

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

STATE OF DELAWARE)	
)	
)	
v.)	ID#: 9801007022
)	
REGINALD D. JACKSON,)	
Defendant.)	

ORDER

**Upon Defendant’s Fourth Motion for Postconviction Relief –
*SUMMARILY DISMISSED***

1. In his fourth motion for postconviction relief under Superior Court Criminal 61, filed March 19, 2013 and amended April 9, 2013, Defendant again raises his previously litigated ineffective assistance of counsel claim.

2. This time, Defendant contends, without elaboration, that trial counsel was ineffective “for not raising [his] mental health status prior to or during the trial process[, thereby] preserving the issues for appeal.” Besides being vague and procedurally barred as untimely and repetitive, this motion also fails to argue how counsel’s conduct met either prong of *Strickland v. Washington*’s,¹ two-prong test for ineffective assistance of counsel.

¹ 466 U.S. 668 (1984).

3. The only new claim here stems from *Martinez v. Ryan*.² Because Defendant did not have court-appointed counsel to challenge the effectiveness of his court-appointed trial attorney, Defendant contends he is entitled to counsel and further review now.

4. By its terms, *Martinez* concerns the standard of review in federal *habeas corpus* proceedings.³ *Martinez* does not apply to state court proceedings.⁴ Moreover, *Martinez* is expressly non-retro active.⁵

5. For the detailed reasons set out in its earlier decisions,⁶ the court remains satisfied that the interests of justice do not require reconsideration of Defendant's claim. Appointing another lawyer, at taxpayer expense, to try and rebut

² 566 U.S. —, 132 S.Ct. 1309 (2012).

³ 566 U.S. at —, 132 S.Ct. at 1320 (“Where, under state law, claims of ineffective assistance of trial counsel must be raised in an initial-review collateral proceeding, a procedural default will not bar a federal *habeas* court from hearing a substantial claim of ineffective assistance at trial if, in the initial-review collateral proceeding, there was no counsel or counsel in that proceeding was ineffective.”).

⁴ *Id.*; *accord*, *State v. Smith*, 2012 WL 5577827, at *1 (Del. Super. June 14, 2012) (Graves, J.), *aff'd*, 53 A.3d 303 (Del. 2012) (TABLE); *State v. Finn*, 2012 WL 2905101, at *2 (Del. Super. July 17, 2012) (Parkins, J.) (“*Martinez* did not change Delaware’s longstanding rule that defendants are not entitled postconviction relief counsel.”); *State v. Rodgers*, 2012 WL 3834908, *2 (Del. Super. Aug. 30, 2012) (Parkins, J.); *State v. Desmond*, 2013 WL 1090965, at *3 (Del. Super. Feb. 26, 2013) (Cooch, R.J.).

⁵ 566 U.S. at —, 132 S.Ct. At 1319-20.

⁶ *State v. Jackson*, 2001WL 880154 (Jan. 23, 2001) (Silverman, J.), *appeal dismissed*, 781 A.2d 694 (2001) (TABLE).

the general presumption and the specific finding that Defendant's court-appointed trial counsel was effective in 1999 is pointless and extravagant.

For the foregoing reasons, after preliminarily review of the motion and the record,⁷ Defendant's fourth motion for postconviction, is **SUMMARILY DISMISSED**.⁸ The Prothonotary **SHALL** notify Defendant.⁹

IT IS SO ORDERED.

Date: April 16, 2013

/s/ Fred S. Silverman

Judge

oc: Prothonotary (Criminal Division)

pc: Kathleen M. Jennings, Deputy Attorney General
Reginald D. Jackson, Defendant

⁷ Super. Ct. Crim. R. 61(d).

⁸ Super. Ct. Crim. R. 61(d)(4).

⁹ *Id.*