

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

RICHARD F. STOKES
JUDGE

SUSSEX COUNTY COURTHOUSE
1 THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947
TELEPHONE (302) 856-5264

June 29, 2015

Wade A. Bowersox
549 Vine Street
Bethel, DE 19931

RE: *State of Delaware v. Wade A. Bowersox*, Def. ID# 1107022570 (R-1)

DATE SUBMITTED: April 8, 2015

Dear Mr. Bowersox:

Pending before the Court is the motion for postconviction relief which defendant Wade A. Bowersox (“defendant”) has filed pursuant to Superior Court Criminal Rule 61 (“Rule 61”). The applicable version of Rule 61 is that effective June 4, 2014.¹

A jury found defendant guilty of driving under the influence and turning without a signal. This was a fifth offense driving under the influence conviction. Defendant appealed the conviction and sentence. The Supreme affirmed the judgment of the Superior Court.² The date of the mandate, which is the date when the judgment of conviction became final, is April 10, 2013.³

¹A copy of that version is enclosed herein.

²*Bowersox v. State*, 2013 WL 1198083 (Del. March 25, 2013).

³Docket Entry No. 101.

Nearly two years later, on April 8, 2015, defendant filed his first postconviction motion.

In the motion, defendant asserts ineffective assistance of counsel. Specifically, he alleges in full:

Council [sic] did not object to evidence.

Council [sic] did not object to blod [sic] sample to be admitted as evidence in a timely [sic] fashion fo [sic] Courts to concitter [sic] appeal.

The motion was not filed within a year of when the judgment of conviction was final, and thus, it is time-barred.⁴ To avoid that bar, defendant either must have:

(i) [pled] ... with particularity that new evidence exists that creates a strong inference that the movant is actually innocent in fact of the acts underlying the charges of which he was convicted; or

(ii) [pled] ... with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid.⁵

Defendant failed to make this showing. Defendant's motion is time-barred, and consequently, is DISMISSED.⁶

IT IS SO ORDERED.

Very truly yours,

/s/ Richard F. Stokes

Richard F. Stokes

cc: Prothonotary's Office
Department of Justice
Joseph A. Hurley, Esquire

⁴Rule 61(i)(1).

⁵Rule 61(i)(5); Rule 61(d)(2).

⁶Defendant did not ask that counsel be appointed to represent him. Because the motion is not timely, he is not entitled to the appointment of counsel. Rule 61(e).