

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

STATE OF DELAWARE,            )  
  )  
  )    ID# 93004839  
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DERRIS S. GIBSON,            )  
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**ORDER**

On this 25 day of October, 2011, it appears to the Court that:

1. Defendant, Derris S. Gibson (“Defendant”) has filed multiple requests, in various forms, for Postconviction Relief.
2. In July 1993, a jury trial was held in New Castle County, Superior Court and Gibson was found guilty of Attempted Murder in the First Degree, Robbery First Degree, two counts of Possession of a Deadly Weapon During the Commission of a Felony, and Criminal Impersonation. On July 16, 1993, Gibson was sentenced to life plus 35 years in prison.
3. The latest request is in a Motion for Expenditure of Funds filed August 11, 2011. There is also a Motion for the Appointment of Counsel filed June 10,

2010. It is unclear whether this Court ruled on the latter motion, so it will address that motion as well.

4. In April 2005, this Court considered a Motion for Postconviction Relief based upon very similar facts to the ones presented in the current pending motions. The Motion was denied.<sup>1</sup>
5. A similar motion was denied by this Court in June 2004,<sup>2</sup> and affirmed by the Delaware Supreme Court in January 2005.<sup>3</sup>
6. The Defendant has asked the Court to consider requests that would lead to a time-barred motion for Postconviction relief.<sup>4</sup> In addition to being time-barred, they are also repetitious, in that the goal they seek has already been litigated. Thus, the issues are not reviewable by this Court.
7. Again, the Court concludes that Defendant has failed to present evidence that would support an exception to the procedural bars of Superior Court Criminal Rule 61(i)(1).<sup>5</sup>

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<sup>1</sup> *State v. Gibson*, Del. Super., ID No. 93004839, Scott. J. (Apr. 5, 2005) (Mem. ORDER).

<sup>2</sup> *State v. Gibson*, 2004 WL 1588325 (Del. Super. Ct. June 29, 2004).

<sup>3</sup> *Gibson v. State*, 867 A.2d 901 (Del. 2005).

<sup>4</sup> At the time of Defendant's case, Super. Ct. Crim. R. 61(i)(1), provided that the motion must be filed within three years of a final order of conviction. The three-year limit in this case began running June 9, 2000 when the Delaware Supreme Court affirmed the ruling of the Superior Court and, therefore, expired June 9, 2003.

<sup>5</sup> Pursuant to Super. Ct. Crim. R. 61(i)(5), the procedural bars set forth in Super. Ct. Crim. R. 61(i), "shall not apply to a claim that the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction."

8. The Motion for Expenditure of Funds and Appointment of Counsel are  
**DENIED.**

**IT IS SO ORDERED.**

/S/CALVIN L. SCOTT  
Judge Calvin L. Scott, Jr.