

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

STATE OF DELAWARE	)	
	)	
v.	)	ID No. 0707022000
	)	
ANDRE COORE,	)	
	)	
Defendant.	)	

Submitted: February 19, 2010  
Decided: May 28, 2010

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

**ORDER**

Caterina Gatto, Deputy Attorney General, Wilmington, Delaware 19801.  
Attorney for State of Delaware.

Andre Coore, 3400 Concord Road, York, PA 17402. *Pro Se.*

**CARPENTER, J.**

On this 28<sup>th</sup> day of May 2010, upon consideration of Defendant's *Pro Se* Motion for Postconviction Relief, it appears to the Court that:

1. Andre Coore ("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 *Pro Se* Motion for Postconviction Relief is denied.

2. On August 20, 2007, Defendant was indicted on six counts: (1) Trafficking in Cocaine; (2) Possession with Intent to Deliver a Narcotic Schedule II Controlled Substance; (3) Use of a Dwelling for Keeping Controlled Substances; (3) Conspiracy Second Degree; (5) Endangering the Welfare of a Child; and (6) Possession of Drug Paraphernalia. A plea agreement with the State was entered into by the Defendant, and Defendant pled guilty to Maintaining a Dwelling. Defendant was sentenced on October 17, 2007. This *Pro Se* Motion for Postconviction Relief followed on February 3, 2010.

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>1</sup> This section of Rule 61 sets forth procedural bars 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; (2) any ground for relief not raised in a prior post

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<sup>1</sup>See *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991); *Maxion v. State*, 686 A.2d 148,150 (Del. 1996).

conviction 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 for relief from the procedural default and prejudice from violation of the movant's rights; 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>2</sup>

4. A review of the Defendant's motion for postconviction relief indicates to the Court that the motion is procedurally barred for being untimely under Rule 61(i)(1). Under this section, a defendant must file a postconviction relief claim within one year of the defendant's final judgment of conviction. Here, Defendant was sentenced on October 17, 2007; therefore, Defendant must have filed his motion no later than October 17, 2008. Defendant filed this motion on February 3, 2010, over two years past the filing deadline. As such, the Court must deny review of Defendant's postconviction relief motion.

5. However, even if the merits of Defendant's motion were addressed by the Court, it appears that the motion would still be denied based upon previously decided case law. Defendant's motion contends ineffective assistance of counsel because counsel allegedly failed to advise Defendant of collateral consequences that

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<sup>2</sup> Super. Ct. Crim. R. 61(i)(1)-(5); *see also State v. Greer*, 2008 WL 1850625 (Del. Super. Mar. 4, 2008).

a guilty plea could subject Defendant to deportation. Defendant claims that had he had knowledge of possible deportation, Defendant would not have pled guilty.

6. To prevail on a claim for ineffective assistance of counsel, the two-part test articulated by the United States Supreme Court in *Strickland v. Washington*<sup>3</sup> must be satisfied. Under the first prong of *Strickland* the Defendant must demonstrate the counsel's performance fell below an objective standard of reasonableness, with reasonableness being judged under professional norms prevailing at the time counsel rendered assistance.<sup>4</sup> Second, the Defendant must show that counsel's performance was prejudicial to his defense.<sup>5</sup>

7. This Court has found that counsel's failure to advise a defendant of the collateral consequence of deportation does not constitute ineffective assistance of counsel. Very similar facts present itself in the case of *State v. Christie*<sup>6</sup>. In that case, this Court addressed whether a defendant was entitled to postconviction relief on the ground that counsel did not inform the defendant of the risk of deportation as a collateral consequence of a guilty plea. As to the first prong of *Strickland*, the Court denied the defendant's postconviction motion stating that "while it may be advisable for counsel to discuss these other collateral consequences [such as

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<sup>3</sup> 466 U.S. 668 (1984).

<sup>4</sup> *Id.* at 687-88.

<sup>5</sup> *Id.* at 687.

<sup>6</sup> 655 A.2d 836 (Del. Super. 1994), *aff'd*, 1994 WL 734468 (Del. Dec. 29, 1994).

deportation] with their clients...it is unreasonable to impose on defense counsel such a constitutional standard.”<sup>7</sup> Furthermore, the Court in *State v. Christie*, also found that Defendant failed the second *Strickland* prong because the Defendant did not indicate in his postconviction that he was “innocent or would have presented any defenses” which may provide a showing of prejudice to the defendant’s defense.<sup>8</sup>

8. Based upon these previous rulings in *Christie*, this Court finds that even if the merits of the Defendant’s claim were addressed, Defendant’s postconviction relief would still be denied.

9. For the reasons stated herein, Defendant’s *Pro Se* Motion for Postconviction Relief is DENIED.

IT IS SO ORDERED.

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

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<sup>7</sup> *Id.* at 841.

<sup>8</sup> *Id.*