

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

STATE OF DELAWARE)	
)	
)	
)	
v.)	ID# 30304768
)	
)	
)	
DAVID L. WATSON)	

Date Submitted: May 1, 2002
Date Decided: July 19, 2002

ORDER

UPON DEFENDANT’S MOTION FOR POSTCONVICTION RELIEF

DENIED

On this 19th day of July 2002, upon consideration of the Motion for Postconviction Relief filed by the Defendant and the record in this case, it appears to the Court that:

- (1) On December 28, 1993, Defendant plead guilty to one count of Unlawful Sexual Intercourse in the First Degree. On February 18, 1993, Defendant was sentenced to twenty-five (25) years at Level V, followed by ten (10) years probation at Level III. Defendant did not file a direct appeal, thus his conviction became final on March 18,

1993, thirty (30) days after the appeal period expired.¹ Defendant previously filed a Motion for Postconviction Relief that this Court denied on May 26, 1999 as time barred and the Delaware Supreme Court subsequently affirmed.²

(2) In evaluating a postconviction relief motion, the Court must first ascertain if any procedural bars of Superior Court Criminal Rule 61(i) apply to the case.³ If a procedural bar is found to exist, the Court should refrain from considering the merits of the individual claims.⁴ Summary dismissal is provided for pursuant to Rule 61(d)(4) "[i]f 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, the judge may enter an order for its summary dismissal ..."

(3) Pursuant to Superior Court Criminal Rule 61(i)(1), a motion for post conviction relief "may not be filed more than three years after the judgment of conviction is final ..."⁵ This three year limitation is jurisdictional in nature and may not be enlarged.⁶

¹ See *Murphy v. State*, 720 A.2d 559 (Del. 1998).

² See *State v. Watson*, Cr. A. No. 93-07-0686, Alford, J. (Del. Super. May 26, 1999) (ORDER), *aff'd*, No. 274, 1999, Walsh, J. (Del. Oct. 28, 1999) (ORDER).

³ See *Younger v. State*, 580 A.2d 552, 554 (Del. 1990); Super. Ct. Civ. R. 61(i).

⁴ See *Id.*

⁵ Superior Court Cr. R. 61(i)(1).

⁶ See *Robinson v. State*, 584 A.2d 1203, 1204 (Del. 1990).

This motion was filed more than nine years after the judgment of conviction became final. Thus, Defendant's motion for postconviction relief is time-barred pursuant to Rule 61(i)(1).

(4) The Court further finds that the Rule 61(i)(5) exception to the procedural bar does not apply here. Pursuant to Superior Court Criminal Rule 61(i)(5), the procedural bars of Rule 61(i)(1) do not apply "to a claim that the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction."⁷

(5) Defendant contends that the Rule 61(i)(5) exceptions benefit him, as this Court lacked jurisdiction to accept his guilty plea. Defendant contends that this charge should have proceeded in Family Court. Defendant pled guilty to one count of First Degree Unlawful Sexual Intercourse, 11 *Del. C.* § 775. The Defendant was indicted by the Grand Jury on six counts of sexual misconduct, thus the Superior Court had jurisdiction over these charges. Consequently, I find that these claims are meritless and deserve summary disposition.

⁷ S. Ct. Cr. R. 61(i)(5).

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For the aforementioned reasons, the Court finds it is plain from the Motion for Postconviction Relief and the record in this case that Defendant is not entitled to relief, the motion is hereby **SUMMARILY DISMISSED.**

IT IS SO ORDERED.

ALFORD, J.

ORIGINAL: PROTHONOTARY'S OFFICE - CRIMINAL DIV.