

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

T. HENLEY GRAVES  
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE  
ONE THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947

June 21, 2006

N440 - State Mail  
Mark A. Guess

Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**RE: Defendant ID No. 0107018161(R-2)**

Dear Mr. Guess:

On June 14, 2006, this Court received your second Motion for Postconviction Relief. It is denied as it is procedurally barred.

Having been convicted of burglary and related charges, you were sentenced to a period of ten (10) years incarceration, followed by probation. This was affirmed by the Delaware Supreme Court. *Guess v. State*, 2011 WL 60491 (Del. Supr.). Last year, you filed a Motion for Postconviction Relief which was denied in this Court. The Supreme Court affirmed this Court's ruling. *Guess v. State*, 880 A.2d 1047 (Table) (Del. 2005). In your first Motion for Postconviction Relief, you complained about evidentiary matters as well as ineffective assistance of counsel.

In the present Motion for Postconviction Relief, you allege ineffective assistance of counsel, you complain that the jury pool only had four black members out of a possible 40 jurors, and a third claim which is difficult to understand but appears to complain about your attorney's performance on appeal.

Claims of ineffective assistance of counsel have been previously raised and adjudicated. Therefore, it is dismissed pursuant to Rule 61(i)(4). It is also barred under Rule 61(i)(2) as it is a repetitive motion.

For the reasons aforementioned, your complaint concerning the appellate matters and desire to file a supplemental brief is procedurally barred.

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Finally, your complaint concerning the composition of the jury is procedurally barred under Rule 61(i)(2) as it is a repetitive motion and it is barred also under Rule 61(i)(3) as you have not established cause for not raising this matter on your direct appeal or prejudice. Simply complaining that your attorney did not pursue the issue is insufficient to avoid this procedural bar. It would have been necessary to establish your attorney was ineffective, and you have not done so.

Defendant's second Motion for Postconviction Relief is denied and dismissed.

**IT IS SO ORDERED.**

Yours very truly,

T. Henley Graves

THG:baj  
cc: Prothonotary