

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

STATE OF DELAWARE,)	
)	
v.)	ID# 1107001026
)	
CHRISTOPHER H. WEST,)	
)	
Defendant.)	

*Upon Defendant’s Motion for Postconviction Relief and “Motion to Withdraw Guilty Plea”:*¹ **DENIED.**

Date Submitted: February 24, 2015
Date Decided: May 21, 2015
Date Corrected: May 26, 2015

ORDER

1. On August 15, 2011, Defendant was indicted on two counts of Robbery in the First Degree, one count of Robbery in the Second Degree, and one count of Attempted Robbery in the First Degree. On January 9, 2012, Defendant pleaded guilty to Robbery in the First Degree and Robbery in the Second Degree. The State entered a *nolle prosequi* on the remaining counts in the indictment. As part of the plea agreement, Defendant agreed that he was eligible to be sentenced as a habitual offender under 11 *Del. C.* 4214(a). On March 30, 2012, Defendant was sentenced as a habitual offender under 11 *Del. C.* 4214(a) to twenty-eight years at

¹ Hereinafter referred to as “Motion for Withdraw of Guilty Plea.”

Level V, suspended after twenty-five years, for three years at Level IV, suspended after six months, for decreasing levels of supervision.

2. On February 27, 2013, Defendant filed a *pro se* Motion for Postconviction Relief under Superior Court Criminal Rule 61 (“Rule 61 Motion”).² Defendant’s Rule 61 Motion was referred to a Superior Court Commissioner, who appointed counsel to represent Defendant. On November 12, 2013, Rule 61 Counsel filed a motion to withdraw under Rule 61(e)(2).³

3. On December 12, 2013, the Commissioner issued a report and recommendation that Defendant’s Rule 61 Motion be denied.⁴ This Court adopted the Commissioner’s report and recommendation on January 7, 2014.⁵ Defendant appealed to the Supreme Court of Delaware and the Supreme Court affirmed the denial of Defendant’s Rule 61 Motion on August 28, 2014.⁶

4. On February 24, 2015, Defendant filed the instant *pro se* Motion for Postconviction Relief and Motion for Withdraw of Guilty Plea.⁷ In his second *pro se* Rule 61 Motion, Defendant asserts overlapping claims of: (1) ineffective assistance of counsel; and (2) deprivation of 14th Amendment Right to Due Process. Defendant asserts that his trial counsel was ineffective because his

² Docket ID. 39.

³ Docket ID. 51, 52.

⁴ Docket ID. 53.

⁵ Docket ID. 54.

⁶ *West v. State*, 2014 WL 4264922 (Del. 2014) (TABLE).

⁷ Docket ID. 65.

counsel lied to Defendant about his plea and sentence under 11 *Del. C.* 4214(a), making his plea involuntary. Defendant also asserts that he was deprived a right to a fair trial because his trial counsel lied about his plea.

5. Motions for postconviction relief are governed by Superior Court Criminal Rule 61.⁸ Before addressing the substantive merits of any claim for postconviction relief, the Court must consider the procedural requirements of Rule 61.⁹ Rule 61(i) establishes four procedural bars to a motion for postconviction relief.¹⁰

6. Rule 61(i)(1) provides that a motion for postconviction relief must be filed within one year of a final judgment of conviction.¹¹ Under Rule 61(i)(2) any ground not asserted in a prior post conviction proceeding is barred “unless consideration of the claim is warranted in the interests of justice.”¹² Rule 61(i)(3) bars consideration of any claim not asserted at trial or on direct appeal unless the movant can show “cause for relief from the procedural default” and “prejudice from violation of the movant’s rights.”¹³ Rule 61(i)(4) provides that any ground for relief that was formerly adjudicated is thereafter barred.¹⁴

⁸ Super. Ct. Crim. R. 61.

⁹ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

¹⁰ Super. Ct. Crim. R. 61(i)(1)–(4).

¹¹ Super. Ct. Crim. R. 61(i)(1).

