

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

May 18, 2006

N440 - State Mail
Darryl E. Douglas

Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: Defendant ID No. 0309000027A

Dear Mr. Douglas:

The Court has had the opportunity to consider your Motion for Postconviction relief. It is denied.

Following a jury trial, you were convicted of robbery in the first degree, two counts of possession of a firearm during a felony, aggravated menacing, conspiracy and wearing a disguise during the robbery. On appeal, the Supreme Court reversed the aggravated menacing conviction and the accompanying firearm conviction. *Douglas v. State*, 879 A.2d 594 (Del. 2005).

Because of the life sentence on the robbery charges as an habitual offender, the State chose not to pursue a second trial as to the aggravated menacing and firearms charges. At this time, you are serving a life sentence for the robbery conviction, followed by 32 years on the remaining convictions.

In your Motion for Postconviction Relief, you allege (i) your attorney never interviewed the witnesses that you provided to her; (ii) your Miranda rights were violated when you were returned for a "show up"; and (iii) you did not get to proceed *pro se* after filing a request to dismiss your attorney.

A claim of ineffective assistance of counsel must be specific as to the deficient performance and prejudice. Summary dismissal is appropriate as to conclusory allegations. *Dawson v. State*, 673 A.2d 1186 (Del. 1998). Your claim is conclusory. You do not include anything as to which witnesses you wanted her to interview or how they would have been helpful. This claim is denied.

Your “Miranda”¹ claim is also denied. It is conclusory. You do not develop how *Miranda*, involving custodial interrogations, is relevant to your identification. Also, it is procedurally denied under Superior Court Criminal Rule 63(i)(3) because you do not offer a satisfactory “cause” as to why this was not raised earlier in the proceedings or on appeal. Nor do you address any prejudice. To just state that your attorney did not raise it is not sufficient. You must establish that she was “ineffective” in not raising it. You have not overcome this procedural bar. This claim fails procedurally and on its merits.

Finally, you seek a reversal because you allege you wanted to proceed *pro se*, but had to go to trial with your assigned attorney. As to this complaint, I have reviewed the Court's file and found the following:

- a. On January 8, 2004, you filed a Motion to Dismiss your attorney. You did not ask to represent yourself.
- b. On January 13, 2004, Judge Bradley wrote to you advising that your “Motion to Dismiss” had been forwarded to your attorney as she remains your attorney.
- c. On February 5, 2004, you again complained about your attorney in a letter to Judge Bradley. You did not seek to represent yourself.
- d. The next docket entry is a request for a continuation filed by your attorney. It states “After meeting with defendant, defense counsel must resolve certain pretrial issues”. The case was continued.
- e. There is nothing else I can locate in the file as to your desire to dismiss your attorney.
- f. I have consulted the Court Reporter as to the events occurring on April 26, 2004. That is the day your jury was selected. It is also the day your attorney's severance motions were granted and I reserved decision as to the Motion in Limine. You made no complaint to me that you wanted to discharge your lawyer or were not satisfied with her representation. You did not express any desire to proceed *pro se*.

This claim is denied. You originally asked that your lawyer be dismissed. That effectively was denied when you were informed she remains your attorney. Although you complained about her again, you did not put the issue before the Court for a formal ruling. You did not raise it before me on the morning I ruled on the Pretrial Motions and your jury was selected. Therefore, I deem it abandoned. Finally, it is denied on its merits as there was no reason to dismiss your attorney and you never requested to proceed *pro se*. Finally, you state no prejudice.

¹*Miranda v. Arizona*, 384 U. S. 436 (1966).

Defendant's Motion for Postconviction Relief is denied.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj

cc: Prothonotary
James W. Adkins, Esquire