

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

December 18, 2009

Ronald L. Cannon
SBI No. 00
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

RE: State of Delaware v. Ronald L. Cannon
Def. ID No. 0212005958
Letter Opinion

Date Submitted: October 23, 2009

Dear Mr. Cannon:

This is my decision on your Second Motion for Postconviction Relief. You pled guilty to Trafficking in Cocaine and Possession with the Intent to Deliver Marijuana and no contest to Possession of a Firearm by a Person Prohibited on April 8, 2003. I sentenced you to nine years at Supervision Level V.

I denied your First Motion for Postconviction Relief on December 20, 2006. You filed your Second Motion for Postconviction Relief on August 4, 2009. In your Second Motion for Postconviction Relief you allege that (1) the probation officers failed to comply with the regulations requiring probation officers to assess the reliability of a confidential informant, (2) the confidential informant's tip was insufficient to establish a basis for a warrantless administrative search, (3) the anonymous tip did not provide a reasonable articulable suspicion for a search of your residence, and (4) the probation officers were required to independently determine if the anonymous tip provided a reasonable articulable suspicion.

Your Second Motion for Postconviction Relief is barred by Superior Court Criminal Rule 61(i)(1). This rule provides that a “Motion for Postconviction Relief may not be filed more than one year after the judgment is final...”¹ Prior to a change in Rule 61 that became effective on July 1, 2005, the time limit to file a Motion for Postconviction Relief was three years. The time for filing a Motion for Postconviction Relief in your case ended on April 8, 2006. Your Second Motion for Postconviction Relief was filed more than three years after the cut-off date. Therefore, it is barred by Rule 61(i)(1).

The bar to relief under Rule 61(i)(1) does not apply to a claim that “the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, or fairness of the proceedings leading to the judgment of conviction.”² You have not raised a colorable claim that requires consideration under this exception. Your decision to accept the State’s offer and plead to the three charges is a waiver of any alleged problems with the administrative search.³

CONCLUSION

Your Second Motion for Postconviction Relief is DENIED.

IT IS SO ORDERED.

Very truly yours,

¹Superior Court Criminal Rule 61(i)(1).

² Superior Court Criminal Rule 61(i)(5).

³ *State v. Davis*, 2002 WL 31478008, at *1(Del. Super. Oct 30, 2002).

E. Scott Bradley