

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

STATE OF DELAWARE)	
)	
V.)	ID # 1003000386
)	
JAMES V. MATOS)	
)	
Defendant.)	

ORDER

On this 26th day of July, **2013**, upon consideration of the Defendant’s Motion for Post-conviction Relief and the Commissioner’s Report, the Recommendation that Defendant’s Motion for Post-Conviction Relief Should be Denied, the Defendant’s appeal from the Commissioner’s Findings of Fact and Recommendations and the record is in this case, it appears that:

1. On March 1, 2010, the Defendant James Matos was arrested and indicted on charges of Arson First Degree, Burglary Second Degree, Reckless Endangering First Degree, Cruelty to Animals, Harassment, and three counts of Breach of Bond Conditions. Due to the statutory definition of “building,” the trial judge found that the facts of the case did not satisfy Arson First Degree and substituted the charge with Arson Second Degree. After a three day trial, the Defendant was convicted of all offenses excluding the Arson First Degree.
2. On January 28, 2011, the Defendant was sentenced to 15 years for Arson Second Degree, 5 years for Reckless Endangering First Degree, 2 years for 3 convictions of Breach of Bond Conditions, 1 year probation for Criminal Trespass, 1 year

probation for Harassment, and 1 year for Cruelty to Animals to be suspended after 6 months.

3. On February 3, 2011, the Defendant filed notice of direct appeal. The appeal was denied on May 3, 2011. The Delaware Supreme Court affirmed the judgment of the trial court on July 13, 2011.
4. On March 5, 2012, The Defendant filed a Motion for Post-Conviction Review which included a claim of ineffective assistance of counsel. The Defendant also filed for appointment of counsel which was denied. On May 11, 2012, a motion to amend the Motion for Post-Conviction Review was granted. A second motion to amend the Motion for Post-Conviction Relief was denied on October 25, 2012.
5. On January 23, 2013, the Commissioner's Findings of Fact and Recommendations was filed. The Commissioner recommended that Defendant's Motion for Post-Conviction Relief be DENIED.
6. On January 30, 2013, the Defendant received the Commissioner's Report and Recommendation. A request for an extension of 45 days to craft objections pursuant to Rule 62 (c) was promptly sent. On February 14, 2013, the Defendant's Motion for an Extension of Time to File an Objection to the Commissioner's Findings of Fact and Recommendation was approved.
7. On April 1, 2013, the Defendant requested a Renewal of Affidavit Previously Filed in Case #1003000386 for the purpose of conducting a de novo review of objections to the Commissioner's Findings of Fact and Recommendations.

NOW, THEREFORE, for reasons stated in the Commissioner's Report and

Recommendation that Defendant's Motion for Post-Conviction Relief Should be Denied, as well as the Defendant's Appeal From Commissioner's Findings of Fact and Recommendation,

IT IS ORDERED that the Commissioner's Report, including its Recommendation, is adopted by the Court. Defendant's Motion for Post-Conviction Relief is **DENIED**.

Calvin L. Scott, Judge

cc: Prothonotary – Original
Renee L. Hrivnak, Esquire, Deputy Attorney General
Dade D. Werb, Esquire
Nicole M. Walker, Esquire