

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)
)
 v.) I.D. No. 0608025757
)
 LEROY COOK, SR.,)
)
 Defendant.)

Submitted: May 10, 2017
Decided: August 4, 2017

Upon Defendant’s Motion for Relief from Judgment: DENIED

This 4th day of August, 2017, upon consideration of the Motion for Relief from Judgment pursuant to Superior Court Civil Rule 60(b)(4) and 60(b)(6) (the “Motion”) filed by Leroy Cook, Sr., the record in this matter, and the Superior Court rules, it appears to the Court that:

1. Cook pleaded guilty on January 8, 2008 to one count of Rape Second Degree. Cook did not file an appeal, but has since filed six motions for postconviction relief as well as several motions for sentence modification. All his motions for postconviction relief were denied by this Court.¹ Those orders were affirmed on appeal to the Delaware Supreme Court.²

2. Cook’s present Motion seeks relief from judgment pursuant to Rule 60(b) of the Superior Court Rules of Civil Procedure (“Rule 60”). Cook’s reliance on Rule 60 is misplaced. The Delaware Supreme Court has held that Rule 60

¹ See D.I. 67, 82, 90, 95, 100, 108.

² See D.I. 76, 85, 93, 99, 103, 111.

cannot be used to attack collaterally a criminal conviction, and that Superior Court Criminal Rule 61 “provides the exclusive remedy for setting aside a final judgment of conviction.”³

3. In different circumstances, this Court conceivably could exercise its discretion and treat Cook’s Motion as a motion for postconviction relief under Superior Court Criminal Rule 61. Here, however, Cook previously has filed six such postconviction motions, all of which have been denied. The arguments he raises here relating to his indictment already have been considered and rejected by this Court in previous postconviction motions.⁴ Under those circumstances, there is no utility to treating Cook’s Motion as a seventh postconviction motion, as it would be subject to summary dismissal.

For the foregoing reasons, Cook’s Motion for Relief from Judgment is **DENIED. IT IS SO ORDERED.**


Abigail M. LeGrow, Judge

Original to Prothonotary

cc: Renee L. Hrivnak, Deputy Attorney General
Leroy Cook, Sr., *pro se* (SBI No. 00254825)

³ *Jackson v. State*, 2007 WL 2231072, at * 1 (Del. Aug. 2, 2007); *see also Allen v. State*, 2004 WL 120527, at *1 (Del. Jan. 20, 2004).

⁴ *See* D.I. 51, 67, 105, 108.