

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

STATE OF DELAWARE	)	
	)	
v.	)	ID#: 0006002195
	)	
LEROY RYONS, aka,	)	
LUTHER QUALLS,	)	
	)	
Defendant.	)	

Submitted: March 5, 2002  
Decided: March 11, 2002

**Final Order Upon Defendant's  
Motion For Postconviction Relief - - *DENIED***

After the court received Defendant's January 14, 2002 motion for postconviction relief based on ineffective assistance of counsel and other grounds, the court issued an order on January 30, 2002. The order summarily dismissed the claims that Ryons should have raised during his direct appeal. In summary, those claims involved alleged procedural errors during Ryons' jury trial.

The court then exercised its authority under Superior Court Criminal Rule 61(g)(2) and required Ryons' trial counsel to submit an affidavit addressing Ryons' ineffective assistance claims. In response, by letter dated February 28,

2002, trial counsel submitted an affidavit generally denying Ryons' claims. The affidavit relied on the transcript of the pretrial hearing that the court held after Ryons complained about ineffective assistance of counsel on the morning of trial.

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In order to make a claim of ineffective assistance of counsel, Ryons must meet the two, firmly established tests announced in *Strickland v. Washington*.<sup>1</sup> First, Ryons must demonstrate that his trial counsel's efforts fell below an objective standard of reasonable practice for defense attorneys in this area. Second, Ryons must establish that his trial counsel's alleged, substandard performance was prejudicial. Ryons has failed to pass either of *Strickland's* tests.

Basically, Ryons' motion for postconviction relief presents an assortment of mistakes or omissions for which his trial counsel allegedly is responsible. Ryons does not attempt to establish that any of his trial counsel's alleged shortcomings fell below an objective standard for representation. Moreover, Ryons does not attempt to demonstrate actual prejudice.

For the most part, Ryons complains that his trial counsel was unprepared. In particular, Ryons alleges that his trial counsel did not subpoena

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<sup>1</sup> *Strickland v. Washington*, 466 U.S. 668 (1984).

defense witnesses, trial counsel otherwise failed to communicate with Ryons and he failed to pursue Ryons' defense.

For example, Ryons alleges:

The defendant was shut-down by the Public defender. Defendant knew that the Public defender had not pursue[d] any type of defense on the defendant['s] behalf.

Beyond the fact that Ryons' allegation is conclusory, Ryons never describes a defense that a more effective attorney would have pursued, much less a defense that would have been persuasive.

The prosecution against Ryons was not a "Who done it?" The incident involved an altercation in a bar, Kelly's Logan House. According to the trial testimony, Ryons was drinking and behaving badly. While her escort was otherwise occupied, Ryons was aggressively hitting on a bar patron. When her escort reappeared, Ryons took a swing at the man and slashed his sweater. Immediately after the incident, Ryons left the bar and stepped into the arms of a police officer who was using a nearby ATM machine.

The defense that made the most sense was that Ryons' behavior in the bar did not amount to Aggravated Menacing and Possession of a Deadly Weapon

During the Commission of a Felony. That is the defense which trial counsel attempted to pursue.

Meanwhile, according to Ryons' trial counsel, he spoke with Ryons five times and Ryons only gave him the name of one potential witness, a member of the band that was playing at the bar. Ryons testified that he was in the bar as an assistant to the band. According to Ryons' trial counsel, he was unsuccessful in contacting the band member by telephone and letter.

\* \* \* \* \*

The court sees no basis to find that Ryons' trial counsel fell below an objective standard, nor that a failure on Ryons' trial counsel's part resulted in prejudice to Ryons. The court recalls that the State's witnesses seemed clear and credible and the theory of the prosecution made sense. By contrast, even without Ryons having been impeached by his prior conviction, Ryons' testimony seemed far-fetched.

In closing, the court further observes that Ryons did not make his trial counsel's work any easier. On two occasions, according to Ryons' trial counsel, Ryons "walked out on [Ryons' trial counsel] during the interview and refused to

discuss further his case.” Moreover, Ryons was not truthful with his trial counsel, or with the court. Unbeknownst to the court, the State and Ryons’ trial counsel, Ryons was prosecuted under an alias. Ryons’ true identity, Luther Leon Qualls, Jr., was unknown until a presentence investigator ferreted out the truth. Meanwhile, Ryons’ trial counsel obtained a relatively generous plea offer, especially in light of Ryons’ true criminal history, and he also convinced the prosecutor and the court to pare down the indictment from seven counts to three.

For the reasons presented above and for the reasons discussed in the court’s January 30, 2002 order, under Superior Court Criminal Rule 61(d)(4), Ryons’ January 14, 2002 Motion for Postconviction Relief is summarily **DISMISSED.**

**IT IS SO ORDERED.**

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Judge

cc: Prothonotary

pc: John S. Edinger, Esquire  
Donald R. Roberts, Deputy Attorney General  
Leroy Ryons