

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

April 29, 2009

N440 State Mail
James Arthur Biggins
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

**RE: Defendant ID No. 9609015504
Motion for Postconviction Relief (R-4)**

Dear Mr. Biggins:

Following a trial, you were convicted by a jury on August 28, 1997, of three counts of unlawful sexual intercourse in the second degree, assault in the third degree, and unlawful imprisonment in the second degree. You received a total of thirty (30) years incarceration, followed by probation.

There was a direct appeal and the conviction was affirmed and the mandate received from Supreme Court on December 14, 1999. *Biggins v. State*, 1999 WL 1192332 (Del. Supr.).

On January 31, 2000, you filed your first Motion for Postconviction Relief. On February 22, 2000, the Motion for Postconviction Relief was denied and you appealed.

On October 19, 2000, the Supreme Court affirmed this Court's ruling as to the Rule 61. *Biggins v. State*, 2000 WL 1504868 (Del. Supr.).

On November 17, 2000, the defendant filed a Motion for Judgment of Acquittal which was considered a Motion for Postconviction Relief which was denied on December 12, 2000. Mr. Biggins appealed that decision to the Supreme Court and on June 7, 2001, the Superior Court received the mandate from the Supreme Court affirming that decision. *Biggins v. State*, 2001 WL 760859 (Del. Supr.).

On March 3, 2003, Defendant filed another Motion for Postconviction Relief which was denied on March 7, 2003. The Superior Court docket reflects that the appeal in this Motion was affirmed by the Supreme Court on April 22, 2003. *In re Biggins*, 2003 WL 1857525 (Del. Supr.).

Thereafter, Motions for Transcripts were requested and denied and these matters went to the Supreme Court also, resulting in the mandate being returned from the Supreme Court on January 8, 2004, affirming Superior Court's denial of the transcript request. *Biggins v. State*, 2003 WL 22998846 (Del. Supr.).

Thereafter, Petitions for Habeas Corpus were denied on a regular, almost annual, basis, with subsequent appeals. The last Writ of Habeas Corpus was denied on September 17, 2008, and the Supreme Court affirmed this Court's ruling on April 7, 2009. *Biggins v. State*, 2009 WL 924506 (Del. Supr.).

In the meantime, on February 23, 2009, the Defendant filed another Motion for Postconviction Relief, alleging 15 different grounds. The allegations ranged from a failure of the defendant to have a speedy trial, to a violation of this Court's administrative orders, to allegations of ineffective assistance of counsel, both pretrial, trial, and on appeal, to allegations of prosecutorial misconduct and vindictiveness, to plain error by the Trial Court.

The Defendant's Motion for Postconviction Relief filed in February of 2009 was held in abeyance as the matters concerning a former Writ of Habeas Corpus were still pending in Supreme Court. It was only upon its return in April that Mr. Biggins renewed his request that the Court consider his Rule 61 application.

Mr. Biggins, with regularity, files Motions for Postconviction Relief and for Writs of Habeas Corpus concerning his convictions. Mr. Biggins, with regularity, files civil lawsuits which have been deemed to be frivolous. There is no reason to believe that Mr. Biggins will stop these filings. There is no reason offered in his present application as to why this Court should not summarily dismiss this newest postconviction application. Mr. Biggins' feelings that there has been a miscarriage of justice as to his convictions are well known to all involved with Mr. Biggins.

The Court hereby makes a summary disposition pursuant to Rule 61(i)(1) in that the three-year period in which Mr. Biggins has to file a postconviction application has long since passed. It is a repetitive application, Rule 61(i)(2), and those issues previously adjudicated should not be revisited under Rule 61(i)(4).

Based upon the history of litigation in this case, it is not my intent to proceed ground by ground through all fifteen allegations. I only note at some point in time "over" must mean "over".

Henceforth, any postconviction applications will simply state denied.

Defendant's Motion for Postconviction Relief is denied.

IT IS SO ORDERED.

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

baj
cc: Prothonotary