

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

STATE OF DELAWARE	)	
	)	
v.	)	ID No. 0706006701
	)	
JUAN COLON,	)	
	)	
Defendant.	)	

Submitted: January 6, 2009  
Decided: July 9, 2009

**On Defendant's Motion for Postconviction Relief - DENIED.**

**ORDER**

Brian Ahern, Esquire, Department of Justice, 820 North French Street,  
Wilmington, Delaware 19801. Attorney for State of Delaware.

Juan Colon, James T. Vaughn Correctional, Smyrna, Delaware. Pro Se  
Defendant.

**CARPENTER, J.**

On this 9<sup>th</sup> day of July, 2009, upon consideration of Defendant's Motion for Postconviction Relief, it appears to the Court that:

1. Juan Colon (the "Defendant"), has filed a *pro se* Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61 ("Rule 61"). For the reasons set forth below, the Defendant's Motion for Postconviction Relief is **DENIED**.

2. The Defendant was indicted on July 23, 2007 on the following charges: (1) Trafficking in Cocaine, (2) Possession With Intent to deliver a Narcotic Schedule II Controlled Substance, (3) Use of a Vehicle for Keeping Controlled Substances, (4) Conspiracy Second Degree, (5) Possession of a Non-Narcotic Schedule I Controlled Substance, and (6) Possession of a Non-Narcotic Schedule II Controlled Substance. On October 17, 2007, the Defendant pleaded guilty to Trafficking in Cocaine and was sentenced to ten years of incarceration. On January 6, 2009, the Defendant filed this Motion for Postconviction Relief asserting the following claims as grounds for relief: (1) violation of the 5<sup>th</sup> Amendment, (2) violation of the 6<sup>th</sup> Amendment, and (3) violation of the 14<sup>th</sup> Amendment.<sup>1</sup>

3. Prior to addressing the merits of a postconviction relief claim, the Court must first determine whether the Motion meets the procedural requirements of Rule 61(i).<sup>2</sup> This section of Rule 61 sets forth certain parameters governing the proper

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<sup>1</sup>Def.'s Mot. at 3.

<sup>2</sup>See *Torres v. State*, 2009 WL 1175048, at \*2 (Del. May 1, 2009) (ORDER).

filing of a motion for postconviction relief: (1) the motion must be filed within one year of the final judgment of conviction; (2) any ground for relief not raised in a prior postconviction motion will be barred if raised in the instant Motion; (3) any claims which the Defendant failed to assert in the proceedings leading to his conviction are barred, unless he is able to show cause and prejudice; and (4) any ground for relief raised in this Motion must not have been formerly adjudicated in any proceeding leading to the conviction, unless the interest of justice requires reconsideration.<sup>3</sup>

4. After reviewing the Defendant's present Motion, the Court finds that although the Defendant's Motion is not procedurally defective, it is otherwise without merit because the Defendant waived his right to assert any claims contesting the validity of the process leading up to his guilty plea. The Delaware Supreme Court has held that "[a] voluntary plea waives a defendant's right to challenge any errors or defects before the plea, even those of a constitutional dimension."<sup>4</sup> By entering a guilty plea, the Defendant waived his right to bring claims arising from events that preceded his plea.

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<sup>3</sup>*State v. Greer*, 2008 WL 1850625 (Del. Super. Mar. 4, 2008); *see also* Super. Ct. Crim. R. 61(i)(1)-(5).

<sup>4</sup>*Smith v. State*, 2004 WL 120530, at \*1 (Del. Jan. 15, 2004) (footnote omitted) (citing *Tollett v. Henderson*, 411 U.S. 258, 266-67 (1973)).

5. For the reasons set forth above, the Defendant's Motion for Postconviction Relief is hereby DENIED.

IT IS SO ORDERED.

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Judge William C. Carpenter, Jr.