

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

STATE OF DELAWARE,)	
)	
)	
v.)	ID#: 0709000058
)	IN-07-12-1424-R2
DARREN L. HAYMAN,)	
Defendant.)	
)	

ORDER

**Upon Defendant's Second Motion for Postconviction Relief under Rule 61–
*SUMMARILY DISMISSED***

1. On July 2, 2008, Defendant filed this, his second motion for postconviction relief challenging his January 21, 2008 conviction and prison sentence. Defendant also filed a supplemental submission on August 11, 2008, briefly addressing Rule 61's procedural bars.

2. Following a thorough colloquy, Defendant was convicted based on his guilty plea, which he repeatedly told the court was voluntary.

3. Defendant did not file a direct appeal from his plea and sentencing, or anything leading to them. Instead, on February 25, 2008 Defendant filed his first motion for postconviction relief, offering four grounds for relief.

4. After the court summarily dismissed his first motion on March 6, 2008,¹ Defendant filed an appeal from that decision.

5. On May 12, 2008, the Supreme Court dismissed the appeal under Supreme Court Rule 29(b), because it was untimely.²

6. In conclusory fashion, the second motion for postconviction relief claims that the State suppressed favorable evidence. Defendant alleges that he and his attorney were not allowed to “see the full police report.” Defendant does not explain by what authority he was entitled to the full police report, much less how it would have led to his acquittal or a better plea.

7. Defendant’s alternative claim is that the Department of Correction has not sent him to Greentree Program, as called for by the sentence order. Defendant incorrectly characterizes that as an unfulfilled plea agreement.

8. As for Rule 61's procedural bars, Defendant argues that he does not know the procedures for filing timely motions and the court should consider his claims in the interest of justice.

9. The pending motion was properly referred and, upon preliminary

¹ Docket Item No. 25.

² *Hayman v. State*, 947 A.2d 1121 (Del. 2008) (TABLE) (ORDER).

review,³ it appears that the motion is subject to summary dismissal for the reasons set out in the order summarily dismissing Defendant's first motion for postconviction relief. Defendant's claims here are procedurally barred just as his original ones were, except these claims are also barred because they were not raised on direct appeal or in the first motion.⁴

10. The first order also explains why Defendant's claims do not invoke the "interest of justice" exception to the procedural bars. In short, Defendant was caught in the act and he pleaded guilty after repeatedly telling the court he was, in fact, guilty and his plea was voluntary. Justice favors the plea and sentence. But for the plea and sentence, Defendant would probably be in even a worse predicament. (That also was explained in the first order, apparently with no effect.)

11. Finally, it can be said that Defendant is now bound by the representations he made when he pleaded guilty and any claim concerning errors or defects occurring before the entry of his plea are waived and the court does not have to even address Rule 61.⁵

³ Super. Ct. Crim. R. 61(d)(1).

⁴ Super. Ct. Crim R. 61(i)(2)-(3).

⁵ *Johnson v. State*, No. 453, 2008, at 3 (Del. Nov. 7, 2008) (citing *Sommerville v. State*, 703 A.2d 629, 632 (Del. 1997)).

For the foregoing reasons, and as explained in the March 6, 2008 order dismissing Defendant's first motion for postconviction relief, Defendant's second motion for postconviction relief is **SUMMARILY DISMISSED**.

IT IS SO ORDERED.

November 24, 2008

Date _____

/s/ Fred S. Silverman

Judge

oc: Prothonotary (Criminal)
Stephen M. Walther, Deputy Attorney General
Darren L. Hayman