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

STATE OF DELAWARE,	)	
v.	)	ID # 1008024002
WILLIAM T. HALEY,	) )	
Defendant.	)	

## **ORDER**

Submitted: July 3, 2012 Decided: September 20, 2012

## Upon Defendant's Motion for Postconviction Relief – WITHDRAWN AND DISMISSED

- 1. On February 8, 2012, Defendant's sentence modification appeal was denied. Defendant then filed his first Motion for Postconviction relief on April 9, 2012.
- 2. The motion was properly referred and after preliminary review, based upon Defendant's ineffective assistance of counsel claims, the court called for a *Horne v. State*<sup>1</sup> affidavit.
  - 3. After the court received trial counsel's affidavit, on May 23, 2012

<sup>&</sup>lt;sup>1</sup> Horne v. State, 887 A.2d 973, 975 (Del. 2005).

it forwarded the affidavit to Defendant. The transmittal letter/order required

Defendant's final reply on July 2, 2012. The transmittal letter also outlined in some

detail the motion's apparent infirmities. And, the transmittal letter cautioned

Defendant that if he could not overcome the "serious procedural hurdles," he was not

entitled to postconviction relief.

4. Instead of filing the contemplated reply, Defendant filed a third

motion for modification of sentence on July 2, 2012. The sentencing judge denied

that motion on July 20, 2012.

5. From the above, it is apparent that Defendant abandoned his

motion for postconviction relief on July 2, 2012. In any event, the motion was clearly

subject to dismissal based on its procedural defaults.

For the foregoing reasons, Defendant's motion for postconviction relief

is WITHDRAWN and DISMISSED. The Prothonotary shall notify Defendant.

IT IS SO ORDERED.

/s/ Fred S. Silverman
Judge

PC: Prothonotary (Criminal Division)

Mark J. Cutrona, Deputy Attorney General

Ralph D. Wilkinson, IV, Esquire

William T. Haley, Defendant

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