

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

STATE OF DELAWARE,	)	
	)	
Plaintiff,	)	
v.	)	
	)	
GARY GIBBS,	)	Cr. ID. No. 9605001774
(a.k.a Bobby Miller)	)	
	)	
Defendant.	)	

Submitted: November 22, 2014  
Decided: February 5, 2015

Upon Commissioner’s Report and Recommendation that Defendant’s Motion for Postconviction Relief Should be Denied and Counsel’s Motion to Withdraw Should be Granted.

**ADOPTED**

**ORDER**

This 5th day of February, 2015, the Court has considered the Commissioner’s Report and Recommendation.

On March 8, 2013, Defendant Gary Gibbs filed a *pro se* motion for postconviction relief. Defendant subsequently was assigned counsel. Assigned counsel then filed a Motion to Withdraw as Postconviction Counsel pursuant to Superior Court Criminal Rule 61(e)(2). The motions were referred to a Superior

Court Commissioner in accordance with 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 62 for proposed findings of fact and conclusions of law.

The Commissioner issued the Report and Recommendation on November 12, 2014. The Commissioner recommended that Defendant's Motion for Postconviction Relief be denied, and that Counsel's Motion to Withdraw should be granted. "Within ten days after filing of a Commissioner's proposed findings of fact and recommendations . . . any party may serve and file written objections."<sup>1</sup> Neither party has filed an objection to the Commissioner's Report and Recommendation.

The Court holds that the Commissioner's Report and Recommendation dated November 12, 2014, should be adopted for the reasons set forth therein. The Commissioner's findings are not clearly erroneous, are not contrary to law, and are not an abuse of discretion.<sup>2</sup>

**THEREFORE**, the Court hereby accepts the Commissioner's Report and Recommendation in its entirety.

**IT IS SO ORDERED.**

/s/ Mary M. Johnston

The Honorable Mary M. Johnston

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<sup>1</sup> Super. Ct. Crim. R. 62(a)(5)(ii).

<sup>2</sup> Super. Ct. Crim. R. 62(a)(4)(iv).