

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

STATE OF DELAWARE,)	
)	
Plaintiff,)	
v.)	
)	
GARY L. STUART,)	Cr. ID. No. 0606006590
)	
Defendant.)	
)	

Submitted: November 17, 2015
Decided: December 17, 2015

Upon Motion for Review by Judge Erroneously Sent to Commissioner for Review
DENIED

ORDER

The Court is in possession of Defendant Gary L. Stuart’s “Motion for Review by Judge Erroneously Sent to Commissioner for Review.”

Defendant moves *pro se* and argues: “1. I was denied my Rule 16 evidence by my lawyers after I requested it. 2. My lawyer arraigned me in violation of Rule 10c by pleading under 1st degree murder charge.”

In a letter addressed to Defendant, the Commissioner found:

These issues have been reviewed by the Superior Court (more than once) and by the Delaware Supreme Court. You do not get any more chances to attack your voluntary plea unless you allege some manifest injustice has occurred. Unfortunately, your argument that your

lawyer filed a 10c alleging you were not guilty is insufficient to withstand the serious and heavy burden required by Rule 61(i)(5).

As was explained to you in 2013, your Rule 61 must be summarily dismissed. It is untimely under Rule 61(i)(1); it is something which you should have filed in your first motion which makes it dismissible under Rule 61(i)(2); and this Court has already addressed this matter for you, so it should be dismissed under Rule 61(i)(4).

And, as explained to you in 2013, you waived any challenge to your convictions when you voluntarily pled guilty.¹

The Court holds that the Commissioner's Letter dated September 24, 2015, should be adopted for the reasons set forth therein. The Commissioner's findings are not clearly erroneous, are not contrary to law, and are not an abuse of discretion.²

THEREFORE, after careful and *de novo* review of the record in this action, the Court hereby accepts the Commissioner's Letter in its entirety. Defendant's Motion for Review by Judge Erroneously Sent to Commissioner for Review is hereby **DENIED**.

DEFENDANT IS PROHIBITED FROM FILING ANY FURTHER MOTIONS FOR POSTCONVICTION RELIEF UNLESS THE MOTION IS APPROVED BY THE COURT.

¹ Letter from Commissioner Mark S. Vavala to Defendant Gary L. Stuart, at ¶¶ 2- 4 (Sept. 24 2015).

² Super. Ct. Crim. R. 62(a)(4)(iv).

IT IS SO ORDERED this 17th day of December, 2015.

/s/ Mary M. Johnston _____

The Honorable Mary M. Johnston