

various levels of probation. This is Defendant's first Motion for Postconviction Relief in which he asserts three grounds for postconviction relief: (i) ineffective assistance of counsel; (ii) suppression of favorable evidence; and (iii) failure to be informed of Miranda rights.

(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.¹ If a procedural bar is found to exist, the Court should refrain from considering the merits of the individual claims.²

(3) 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 ..." This Court will not address claims for postconviction relief that are conclusory and unsubstantiated.³ Pursuant to Rule 61(a), a motion for postconviction relief must be based on "a sufficient factual and legal basis." In addition, pursuant to Rule 61(b)(2), "[t]he motion shall specify all the grounds for relief which are available to

¹ See *Younger v. State*, Del. Supr., 580 A.2d 552, 554 (1990); Super. Ct. Civ. R. 61(i).

² See *Id.*

³ See *Younger.*, 580 A.2d at 555; *State v. Conlow*, Del. Super., Cr. A. No. IN78-09-0985R1, Herlihy, J. (Oct. 5, 1990) at 5; *State v. Gallo*, Del. Super., Cr. A. No. IN87-03-0589-0594, Gebelein, J. (Sept. 2, 1988) at 10.

movant ..., and shall be set forth in summary from the facts supporting each of the grounds thus specified." Here, Defendant has failed to set forth his claims with specificity and supporting facts.

(4) Defendant pled guilty to these charges, in doing so he signified that he understood the constitutional rights he was relinquishing by his plea. When Defendant knowingly and voluntarily entered into his plea, he waived his right to assert claims of suppression of favorable evidence and failure to be informed of *Miranda* rights.⁴ A defendant is bound by the statements he made on the signed Plea Form and during the in court colloquy unless he proves otherwise by clear and convincing evidence.⁵ Consequently, I find that these claims are meritless and deserve summary disposition.

(5) Moreover, to prevail on his ineffective assistance of counsel claims, Defendant must allege by clear facts the requirements of the *Strickland* test.⁶ Under *Strickland*, Defendant must show that alleged counsel's course of conduct "fell below an objective standard of reasonableness" and that such actions were prejudicial.⁷ It is settled

⁴ *Hickman v. State*, Del. Supr., No. 298, 1994, Veasey, C.J. (Oct. 11, 1994) (ORDER) at 3-4.

⁵ *Hickman*, at 3-4; *Smith v. State*, Del. Supr., No. 465, 1989, Walsh, J. (Jan. 4, 1990) (ORDER).

⁶ *Mapp v. State*, Del. Supr., No. 003, 1994, Holland, J. (Mar. 17, 1994) (ORDER).

⁷ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

Delaware law that allegations that are entirely conclusory are legally insufficient to prove ineffective assistance of counsel.⁸ Thus, Defendant must be able to show that defense counsel's error was objectively unreasonable and caused prejudice to Defendant's trial.⁹ Here, Defendant has failed to satisfy the *Strickland* requirement of actual prejudice as he does not substantiate his claims. Defendant merely makes conclusory statements that his attorney failed to contact him and failed to subpoena credible witnesses for his defense. Defendant does not support these allegations. Further, he signified in the Plea Form that he was satisfied with his attorney's representation of him.

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 **DENIED**.

IT IS SO ORDERED.

ALFORD, J.

ORIGINAL: PROTHONOTARY'S OFFICE - CRIMINAL DIV.

⁸ *State v. Brittingham*, Del. Super., Cr. A. No. IN91-01-1009-R1, Barron, J. (Dec. 29, 1994).

⁹ *See Strickland*, 466 U.S. at 694.