrast, Muhammad had testified that he had seen drugs in the house.

8. Based upon these apparent contradictions in Still and Muhammad Reinford's testimony, Page submits that the State relied upon false statements to secure the admission of evidence of other crimes and bad acts and to establish his intent and motivation. Although Page's trial counsel requested and received an extension of time to file a post-trial motion, none was filed. Page contends that his trial counsel was ineffective in failing to follow up on the extension request by moving for a new trial based upon the alleged perjury and false statements.

⁹ For clarity, given that Cedric Reinford has been referred to by his surname in most of the opinions in this case, the Court will refer to Muhammad Reinford as "Muhammad."

9. Before addressing the substantive merits of any claim for postconviction relief, the Court must determine whether the defendant has satisfied the procedural requirements of Superior Court Criminal Rule 61.¹⁰ To protect the procedural integrity of Delaware's rules, the Court will not consider the merits of a postconviction claim that fails any of Rule 61's procedural requirements.¹¹

10. Rule 61(i) establishes four procedural bars to motions for postconviction relief: (1) the motion must be filed within one year of a final judgment of conviction; (2) any grounds for relief which were not asserted previously in any prior postconviction proceeding are barred; (3) any basis for relief must have been asserted at trial or on direct appeal as required by the court rules; and (4) any basis for relief must not have been formerly adjudicated in any proceeding. However, a defect under Rule 61(i)(1), (2), or (3) will not bar a movant's "claim that the court lacked jurisdiction or . . . a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity, or fairness of the proceedings leading to the judgment of conviction."¹² Because a claim of

¹⁰ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990); see also *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991); *State v. Mayfield*, 2003 WL 21267422, at *2 (Del. Super. June 2, 2003).

¹¹ *State v. Gattis*, 1995 WL 790961, at *3 (Del. Super. Dec. 28, 1995) (citing *Younger*, 580 A.2d at 554).

¹² Super. Ct. Crim. R. 61(i)(5).

ineffective assistance of counsel alleges a constitutional violation meeting this standard, colorable ineffective assistance claims are not subject to the procedural bars contained in Rule 61(i)(1), (2), or (3).¹³

11. To prevail on a claim of ineffective assistance of counsel, a defendant must satisfy the two-part test of *Strickland v. Washington* by showing both: (1) that counsel's representation fell below an objective standard of reasonableness, and (2) that the errors by counsel amounted to prejudice.¹⁴ The defendant faces a "strong presumption that the representation was professionally reasonable" in attempting to meet the first prong.¹⁵ Under the second prong, the defendant must affirmatively demonstrate prejudice by showing a reasonable probability that, but for counsel's errors, the proceeding would have had a different result.¹⁶ If either prong is not met, the defendant's claim fails.

12. Although some of Page's claims revisit the admissibility of Still's § 3507 statement, a matter previously adjudicated on direct appeal, those grounds are sufficiently entwined with new ineffective assistance arguments that the procedural

¹³ See *State v. MacDonald*, 2007 WL 1378332, at *4, n. 17 (Del. Super. May 21, 2007).

¹⁴ *Albury v. State*, 551 A.2d 53, 58 (Del. 1988) (citing *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984)).

¹⁵ *Wright v. State*, 671 A.2d 1353, 1356 (Del. 1996) (citation omitted).

¹⁶ *Strickland*, 466 U.S. at 694; see also *Fletcher v. State*, 2006 WL 1237088, at *2 (Del. Super. May 9, 2006).

bars of Rule 61(i)(1), (2), and (3) are inapplicable. On the merits, however, Page's claims fail to satisfy the *Strickland* standard.

13. Page's motion is largely dedicated to pointing out conflicts in the evidence presented at his trial, and labeling the evidence that was unfavorable to him as "perjury" or false statements. These conflicts were resolved by the jury as it carried out its tasks of reconciling the evidence where possible and making credibility determinations where disparate evidence could not be harmonized. That the jury credited the testimony of the State's witnesses despite the existence of contrary evidence in the record does not mean that those witnesses committed perjury. Thus, for example, the jury was free to accept Still's testimony that she paid Page's former attorney using money provided by Reinford despite Lara's failure to recall meeting Still or receiving payments from her.

