

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

STATE OF DELAWARE	)	
	)	RK10-02-0413-01
v. _____	)	Theft FP > \$1500 (F)
	)	RK10-02-0414-01
DALLAS H. DRUMMOND, JR.,	)	Theft < \$1500 (M)
(ID. No. 1001018697)	)	RK10-02-0415-01
	)	Crim. Tres. 3 <sup>rd</sup> (V)
Defendant.	)	

*Submitted: October 1, 2013*  
*Decided: October 2, 2013*

R. David Favata, Esq., Deputy Attorney General, Department of Justice, for the State of Delaware.

Dallas H. Drummond, Jr., *Pro se*.

*Upon Consideration of Defendant's*  
*Motion For Postconviction Relief*  
*Pursuant to Superior Court Criminal Rule 61*  
**DENIED**

YOUNG, Judge

**ORDER**

Upon consideration of the Defendant's Motion For Postconviction Relief, the Commissioner's Report and Recommendation and the record in this case, it appears that:

1. The defendant, Dallas H. Drummond, Jr. ("Drummond"), was found guilty, following a jury trial on April 19, 2011,<sup>1</sup> of one count of Theft by False Pretenses, 11 *Del. C.* § 843; one count of Theft, 11 *Del. C.* § 841; and one count of Criminal Trespass in the Third Degree, 11 *Del. C.* § 821. The jury acquitted Drummond on one count of Burglary in the Second Degree. The Court ordered a presentence office investigation.

2. The State filed a motion to declare Drummond a habitual offender. The Court granted the State's motion and proceeded to sentence Drummond to three years incarceration, suspended after two years for probation.

3. Drummond, through counsel, appealed his conviction to the Delaware Supreme Court. The Supreme Court affirmed Drummond's conviction and sentence finding his appeal meritless.<sup>2</sup>

4. While the matter was pending in the Supreme Court, Drummond was sentenced to life in prison on separate charges. Consequently, on April 19, 2012,

---

<sup>1</sup> Drummond was initially tried and convicted as charged in July 2010. On appeal the Delaware Supreme Court reversed and remanded the case because the Court had failed to thoroughly inform Drummond the risks of waiving his right to counsel. The pending motion relates to Drummond's second trial on these charges.

<sup>2</sup> *Drummond v. State*, 51 A.3d 436 (Del. 2012).

***State v. Drummond***

ID. No. 1001018697

October 2, 2013

Drummond's probation officer submitted a request to the Court to discharge Drummond from probation as unimproved.<sup>3</sup> The Court approved and discharged Drummond from probation on that date.<sup>4</sup>

5. Drummond filed the Motion For Postconviction Relief pursuant to Superior Court Rule 61. Unfortunately, the fact that Drummond was no longer serving this sentence was missed by the Court at the time and only discovered after briefing was completed.

6. The Court referred this motion to Superior Court Commissioner Andrea M. Freud pursuant to 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 62 for proposed findings of facts and conclusions of law.

7. The Commissioner has filed a Report and Recommendation concluding that the Court deny Drummond's Motion for Postconviction Relief as *moot*, because it clearly lacks standing and there is no need to reach the merits of his claim.

8. Defendant filed his Appeal from the Commissioners findings on August 12, 2013.

9. The State responded.

10. Defendant filed a reply to the State's response on September 5, 2013.

**NOW, THEREFORE**, after *de novo* review of the record in this action, and for reasons stated in the Commissioner's Report and Recommendation dated August

---

<sup>3</sup> Drummond had clearly completed his two year incarceration and was serving his one year probation at the time.

<sup>4</sup> *State v. Drummond*, Del. Super., ID No. 1109005393, Young, J., DI 53.

***State v. Drummond***

ID. No. 1001018697

October 2, 2013

8, 2013,

**IT IS ORDERED** that the Commissioner's Report and Recommendation is adopted by the Court, and the Defendant's Motion For Postconviction Relief is **DENIED**.

/s/ Robert B. Young

J.

RBV/lmc

oc: Prothonotary

cc: The Honorable Andrea M. Freud

R. David Favata, Esq.

William T. Deely, Esq.

Dallas H. Drummond, Jr., JTVCC

File