

**THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE, )  
 )  
 v. )  
 ) I.D. No. 75060892DI  
 STERLING HOBBS, a/k/a )  
 AMIR FATIR, )  
 )  
 Defendant. )

Date Submitted: April 9, 2019  
Date Decided: April 23, 2019

*Upon Defendant's Motion for Relief from Judgment or Order, Treated as a Motion  
for Postconviction Relief*

**SUMMARILY DISMISSED.**

**ORDER**

Sterling Hobbs A/K/A Amir Fatir, *pro se*, Smyrna, Delaware, Defendant

Albert J. Roop, V, Esquire, State Prosecutor, Department of Justice, 820 North French Street, Wilmington, Delaware 19801, attorney for State of Delaware.

**WHARTON, J.**

This 23rd day of April, 2019, upon consideration of the Motion for Relief from Judgment or Order, treated as a Motion for Postconviction Relief,<sup>1</sup> filed by Sterling Hobbs a/k/a Amir Fatir (“Defendant”), and the record in this case, it appears to the Court that:

1. The Defendant moves for “Relief from Judgment or Order.” He seeks relief under Superior Court Civil Rule 60(b) “from all judgments and orders against him for Rule 35 and Rule 61 motions and all civil actions filed including any and all rulings where any Delaware court ruled that anything he filed was either frivolous or malicious.”<sup>2</sup> He also seeks to be relieved of “any time bars for filing or re-filing in his cases.”<sup>3</sup> Although the motion contains more detail, the gravamen of the Defendant’s complaint is that the Departments of Justice and Correction fraudulently held out unqualified individuals as paralegals and permitted those individuals to engage in the unauthorized practice of law.<sup>4</sup> The defendant claims he relied on those individuals’ legal advice, and, as a result, suffered adverse rulings in his extensive litigation of this criminal case and other civil cases.

2. As an initial proposition, and despite the impressive audacity of the Defendant’s prayer for relief, the fact is that Superior Court Criminal Rule 61 is the exclusive remedy for inmates seeking to set aside a judgment of conviction on any

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<sup>1</sup> D.I. 280.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 6.

<sup>4</sup> *Id.* at 1-6.

ground that is a sufficient factual and legal basis for a collateral attack on a criminal conviction.<sup>5</sup> Accordingly, to the extent this Motion seeks to set aside the Defendant's convictions, the Court treats it as a motion under Rule 61. Since the Superior Court Criminal Rules do provide for a procedure for addressing the Defendant's claims for relief from his judgment of conviction, Superior Court Civil Rule 60 is not made applicable by Criminal Rule 57(d). Hence, Civil Rule 60 cannot serve as a vehicle for obtaining relief in the Defendant's criminal case.

3. Before addressing the merits of a defendant's motion for postconviction relief, the Court must first apply the procedural bars of Superior Court Criminal Rule 61(i).<sup>6</sup> If a procedural bar exists, then the Court will not consider the merits of the postconviction claim.<sup>7</sup>

4. Under Delaware Superior Court Rules of Criminal Procedure, a motion for post-conviction relief can be barred for time limitations, successive motions, procedural default, or former adjudication.<sup>8</sup> A motion exceeds time limitations if it is filed more than one year after the conviction becomes final, or, if it asserts a retroactively applicable right that is newly recognized after the judgment of conviction is final, more than one year after the right was first recognized by the

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<sup>5</sup> Super. Ct. Crim. R. 61(a)(1) and (2).

<sup>6</sup> *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

<sup>7</sup> *Id.*

<sup>8</sup> Super. Ct. Crim. R, 61(i).

Supreme Court of Delaware or the United States Supreme Court.<sup>9</sup> A second or subsequent motion is considered successive and therefore barred and subject to summary dismissal unless the movant was convicted after a trial and “pleads with particularity that new evidence exists that the movant is actually innocent” or “pleads with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant’s case and renders the conviction ... invalid.”<sup>10</sup> Grounds for relief “not asserted in the proceedings leading to the judgment of conviction” are barred as procedurally defaulted unless the movant can show “cause for relief” and “prejudice from [the] violation.”<sup>11</sup> Grounds for relief formerly adjudicated in the case, including “proceedings leading to the judgment of conviction, in an appeal, in a post-conviction proceeding, or in a federal habeas corpus hearing” are barred.<sup>12</sup>

5. The bars to relief do not apply either to a claim that the court lacked jurisdiction or to a claim that pleads with particularity that new evidence exists that creates a strong inference of actual innocence,<sup>13</sup> or that a new retroactively applied

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<sup>9</sup> Super. Ct. Crim. R. 61(i)(1).

<sup>10</sup> Super. Ct. Crim. R. 61(i)(2); Super. Ct. Crim. R. 61(d)(2).

<sup>11</sup> Super. Ct. Crim. R. 61(i)(3).

<sup>12</sup> Super. Ct. Crim. R. 61(i)(4).

<sup>13</sup> Super. Ct. Crim. R. 61(i)(5).

rule of constitutional law renders the conviction invalid.<sup>14</sup> The bars remain applicable here because the Defendant has not claimed that the Court lacked jurisdiction, nor has he met the pleading requirements of Rule 61(d)(2)(i) or (d)(2)(ii).

6. This Motion, at least the Defendant's sixth and likely his seventh, is barred for multiple reasons. It is untimely, having been filed more than a year (actually more than three decades) after the Defendant's judgment of conviction became final. It is a successive motion that does not satisfy the pleading requirements of Rules 61(d)(2)(i) or (d)(2)(ii). It is subject to procedural default because it raises grounds for relief not previously asserted without showing cause for relief from the procedural default and prejudice from a violation of his rights. In particular, it does not address specific adverse rulings in any of his criminal filings where he would have been successful had he not followed the advice he claims he was provided by any particular "paralegal."

7. Summary dismissal is appropriate if it plainly appears from the motion for postconviction relief and the record of prior proceedings in the case that the movant is not entitled to relief.<sup>15</sup> It is plain from the Motion and the record in this case that the Defendant is not entitled to relief.

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<sup>14</sup> Super. Ct. Crim. R. 61(d)(2)(i) and (ii).

<sup>15</sup> Super. Ct. Crim. R. 61(d)(5).

8. To the extent the Defendant seeks comprehensive relief in his civil cases, the Court will not entertain the Motion since it was not filed specifically in connection with any particular civil case.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the Defendant's Motion for Relief from Judgment or Order is **DENIED**.

A handwritten signature in black ink, appearing to read 'F. Wharton', written over a horizontal line.

Ferris W. Wharton, Judge