

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. Henley Graves
Resident Judge

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947
(302) 856-5257

October 25, 2004

N440
George A. Jackson
Sussex Correctional Institution
P. O. Box 500
Georgetown, DE 19947

RE: Defendant ID No. 91S03837DI

Dear Mr. Jackson:

The Court is in receipt of your Motion for Postconviction Relief. It is denied as it is procedurally barred.

As you noted in your petition, you were convicted on April 19, 1992 and sentenced on July 16, 1992 on the charges of attempted murder in the 1st degree, robbery in the 1st degree and conspiracy.

On direct appeal, the Supreme Court remanded your case to Superior Court for the Court to consider the Rule 61 ineffective assistance of counsel claims so that all issues could be bundled into one direct appeal. This Court considered and denied your claims of ineffective assistance of counsel. You report that the Supreme Court affirmed your conviction on July 1, 1994.

Therefore, visiting claims of ineffective assistance of counsel would be barred under Rule 61(i)(4) in that this issue has been formerly adjudicated. Additionally, it has been over ten (10) years since the Supreme Court affirmed conviction and it is barred under Rule 61(i)(1), which requires postconviction applications to be filed within three (3) years of a Supreme Court decision affirming your conviction.

You attempt to avoid the aforementioned procedural bars by claiming that there has been a miscarriage of justice or that revisiting these claims is required for purposes of fundamental fairness.

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The escape valve in the application of the procedural bars under Rule 61(i)(5) is to be applied narrowly. This provision should only be considered when there is a "colorable claim" that the conviction was obtained under circumstances that a constitutional violation undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to that conviction. Your general claim of ineffective assistance of counsel does not fall into this category.

Defendant's Motion for Postconviction Relief is procedurally barred and is denied.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj
cc: Prothonotary
Department of Justice