

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

STATE OF DELAWARE)	
)	
)	I.D. No. 9410010322
v.)	
)	
ROBERT D. CAMMILLE)	
)	
Defendant)	

Submitted: April 10, 2014
Decided: June 3, 2014

On Defendant's Second Motion for Postconviction Relief.
SUMMARILY DISMISSED.

ORDER

Colleen K. Norris, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the State.

Robert D. Cammille, Cumberland, Maryland, *pro se*.

COOCH, R.J.

This 3rd day of June 2014, upon consideration of Defendant's Second Motion for Postconviction Relief, it appears to the Court that:

1. Defendant Robert D. Cammille ("Defendant") pled guilty to Burglary Second Degree and was sentenced on February 21, 1996 to seven years Level 5, suspended after four years, for six months Level 4 Halfway House, followed by one year Level 3 and eighteen Months at Level 2.¹ In the interim between his

¹ St.'s Response at 2.

plea and sentencing, Defendant committed new offenses prosecuted in the Federal System. Defendant is currently in federal custody serving a 235 month sentence for those offenses.² Defendant's first Motion for Postconviction Relief, based on ineffective assistance of counsel, was denied on November 21, 1997.³ Defendant was discharged as unimproved from his probation for the burglary offense and his case was closed May 3, 2000.⁴ The docket further reflects that financial obligations for this case were satisfied as of May 8, 2000.⁵

2. Defendant filed his second Motion for Postconviction Relief on October 9, 2013.⁶ He asserts ineffective assistance of counsel and additional errors by both the State and the Court during his plea agreement damaged his "future case."⁷
3. Superior Court Criminal Procedure Rule 61 for Postconviction Remedy governs "the procedure on an application by a person in custody or subject to future custody under a sentence of this court seeking to set aside a judgment of conviction..."⁸ "All courts in Delaware that have considered whether postconviction relief under Rule 61 is potentially available to a person who is not 'in custody or subject to future custody' for the challenged sentence have agreed that such relief under Rule 61 is not available."⁹ The Delaware Supreme Court has elaborated:

² St.'s Response at 2. For further details of Defendant's federal case, see *U.S. v. Cammile*, 2001 WL 877578 (D. Del. Aug. 1, 2001).

³ Order: Upon Def.'s *Pro Se* Mot. for Postconviction Relief – DENIED, Docket #62 (Nov. 21, 1997).

⁴ Progress Rep. Disposition, Dept. of Correction Probation and Parole, Docket #70 (May 3, 2000).

⁵ Notice from Acctg. Dept., Docket # 69 (May 8, 2000).

⁶ Def.'s Mot. for Postconviction Relief.

⁷ Def.'s Memo. of L. and Auth. with Citation in Support of Def.'s Super. Ct. Crim. R. 61 (b)(1) at 2.

⁸ Super. Ct. Crim. R. 61(a)(1).

⁹ *State v. Hinson*, 2006 WL 337031, *2 (Del. Super. Feb. 10, 2006). See also *Cammile v. State*, 984 A.2d 123, 2009 WL 3367065, at *1 (Del. Oct. 20, 2009) (ORDER) ("...Cammile is neither in custody nor subject to future custody on his 1996 conviction. As a result, Cammile lacks standing to seek relief under Rule 61, and the Superior Court was correct in concluding that his postconviction motion was moot."); *Pumphrey v. State*, 937 A.2d 140, 2007 WL 3087405, at *1 (Del. Oct. 23, 2007) (ORDER) ("The Superior Court did not err in concluding that appellant lacked standing to pursue a motion for postconviction relief because appellant had completed his sentence and thus was no longer 'in custody or subject to future custody' under the sentence for which postconviction relief was sought."); *Epperson v. State*, 829 A.2d 935, 2003 WL 21692751, at *1 (Del. July 18, 2003) (ORDER) ("The Superior Court did not err in concluding that Epperson's latest postconviction petition should be denied because Epperson previously had been discharged as unimproved from the probationary sentence associated with the charges for which he sought postconviction relief. Thus, Epperson is no longer subject to custody as a result of those prior charges."); *Summers v. State*, 818 A.2d 971, 2003 WL 1524104, at *1 (Del. March 20, 2003) (ORDER) ("Summers was discharged from his 1993 probation as unimproved. He is no longer in custody as a result of his 1993 conviction and thus is not entitled to seek postconviction relief. Accordingly, the Superior

We have previously explained that a person loses standing to move for postconviction relief under Rule 61 where the defendant is not in custody or subject to future custody for the underlying offense or challenged sentence. The Superior Court has consistently applied the custody standard in summarily dismissing other postconviction motions. The Superior Court discharged Ruiz from probation on June 3, 1997, he is not subject to any future custody for these original charges, and thus lacks standing to seek Rule 61 relief. We affirm the denial of his motion for postconviction relief without reaching his substantive claims.¹⁰

4. Before addressing the merits of this Motion for Postconviction Relief, the Court must address any procedural requirements of Superior Court Criminal Rule 61(i).¹¹ Here, Defendant was discharged from probation as unimproved, his financial obligations satisfied, and his case closed over fourteen years ago. Therefore, he is no longer “in custody or subject to future custody” in a manner contemplated by Rule 61. As such, Defendant lacks standing under Rule 61 and is not entitled to seek postconviction relief. The Court need not reach the merits of Defendant’s Motion.

Therefore, Defendant’s Motion for Postconviction Relief is **SUMMARILY DISMISSED**.

IT IS SO ORDERED.

Richard R. Cooch, R.J.

oc: Prothonotary
cc: Investigative Services

Court did not err in summarily dismissing his petition.”); *Guinn v. State*, 625 A.2d 279, 1993 WL 144874, at *1 (Del. Apr. 21, 1993) (ORDER) (“Guinn is no longer in custody for the assault in a detention facility offense. Guinn completed serving this sentence on January 27, 1988 and cannot seek postconviction relief from this sentence.”).

¹⁰ *Ruiz v. State*, 956 A.2d 643, 2008 WL 1961187, at *2 (Del. May 7, 2008) (ORDER).

¹¹ *Guinn v. State*, 882 A.2d 178, 181 (Del. 2005) (citing *Younger v. State*, 580 A.2d 552, 554 (Del. 1990)).