

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

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

April 13, 2010

David M. Watson
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: State v. David M. Watson
Defendant ID No. 0603017504 (R-3)
Defendant ID No. 0603014298 (R-3)

Dear Mr. Watson:

Your third Motion for Postconviction Relief, pursuant to Superior Court Criminal Rule 61 ("Rule 61"), was filed on April 8, 2010.

On April 23, 2009, the Court denied your second Motion for Postconviction Relief because it was procedurally barred under Rule 61(i)(1) - time-barred; Rule 61(i)(2) - repetitious; and Rule 61(i)(4) - formerly adjudicated.

In the present Motion, you allege that the procedural bars under Rule 61(i) are not applicable because Superior Court never acquired jurisdiction over you because you were a minor. You argue that Rule 61(i)(5) allows you to pursue your claim of no jurisdiction in Superior Court.

On December 6, 2006, you pled guilty to robbery in the first degree and possession of a firearm during a felony as to Case No. 0603017504. You also pled guilty to two counts of burglary in the third degree, theft of a firearm, and carrying a concealed deadly weapon as to Case No. 0603014298. On December 6, 2006, you were sixteen (16) days away from being eighteen (18) years of age.

The robbery in the first degree and firearms charges came to this Court on May 18, 2006. You were charged as an adult pursuant to 10 *Del. C.* §1010 (a)1. If charged with robbery in the first degree wherein the allegation of the display of a deadly weapon is made, as it was in your case, Superior Court has jurisdiction. Additionally, this Court has jurisdiction when a juvenile is charged

with robbery in the first degree, and was previously or earlier found delinquent as to an offense which would constitute a felony.

The Family Court records evidence an adjudication of delinquency on September 20, 2004, for the offense of burglary, a felony.

Therefore, for the above two reasons, this Court properly had jurisdiction over the robbery and weapon offense. You were indicted on these charges on July 13, 2006.

On August 2, 2006, the burglary, firearm, and weapons charges in Case No. 0603014298 were transferred from Family Court to Superior Court. You were found non-amenable to the Family Court process by order of Judge John E. Henriksen. You were indicted on August 21, 2006.

The Court had proper and legal jurisdiction on both sets of charges. Therefore the Motion based on lack of jurisdiction is denied.

IT IS SO ORDERED.

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

THG:baj

cc: Prothonotary
Department of Justice