

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

November 9, 2007

Joseph R. King
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: Defendant ID Nos. 0202010963 (R-2) and 0201002245

Dear Mr. King:

On October 29, 2007, the Court received your second Motion for Postconviction Relief. It is denied.

On September 4, 2002, you entered a guilty plea concerning robbery in the first degree, as well as three burglary in the third degree charges and one count of theft felony. Pursuant to the negotiations, there was a recommendation that you be sentenced as an habitual offender to twenty (20) years as to the robbery charge. As to the remaining charges, you received suspended sentences upon completion of a residential treatment program.

On August 5, 2005, you filed a timely Motion for Postconviction Relief as to your guilty plea concerning the robbery case. On December 7, 2005, the Court denied your Motion for Postconviction Relief.

Now in October, 2007, you have filed a second Motion for Postconviction Relief. In same, you do not attack the conviction but complain that your lawyers did not communicate with you concerning an extension provided the State in order for them to produce the restitution information. The sentencing orders were modified on December 12, 2002 and on January 6, 2003 to include restitution.

In your affidavit which was filed with your Postconviction Motion, you advised that you did not know of your attorney's agreement to extend the period of time that the Department of Justice had to file the restitution amount until the date of June 6, 2004.

Your present Motion is procedurally barred because it is repetitive and is not only three (3) years from the date of your conviction or the last amended order, but is also in excess of three (3) years from the date that you acknowledge you knew of the agreement. If you knew of these matters in June of 2004, then you could have included the claim in your August 5, 2005 first Motion for Postconviction Relief.

Even if you did not have the obstacle of the procedural bars, your Motion would be denied on the merits. One of the purposes of a sentencing order is to make the victims whole, and the Court customarily grants extensions in order to obtain the restitution information. You have not shown that you have been prejudiced in any way by the extension granted by your attorneys.

Defendant's second Motion for Postconviction Relief is denied.

IT IS SO ORDERED.

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

THG:baj
cc: Prothonotary
Department of Justice