¹² Super. Ct. Crim. R. 61(i)(2).

¹³ Super. Ct. Crim. R. 61(i)(3).

¹⁴ Super. Ct. Crim. R. 61(i)(4).

7. Even if a procedural defect exists, the Court may consider the merits of the claim if the Defendant can show that an exception found in Rule 61(i)(5) applies.¹⁵ Rule 61(i)(5) provides that a defect under Rule 61(i)(1)–(4) will not bar 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.”¹⁶

8. Defendant’s Rule 61 Motion is procedurally barred under Rule 61(i)(1) because it was filed more than a year after Defendant’s final judgment of conviction.¹⁷ Defendant’s Rule 61 Motion is likewise barred under Rule 61(i)(2) because the claims were not asserted in Defendant’s first Rule 61 Motion and Defendant not demonstrated cause for relief from this procedural bar.

9. Defendant’s Rule 61 Motion also asserts formerly adjudicated grounds for relief and, therefore, Defendant’s motion is procedurally barred under Rule 61(i)(4). Pursuant to Rule 61(i)(4), “[a]ny ground for relief that was formerly adjudicated, whether in the proceedings leading to the conviction, in an appeal, in a postconviction proceeding, or in a federal habeas corpus proceeding, is thereafter barred.” In Defendant’s first *pro se* Rule 61 Motion, Defendant asserted overlapping claims of: (1) ineffective assistance of counsel; (2) involuntary guilty

¹⁵ Super. Ct. Crim. R. 61(i)(5).

¹⁶ *Id.*

¹⁷ Super. Ct. Crim. R. 61(i)(1).

plea; (3) coerced confession; and (4) illegal sentence.¹⁸ In affirming this Court's denial of Defendant's Rule 61 Motion, the Supreme Court held that Defendant's claims that he did not voluntarily plead guilty were without merit and Defendant's voluntarily guilty plea acts as a waiver of his claim that his confession was coerced.¹⁹ The Supreme Court also held that Defendant's allegations of ineffective assistance of counsel were without merit and stated:

In the record before this Court, which reflects that the plea provided a substantial benefit to West, and that West discussed the plea extensively with his trial counsel and was satisfied with trial counsel's representation, West has not demonstrated that he was prejudiced by any alleged errors of his trial counsel.²⁰

10. Defendant's claims in the instant Rule 61 Motion are *another* attempt to reargue that he did not voluntarily plead guilty.

11. Defendant also filed a Motion for Withdraw of Guilty Plea on February 24, 2015.²¹ The Court will treat the motion as a Rule 61 Motion. In the motion, Defendant asserts that his trial counsel was ineffective because: (1) trial counsel lied to Defendant about the plea; and (2) Defendant told his trial counsel that he would only plead guilty to "guilty but mentally ill." Defendant's claims in this motion are meritless and procedurally barred under Rule 61(i)(1),(2), and (4). The claims were filed more than a year after Defendant's final judgment of conviction,

¹⁸ *West v. State*, 2014 WL 4264922, at *2 (Del. 2014) (TABLE),

¹⁹ *Id.* (noting that Defendant's Rule 61 appeal was "wholly without merit and devoid of any arguably appealable issue.").

²⁰ *Id.*

²¹ Docket ID. 65.

were not asserted in Defendant's first Rule 61 Motion, and Defendant has not demonstrated cause for relief from these procedural bars. Further, these claims are barred under Rule 61(i)(4) because Defendant is *again* attempting to reargue that his plea was involuntary.

12. For the reasons stated above, Defendant's Rule 61 Motion and Motion for Withdraw of Guilty Plea are procedurally barred by Superior Court Criminal Rule 61(i)(1), (2), and (4) and Defendant has not demonstrated cause for relief from these procedural bars.

WHEREFORE, Defendant's Motion for Postconviction Relief and Motion for Withdraw of Guilty Plea are **DENIED**.

Jan R. Jurden, President Judge