

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

STATE OF DELAWARE,)	
)	
)	
v.)	ID#: 0608025757
)	
LEROY COOK, SR.,)	
Defendant.)	

ORDER

**Upon Defendant's Fourth Motion for Postconviction Relief –
SUMMARILY DISMISSED**

**Upon Defendant's Motion for Disqualification –
DENIED**

1. Instead of going to trial on January, 2008, Defendant pleaded guilty to rape second degree, for which he received a long prison sentence. Defendant did not file a direct appeal. Defendant did file three motions for postconviction relief. This is his fourth. All along, Defendant has ignored the fact that his victim was a child and the State was prepared to use her baby's DNA to prove the rape. Instead, in his serial motions for postconviction relief, Defendant has alleged defects in the indictment and ineffective assistance of counsel. Before he

pleaded guilty, Defendant went through a string of lawyers, expressing dissatisfaction with all of them, at times. Now, Defendant has turned on the court.

2. Along with his fourth motion for postconviction relief, Defendant has moved to disqualify the undersigned Judge who accepted Defendant's plea and sentenced him. Three years after the plea was accepted, Defendant has parched (???) the March 14, 2008 sentencing. He offers two, snippets that he claims demonstrate "bias and preJudice" toward this case by [the Judge's] pre-determined notions. Actually, Defendant is focusing on the court's continuing belief that the plea was in Defendant's best interest, as he avoided almost certain conviction at trial, followed by a mandatory sentence that would almost guarantee his dying in prison.

3. Any knowledge the court has about this case has come entirely from the record. The court has no special interest in this case. All of this is explained directly and indirectly in the prior decisions in this case.

4. As for Defendant's fourth motion for postconviction relief, like his second and third motions were, it is procedurally barred and review is not warranted in the interest of justice.

5. The court finally observes that the relief Defendant request is not available through a motion for postconviction relief, or otherwise. He asks the court to allow him to "plea anew to the violation of 11 Del.C. Sec. 770." The court simply

does not have authority to force the State to offer a particular plea bargain. That section sets-out rape in the fourth degree. The court, however, has no authority to order the Attorney General to offer a specific plea bargain. Here, the Attorney General was unwilling to offer a plea agreement involving rape in the fourth degree.

6. If the court were to allow Defendant to withdraw his guilty plea, he would have to stand trial for the far more serious felonies for which he was indicted, including rape in the first degree. And, as the court keeps reminding Defendant and Defendant keeps avoiding, his child victim gave birth to Defendant's baby.

For the foregoing reasons, Defendant's Motion to Disqualify is **DENIED**. Defendant's Fourth Motion for Postconviction Relief is **SUMMARILY DISMISSED**. The Prothonotary shall notify the Defendant.

IT IS SO ORDERED.

Date: February 24, 2012

/s/ Fred S. Silverman

Judge

cc: Prothonotary (Criminal Division)
Renee L. Hrivnak, Deputy Attorney General
Leroy Cook, Sr., Defendant