

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

STATE OF DELAWARE)	
)	
v.)	I.D. No. 1203010055
)	
DAVID IRVIN WALKER)	
)	
Defendant)	

Submitted: August 20, 2015
Decided: November 12, 2015

Upon Defendant's Motion for Postconviction Relief.
DENIED.

ORDER

This 12th day of November 2015, upon consideration of Defendant's motion for postconviction relief, it appears to the Court that:

1. On September 18, 2012, David Irvin Walker ("Defendant") pled guilty to Theft from a Senior Citizen (value exceeding \$1,500). Mr. Walker was sentenced on December 14, 2012.

2. On August 7, 2015, Defendant filed the instant motion for postconviction relief from his conviction for Theft from a Senior Citizen (value exceeding \$15,000), pursuant to Superior Court Criminal Rule 61. Defendant claimed: (1) that his counsel was ineffective in representing him; (2) that he was

coerced into pleading guilty; and (3) that Delaware lacked jurisdiction over the underlying offense.

3. For the reasons discussed below, the claims raised in Defendant's motion are procedurally barred and without merit.

4. As to the procedural issue, the Court must first determine whether any of the bars set forth in Superior Court Criminal Rule 61(i) exist.¹ The court will not consider the merits of a claim if any of the procedural bars exist.² Rule 61(i) requires that a motion for postconviction relief must be filed within one year of a final order of conviction.³ The Rule also states that any basis for relief that was not asserted in the proceedings leading to the judgment of conviction is barred unless the movant can show cause for relief and prejudice to his rights.⁴

5. Defendant's conviction became final on January 13, 2013. His motion for postconviction relief was not filed until August 7, 2015, more than two years after his conviction became final. With the exception of Defendant's lack of

¹ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

² *See Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991)

³ Del. Super. Ct. Crim. R. 61(i)(1). A judgment of conviction becomes final thirty (30) days after sentencing if the defendant does not file a direct appeal. Del. Super. Ct. Crim. R. 61(m)(1).

⁴ Del. Super. Ct. Crim. R. 61(i)(3).

jurisdiction claim, all other claims raised by Defendant are time barred because his motion was not timely filed.⁵

6. In his remaining argument, Defendant contends that Delaware did not have jurisdiction to convict him on the underlying charge because the check in question was deposited in Florida. But the Defendant obtained the check when he was in Delaware. The jurisdiction of Delaware courts is codified at 11 *Del. C.* §§ 204 and 2736.⁶ The Delaware Supreme Court has interpreted these sections as “provid[ing] jurisdiction in Delaware whenever conduct which is part of a multi-element crime is committed in Delaware, or when a criminal offense begins in Delaware even though it is completed in another state.”⁷

7. A theft is committed when one (1) takes, exercises control over or obtains (2) property of another person (3) intending to (4a) deprive him of it or

⁵ Del. Super. Ct. Crim. R. 61(i)(1) (“A motion for postconviction relief may not be filed more than one year after the judgment of conviction is final”); Del. Super. Ct. Crim. R. 61(i)(5) (“the bars to relief . . . shall not apply . . . to a claim that the court lacked jurisdiction. . . .”).

⁶ Section 204 provides in pertinent part:

(a) Except as otherwise provided in this section a person may be convicted under the law of this State of an offense committed by the person’s own conduct . . . if:

(1) Either the conduct or the result which is an element of the offense occurs within Delaware;

Section 2736 provides:

If any criminal offense is begun in this State and completed elsewhere, it shall be deemed to have been committed in this State, and may be dealt with, inquired of, tried, determined and punished in this State in the same manner as if it had been actually and wholly committed in this State.

⁷ *Bright v. State*, 490 A.2d 564, 567 (Del. 1985).

(4b) appropriate it.⁸ At least one element of the underlying theft occurred in Delaware: Defendant took a check book that did not belong to him from the victim's home in Delaware. Thus, the Superior Court had jurisdiction to handle the underlying criminal charge.

8. For the reasons set forth above, Defendant's motion is **DENIED**.

IT IS SO ORDERED.

/s/ Charles E. Butler
Judge Charles E. Butler

⁸ *State v. Shahan*, 335 A.2d 277, 280 (Del. 1975).