



This is the Court's decision on Movant Joseph L.Chambers' motion for postconviction relief. Movant raises six claims of judicial error, all of which are procedurally barred. As explained below, the motion is Denied.

On the night of April 27, 2003, the dead body of Gregory Graves was found by William Butler lying in the alley between the Rosegate Apartments and Simonds Gardens, in New Castle, Delaware. Graves had been shot multiple times. During the police investigation, officers talked to Benita Evans, who lived in the area and was a friend of Graves and an acquaintance of Chambers. She said that on the way to a liquor store that evening she saw the two men engaged in an argument but that when she emerged from the store they were gone. Later in the evening she saw Graves and went out to inquire if he had any drugs she could purchase. He said no and indicated that he was waiting for someone. He walked toward the alley and a few minutes later she saw Movant follow Graves into the same area.

The police also talked to Quinton Davis, who lived in the neighborhood and had been out at the time of the shooting. First he said he was in a motel that night but he later gave different versions of his whereabouts. In his final statement to the police, and on the witness stand at trial, Davis said that on the night in question he had been sitting in a car near Chamber's residence with Chambers and Daniel Haye. Movant told Davis and Haye that he something to do in one of the houses and instructed them to wait for him by a certain path in Simonds Gardens. The two men

followed Movant's instructions. When Movant arrived back at the car he was hurrying and told them to get out of the area because he had just shot Graves. On the way to Philadelphia, Movant rolled the rear window down and threw something. Haye indicated to police that the object was a gun wrapped in Movant's black hooded sweatshirt.

Movant was convicted of Murder in the first degree, Possession of a Firearm During the Commission of a Felony and Possession of a Firearm by a Person Prohibited. He was sentenced to life in prison on the murder charge and an additional 15 years on each of the weapons convictions. His convictions and sentences were affirmed on appeal.<sup>1</sup>

In evaluating a postconviction relief motion, the Court must first determine whether any of the claims is procedurally barred.<sup>2</sup> If so, the Court should not address the merits of the claim.<sup>3</sup> Nor will the Court address claims that are conclusory and unsubstantiated.<sup>4</sup>

The first two issues in the postconviction relief motion were raised and resolved against Movant on direct appeal. Movant asserts that this Court erred in not

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<sup>1</sup>*Chambers v. State*, 930 A.2d 904 (Del. 2007).

<sup>2</sup>*Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

<sup>3</sup>*Id.*

<sup>4</sup>*Id.* at 555.

granting a mistrial after a conversation between Quintin Davis and Detective Armstrong which occurred during a break in Davis' direct examination. This claim was raised on direct appeal, and the Delaware Supreme Court held that this Court acted within its discretion and that Chambers suffered no prejudice from the discussion. Pursuant to Rule 61 ( i )(4), further consideration of this argument is barred unless reconsideration is warranted in the interest of justice.<sup>5</sup> Movant has not made or attempted to make this showing, and the claim is therefore barred as having been formerly adjudicated.

Movant's second claim was also decided against him on appeal. He asserts that this Court erred in failing to instruct the jury to view the testimony of Davis and Hays with caution because they were "admitted participants" or accomplices in Graves' murder. The Delaware Supreme Court found no rational evidentiary basis to support such an instruction and affirmed this Court's ruling. This claim is barred from reconsideration under Rule 61( i )(4).

Movant's third claim is that the Court erred in allowing a videotaped statement to be played because the requirements of 11 *Del. C.* § 3507 had not been met. The record shows that no ruling was made on this question and the tape was not played for the jury. This claim has no merit.

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<sup>5</sup>See *Flamer v. State*, 585 A.2d 7XXX (Del. 198X); *Weedon v. State*, 750 A.2d 521, 527 (Del. 2000).

Movant's fourth claim is that the Court erred in admitting Benita Evans' out-of-court identification of Movant as being unnecessarily suggestive. This is a conclusory claim that was not raised on appeal, and Movant has not shown cause and prejudice for failing to do so. This claim is subject to the procedural default set forth in Rule 61(I)(3).

Movant's fifth claim is that the Court erred in admitting the statement he gave to his probation officer because he was not given any *Miranda* warnings. He did not raise this issue on appeal and offers no reason for failing to raise it or prejudice from not having it brought to the Court's attention. Under Rule 61(I)(3), this issue is procedurally barred.

Movant's sixth and final claim is that this Court erred in denying his pre-trial motion to exclude statements at trial admitted under 11 *Del.C.* § 3507. Movant seeks to exclude "all oral, written or recorded statements given by witness or potential witness to police officers during their investigation. . . ." Such a general claim is not susceptible to analysis, and it is also procedurally barred under Rule 61(i)(3).

For all these reasons, Defendant's motion for postconviction relief is ***Denied***.

***It Is So ORDERED.***

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Judge John E. Babiarz, Jr.

JEB,jr/ram/bjw  
Original to Prothonotary