

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

**IN AND FOR KENT COUNTY**

**STATE OF DELAWARE,**

5.

**JOSEPH L. COLBERT,**

ID No. 9901016452

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**IK99-01-0483-R1**

**O R D E R**

On this 21<sup>st</sup> day of May, 2001, upon consideration of the Defendant's Motion for Postconviction Relief, the Commissioner's Report and Recommendation, and the record in this case, it appears that:

(1) The defendant, Joseph L. Colbert ("Colbert"), pled guilty on July 1, 1999 to one count of Maintaining a Vehicle for Keeping Controlled Substances, 16 *Del. C.* § 4755(a)(5). The Court sentenced Colbert according to the Rule 11(e)(1)(c) plea agreement to three years at Level V suspended for probation.

(2) Less than six months after being sentenced, Colbert was brought before the Court on a violation of probation as a result of an Operation Safe Streets search of his home and other violations. After hearing the testimony of Colbert's probation officer and Colbert concerning the allegations, the Court found Colbert to be in violation of his probation and sentenced him to three years at Level V, suspended after successful completion of the Key Program.

(3) Colbert did not appeal his conviction or sentence on either the underlying charge or the violation of probation to the Delaware Supreme Court. Instead, he filed the pending motion for postconviction relief pursuant to Superior Court Criminal Rule

*State v. Joseph L. Colbert*  
ID No. 9901016452  
May 21, 2001

61.

(4) The matter was referred to the Court Commissioner for findings of fact and recommendation pursuant to 10 *Del. C.* § 512(b) and Superior Court Civil Rule 132. The Commissioner has filed a Report and Recommendation recommending that the Court deny Colbert's motion for postconviction relief. No objections to the Report have been filed.

**NOW, THEREFORE**, after careful and *de novo* review of the record in this action, and for the reasons stated in the Commissioner's Report and Recommendation dated May 2, 2001,

**IT IS ORDERED** that the thoughtful and well-reasoned Commissioner's Report and Recommendation is adopted by the Court and Colbert's Motion for Postconviction Relief is *denied*.

---

Judge

dmh

oc: Prothonotary  
xc: Hon. Andrea M. Freud  
John R. Garey, Esquire  
Paul S. Swierzbinski, Esquire  
Mr. Joseph L. Colbert  
Order Distribution (w/Report & Recommendation)  
File