

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

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

N440 STATE MAIL
Michael A. Wallace
SBI: 0054
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

Re: ***State of Delaware v. Michael A. Wallace***
ID 0810014644 A & B

*Upon Defendant's Second Pro Se Motion for Postconviction Relief.
Dismissed.*

Submitted: October 4, 2011
Decided: November 9, 2011

Dear Mr. Wallace:

You again challenge your convictions and sentences for two counts of second degree unlawful sexual contact, one count of continuous abuse of a child and two counts of dealing in child pornography. You were sentenced to 49 years of Level 5 incarceration to be suspended after serving 14 years and successful completion of the Family Problems program for one year Level 4 work release followed by probation. Your second motion for postconviction relief is dismissed for the reasons explained below.

You raise several issues that were put to rest in this Court's denial of your first

postconviction motion.¹ You argue that your sentence was illegal because you were coerced into accepting it; that your attorney was ineffective for not showing you the PSI report; that the prosecutor interfered with this Court's sentencing decision; and that the prosecutor made statements at the hearing that were intended to influence the Court.

These issues were fully litigated in your first postconviction relief motion, and the Delaware Supreme Court affirmed the denial of your motion.² Although you state that these issues should be considered in the interest of justice, you do not state why the adjudications should not stand. Your arguments are barred as having been formerly adjudicated and resolved against you.³

You claim that your attorney was constitutionally ineffective for failing to perfect an appeal on your behalf. You do not explain why you did not raise this issue in your first postconviction relief motion. This claim is subject to procedural default.⁴

You allege that both your attorney and the State failed to disclose your victim's recantation of the rape allegations. This is a conclusory allegation for which you have offered no evidence. Unsupported allegations are subject to summary dismissal.⁵

¹*State v. Wallace*, 2011 WL 662323 (Del. Super.), *aff'd*, *Wallace v. State*, 2011 WL 3896936 (Del.).

²*Id.*

³Rule 61(i)(4).

⁴Rule 61(i)(3).

⁵*Younger v. State*, 580 A.2d 552, 556 (Del. 1990).

Moreover, you do not explain why you did not raise this issue earlier in the proceedings.⁶

This claim is procedurally barred.⁷

You argue that your attorney was ineffective for failing to disclose your back injury and ensure that this information was included in the PSI. You do not describe the back injury or suggest how its disclosure would have affected the proceedings. This claim does not present a cognizable claim for relief.

The legality of your convictions and sentence has been established. Your second postconviction relief motion does not change that result and is therefore **DISMISSED**.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary

⁶*Id.*

⁷Rule 61(i)(3).