

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

STATE OF DELAWARE)	
)	
v.)	ID No.0103012308
)	
STEPHEN R. WINN)	
)	
Defendant.)	

Submitted: May 19, 2009
Decided: August 25, 2009

On Defendant's *Pro Se* Motion for Postconviction Relief. DENIED.

ORDER

Richard Andrews, Esquire, Department of Justice, Wilmington, Delaware.

Stephen R. Winn, *pro se* Defendant, James T. Vaughn Correctional Center, 1181 Paddock Road, Smyrna, Delaware.

CARPENTER, J.

On this 25th day of August 2009, upon consideration of Defendant's Motion for Postconviction Relief, it appears to the Court that:

1. Stephen R. Winn (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. In February of 2002, a jury convicted the Defendant of Rape in the First Degree, Kidnapping in the First Degree, Assault in the Third Degree, Terroristic Threatening and Criminal Contempt of a Domestic Violence Protective Order. The Court sentenced the Defendant in May of 2002 to 47 years of incarceration. This is the third motion for postconviction relief filed by the Defendant and this Court denied the first two motions.¹ The Defendant, in this Motion for Postconviction Relief, asserts the following claims as grounds for relief: (1) ineffective assistance of counsel; (2) violation of the Due Process Clause; (3) violation of the 6th Amendment; (4) violation of *Brady v. Maryland*; and (5) prosecutorial misconduct.

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

¹*State v. Winn*, 2004 WL 3030023 (Del. Super. Dec. 23, 2004), *aff'd*, 2005 WL 3357513 (Del. Dec. 8, 2005); *State v. Winn*, 2005 WL 1653957 (Del. Super. June 6, 2005).

61(i).² This section of Rule 61 sets forth certain parameters governing the proper filing of a motion for postconviction relief: (1) the motion must be filed within one year of the final judgment of conviction;³ (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.⁴

4. After reviewing the Defendant's present Motion, the Court finds that the Defendant's grounds for relief are all procedurally barred under Rule 61(i)(3) and (4). As was the case with his previous motions for postconviction relief, the Defendant had either the opportunity to raise these issues in his appeal to the Delaware Supreme

²See *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991); *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

³See *Anderson v. State*, 755 A.2d 386 (Del. 2000) (applying Rule 61 as it was written prior to its subsequent amendment which changed the original three-year timeframe for filing a timely motion for postconviction relief to the current one-year limitation). Because the Defendant's conviction in this case became final in March of 2003 after the Delaware Supreme Court affirmed his conviction, and prior to the rule's amendment, the original three-year timeframe applies to the Defendant's case.

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

Court, but failed to do so or the Court has previously addressed them in its ruling on other post conviction motions filed by the Defendant.⁵ Furthermore, the exceptions outlined in Rule 61(i)(4) and (5) do not apply since the Defendant has not demonstrated the existence of cause and prejudice, or that the interest of justice requires reconsideration.

5. For the foregoing reasons, the Court concludes that the Defendant has not set forth any grounds for relief and the motion is hereby DENIED. Finally, the Court notes that simply filing repetitive motions with the same arguments even when attempting to characterize them in a different form will not lead to a different result.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.
Judge William C. Carpenter, Jr.

⁵*Winn v. State*, 2003 WL 1442468, at *1 (Del. Mar. 19, 2003) (stating that the Appellant's only contention on appeal was that the trial court abused its discretion when it admitted into evidence the victim's prior consistent statement.).