

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

STATE OF DELAWARE)	
)	
v.)	I.D. # 0311009491A
)	
MICHAEL D. CHAMBERS)	
)	
Defendant)	
)	

Submitted: July 10, 2008
Decided: August 25, 2008

Upon Defendant's Motion for Postconviction Relief.
SUMMARILY DISMISSED.

ORDER

Brian J. Robertson, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the State.

Michael D. Chambers, Smyrna, Delaware, *pro se*.

COOCH, J.

This 25th day of August, 2008, upon consideration of Defendant's motion for postconviction relief, it appears to the Court that:

1. Following a trial (where Defendant represented himself) concluding on September 26, 2006, a jury convicted Defendant of one count of possession with intent to deliver cocaine, one count of use of a dwelling for keeping controlled substances, one count of possession of a firearm during the commission of a felony, and one count of possession of a non-narcotic controlled substance. Defendant was subsequently adjudicated a habitual criminal offender, and on January 15, 2007, this Court sentenced Defendant to 25 years of minimum mandatory incarceration.
2. On June 2, 2008, Defendant, again acting *pro se*, filed this motion for postconviction relief. Defendant has asserted three grounds for relief. The following constitutes the entirety of the substantive portion of Defendant's motion for postconviction relief:

Ground one: Ineffective Assistance of Counsel. Before proceeding *pro se*, Appellant ask [sic] for his counsel at the time, Edmund Hillis to call certain witnesses for his defense before trial started, and without the cooperation of counsel, appellant couldn't prepare properly to represent himself.

Ground two: Newly Discovered Evidence. Although at trial, the State's claim was that Mrs. Auden's testimony was without merit. [sic] Evidence of State's claim to probable cause came from Mrs. Pruden's statements. Not confidential informant as they claimed but failed to reveal. [sic]

Ground three: Appellant, Movant asserts that the judge should've allowed Frank's Hearing. Under *Franks*, a defendant who makes a substantial showing that, a statement in a warrant affidavit, necessary to a finding of probable cause, was made [with] either intentional or reckless disregard for the truth is entitled to a hearing to prove his claim! Confidential informant stated that Mr. Chambers and Mr. White were storing "large quantities of heroine [sic]"! And probation officers found ["]24 bags of crack" and a gun.

After filing his motion for postconviction relief, Defendant requested that the Court order the State and Defendant's former counsel (who represented Defendant prior to Defendant's decision to proceed *pro se* at trial) to provide Defendant with "Rule 16 and discovery papers," which Defendant claims he has never received.¹

3. Superior Court Rule 61(b)(2) provides in part that a "motion [for postconviction relief] ... shall set forth in summary form the facts supporting each of the grounds thus specified." Pursuant to Rule 61(d)(4), this Court may summarily dismiss a motion for postconviction relief "if it plainly appears from the motion for postconviction relief and the record of prior proceedings in the case that the movant is not entitled to relief." A movant must support his or her assertions with "concrete allegations of actual prejudice, or risk summary dismissal."² This proposition applies to all grounds for relief, including claims of ineffective assistance of counsel.³

4. It plainly appears from the motion that Defendant has not shown entitlement to relief. Defendant's motion is completely conclusory, and Defendant has failed to support his claims of ineffective assistance of

¹ Def. Letter of June 12, 2008, D.I. 65.

² *State v. Childress*, 2000 WL 1610766, at *1 (Del. Super.). *See also, e.g., State v. Miller* 2007 WL 3287943 (Del. Super.).

³ *See, e.g., State v. Robbins*, 1996 WL 769219, at *1 (Del. Super.); *State v. Miller* 2007 WL 3287943 (Del. Super.); *State v. Watson*, 2008 WL 1952160 (Del. Super.).

counsel with concrete allegations of actual prejudice. For these reasons Defendant's motion warrants summary dismissal.

As to Defendant's request for "Rule 16 and discovery papers," it is evident that Defendant would have been provided those materials at trial when he decided to proceed *pro se*. Furthermore Defendant's *pro se* filing of November 13, 2006 had attached as exhibits the materials Defendant has requested.⁴ Defendant has been previously provided with the appropriate materials, and the Court will not order the State or Defendant's former counsel to provide those materials to Defendant.

5. For the reasons stated, Defendant's Motion for Postconviction Relief is **SUMMARILY DISMISSED**.

IT IS SO ORDERED.

Richard R. Cooch

oc: Prothonotary
cc: Investigative Services
Brian J. Robertson, Esquire, Deputy Attorney General
Michael D. Chambers

⁴ Def. Mot. for New Trial and/or Acquittal of J., D.I. 37.