

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY**

<b>STATE OF DELAWARE</b>	)	
	)	<b>RK13-03-0939-01</b>
v. _____	)	<b>PFBPP PABPP</b>
	)	<b>RK13-03-0944-01, RK13-03-0979-01</b>
<b>DEVON L. COLEMAN,</b>	)	<b>Police Signal (F)</b>
<b>(I.D. No.'s 1303004663 &amp;</b>	)	<b>RK13-03-0945-01</b>
<b>1303012706)</b>	)	<b>Conspiracy 2<sup>nd</sup> Degree</b>
	)	<b>RK13-03-0980-01</b>
<b>Defendant.</b>	)	<b>Reckless Endangering 2<sup>nd</sup> Degree</b>

*Submitted: December 23, 2015*

*Decided: December 23, 2015*

*Upon Consideration of Defendant's Motion For Postconviction Relief  
Pursuant to Superior Court Criminal Rule 61*

**DENIED**

Jason C. Cohee, Esq., Deputy Attorney General, Department of Justice, for the State of Delaware.

Devin L. Coleman, *Pro se*.

Young, J.

**ORDER**

Upon consideration of the Defendant's Motion for Postconviction Relief, the Commissioner's Report and Recommendation and the record in this case, it appears that:

1. The defendant, Devin L. Coleman ("Coleman"), pled guilty on June 17, 2014 to one count of Felony Disregarding a Police Officer's Signal, 21 *Del. C.* § 4103; one count of Reckless Endangering in the Second Degree, 11 *Del. C.* § 603;<sup>1</sup> one count of Possession of Firearm or Ammunition by a Person Prohibited,<sup>2</sup> 11 *Del. C.* § 1448; one count of Conspiracy in the Second Degree, 11 *Del. C.* § 512; and one additional count of Felony Disregarding a Police Officer's Signal.<sup>3</sup> In exchange for Coleman's plea, the State entered a *nolle prosequis* on Coleman's remaining charges. The State recommended a total of fifteen years incarceration suspended after serving eight years for probation. The Court sentenced Coleman according to the recommended sentence.

2. Coleman filed, *pro se*, an appeal to the state Supreme Court on August 12, 2014 which was dismissed by the Court as untimely.<sup>4</sup> Next, on September 2, 2014 Coleman filed in this Court a Motion for Correction of a Sentence Imposed in an

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<sup>1</sup> These two charges are in case ID No. 1303004663 and occurred in Smyrna, Delaware on March 6, 2013.

<sup>2</sup> Coleman is a person prohibited as a result of prior felony convictions.

<sup>3</sup> These three charges are from case ID No. 1303012706 and occurred in Dover, Delaware on March 15, 2013.

<sup>4</sup> *Coleman v. State*, Del. Supr. No. 434, 2014, Ridgely, J. (Sept. 16, 2014).

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Illegal Manner under Superior Court Criminal Rule 35(A). He filed a second motion under 35(A) for Correction of an Illegal Sentence on September 11, 2014. He filed a third such motion on September 12, 2014. All motions were denied by the Court on December 18, 2014.<sup>5</sup> Coleman initially appealed to the Supreme Court and subsequently withdrew his appeal.<sup>6</sup>

3. While these motions were pending, Coleman filed, *pro se*, an initial Motion for Postconviction Relief that “replaced” the motion filed on September 8, 2014. In his motion the Defendant raises the following grounds for relief: (1) involuntary plea agreement; (2) denial of right to self[-] representation; and (3) structural error.

4. The Court referred this motion to Superior Court Commissioner Andrea M. Freud pursuant to 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 62 for proposed findings of facts and conclusions of law.

5. The Commissioner has filed a Report and Recommendation concluding that the Motion for Postconviction Relief should be *denied*, because it is procedurally barred by Rule 61(i)(3) for failure to demonstrate cause and prejudice and as completely meritless.

6. On December 2, 2015, Defendant filed a letter with this Court requesting to appeal the Commissioner’s Report and Recommendation.

7. On December 23, 2015, a letter was sent to Defendant notifying him an appeal should have been filed in Superior Court on or before October 20, 2015.

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<sup>5</sup> *State v. Coleman*, ID No. 1303012706, Young, J. (Dec. 18, 2014)(ORDER).

<sup>6</sup> *Coleman v. State*, Del. Supr. No. 716, 2014 (Jan. 28, 2015).

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**NOW, THEREFORE**, after *de novo* review of the record in this action, and for reasons stated in the Commissioner's Report and Recommendation dated September 30, 2015,

**IT IS ORDERED** that the Commissioner's Report and Recommendation is adopted by the Court, and the Defendant's Motion for Postconviction Relief is **DENIED**.

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/s/ Robert B. Young  
J.

RBV/lmc

oc: Prothonotary

cc: The Honorable Andrea M. Freud

Jason C. Cohee, Esq.

Devin L. Coleman, *Pro Se*

File