14. Page contends that Still's testimony about his large daily earnings as a drug dealer conflicted with the State's position that he was beholden to Reinford for assistance in resolving his trafficking charges, and therefore must have been false. This argument rests upon an overly literal interpretation of the State's theory that Page's crimes were motivated by his "debt." Page's obligations to Reinford arose from their respective roles in a drug ring Reinford led; presumably, the "debt" Reinford held over Page encompassed more than a strictly financial relationship. The State was not required to prove an outstanding monetary balance

at the time of the murders. The jury could have credited Still's testimony about Page's drug-dealing, including his earnings, and nevertheless found that he lacked money to pay Reinford, or that Reinford continued to exercise control over Page even after Page had "worked off" the debt from a numerical perspective. Since the jury could reasonably accept Still's testimony and the State's theory of the case, Page's argument does not support that Still perjured herself at trial or offered false statements to police.

15. To the extent that Page's motion relies upon his mother's affidavit and Muhammad Reinford's testimony at Jones's trial, which the jury did not consider, he has not demonstrated that he would have been entitled to a new trial had counsel filed a post-trial motion. To obtain a re-trial based upon new evidence, a defendant must prove that the evidence meets the following criteria:

- (1) The new evidence must be of such a nature that it would have probably changed the result if presented to the jury;
- (2) The evidence must have been newly discovered; *i.e.*, it must have been discovered since trial, and the circumstances must be such as to indicate that it could not have been discovered before trial with due diligence; and
- (3) The evidence must not be merely cumulative or impeaching.¹⁷

Neither Lorna Stamp's affidavit nor Muhammad Reinford's testimony in Jones's case satisfies the first or third factors, and Stamp's affidavit does not constitute "newly discovered" evidence.

¹⁷ *Lloyd v. State*, 534 A.2d 1262, 1267 (Del. 1987) (citation omitted).

16. The State presented overwhelming evidence of Page's guilt, including Muhammad Reinford's eyewitness identification. Whether Muhammad knew of his brother's drug-dealing was not material to the major issues in Page's case, and Page has not explained why the result of the trial would likely have differed had the jury learned of Muhammad's testimony in Jones's trial. The Court finds it exceedingly unlikely that a jury would conclude that all of Muhammad's testimony was non-credible because Muhammad may have lied about whether he realized that Cedric kept large quantities of drugs in the house. If Muhammad testified falsely, it appears that he did so in Jones's case, to avoid admitting that he had prior knowledge of the drug-dealing activity that ultimately led to his brother's death. A jury would be unlikely to conclude that the self-interest motivating such a lie would also motivate Muhammad to lie about Page and Jones's identities. Muhammad's conflicting testimony in Jones's trial is essentially impeachment material, and not very powerful impeachment material at that.

17. Nor can Page demonstrate that he would have been entitled to a new trial based upon Stampp's affidavit. Stampp's affidavit contradicts Still's testimony regarding only a portion of the obligation Page owed Cedric Reinford. The affidavit indicates that Stampp signed documents to secure Page's bail bond following his arrest for trafficking, and does not conflict with or undermine Still's testimony that Reinford provided money for Page's bail and defense. Page thus

has not demonstrated that the result of his trial would probably have differed had the jury heard testimony from his mother that she acted as the guarantor on his bail bond. Furthermore, Page could readily have learned of the information in his mother's affidavit prior to his trial, if he was not already aware of who had secured his bail bond when it was posted. Accordingly, the contents of Stamp's affidavit are not "newly-discovered evidence" meriting a new trial.

18. Because Page has not shown that a challenge to the statements and testimony of which he complains would have affected the outcome of his trial or entitled him to a new trial, his claims necessarily fail the *Strickland* test. His trial counsel's failure to file motions or raise arguments that would not have been successful does not amount to ineffective assistance.¹⁸

19. For the foregoing reasons, Page's Second Motion for Postconviction Relief is hereby **DENIED**.

IT IS SO ORDERED.

Peggy L. Ableman, Judge

Original to Prothonotary
cc: Darrel Page

¹⁸ See, e.g., *Pierce v. State*, 966 A.2d 348, 2009 WL 189150, at *2 (Del. 2009) (TABLE).