

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)

Plaintiff,)

v.)

Cr. ID. No. 82002234DI

BRUCE J. CARR,)

Defendant.)

Submitted: September 11, 2017

Decided: September 26, 2017

**COMMISSIONER'S REPORT AND RECOMMENDATION
THAT DEFENDANT'S MOTION FOR POSTCONVICTION
RELIEF SHOULD BE SUMMARILY DISMISSED**

Bruce J. Carr, James T. Vaughn Correctional Center, 1181 Paddock Road,
Smyrna, DE, *pro se*

MAYER, Commissioner

This 26th day of September, 2017, upon consideration of Defendant's Motion for Postconviction Relief, and the record in this matter, the following is my Report and Recommendation.

DEFENDANT'S MOTION FOR POSTCONVICTION RELIEF

Bruce J. Carr, Defendant, was convicted after a jury trial in June of 1982 and subsequently sentenced to six consecutive life terms, plus forty years. On direct appeal, the Delaware Supreme Court affirmed the conviction. On September 11, 2017, Defendant filed a *pro se* Motion for Postconviction Relief (the "Motion").¹ Defendant's Motion argues one claim of "Ineffective assistance of counsel...Trial errors, sentencing errors." Defendant's sole argument is that the "sentence was defective under Section 3901 because the judge did not specify the length or the ending date of each prison term. The Court's failure deprived the Defendant of his rights to Due Process of the law."

LEGAL ANALYSIS

Before considering the merits of the claims, the Court must first determine whether there are any procedural bars to the Motion.² Defendant's Motion should be summarily dismissed because (a) it was filed more than thirty-three (33) years

¹ D.I. # 133.

² *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

after the judgment of conviction became final, and is significantly beyond the allowable time under Rule 61(i)(1);³ (b) this appears to be Defendant's **tenth** motion for postconviction relief and second or subsequent postconviction motions shall be summarily dismissed, unless one of the exceptions to the bar applies;⁴ (c) Defendant challenged his sentence through previous pleadings and appeals, and therefore, this claim has been previously adjudicated;⁵ and (d) Defendant has failed to satisfy any of the exceptions to the procedural bars for relief.⁶ Defendant has not argued that the Court lacked jurisdiction, he has not pled any new evidence or facts demonstrating an inference that he is innocent of the acts giving rise to the conviction, nor has he clearly identified a new rule of constitutional law that has been issued rendering his conviction invalid.⁷

³ A motion for postconviction relief must be filed within 1 year after the judgment of conviction becomes final, which in this case was when the Supreme Court issued a mandate finally determining the case on direct review in 1983. *See also* Super. Ct. Crim. R. 61(m)(2).

⁴ *See* Super. Ct. Crim. R. 61(d)(2).

⁵ *See* Super. Ct. Crim. R. 61(i)(3).

⁶ *See* Super. Ct. Crim. R. 61(i)(5) and Super. Ct. Crim. R. 61(d)(2)(i)-(ii).

⁷ Although Defendant generally claims a due process violation, the Court will not consider claims for postconviction relief that are vague and conclusory in nature. *See Zimmerman v. State*, 1992 WL 53426 (Del. 1992).

For all of the foregoing reasons, Defendant's Motion for Postconviction Relief should be SUMMARILY DISMISSED.

IT IS SO RECOMMENDED.



Commissioner Katharine L. Mayer

oc: Prothonotary
cc: Bruce J. Carr