

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

October 15, 2015

S449 - STATE MAIL
Steven D. Miller
SBI # 002
Sussex Correctional Institution
Rt. 3, Box 500
Georgetown, DE 19947

RE: *State of Delaware v. Steven Miller*, Def. ID# 0801008964 (R-1)

DATE SUBMITTED: August 21, 2015

Dear Mr. Miller,

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

On May 9, 2008, defendant pled guilty to charges of Rape in the Second Degree and Possession of a Deadly Weapon During Commission of a Felony (“PDWDCF”). Defendant was sentenced on that date. Defendant filed a motion for reduction of sentence on August 20, 2008, which was denied. A corrected sentence order was issued on March 30, 2009 that removed the language in the

¹A copy of that version is enclosed herein.

special conditions.

Over six years later, on August 21, 2015, defendant filed his first postconviction motion. In that motion, he asserts a breach of contract, ineffective assistance of counsel, a coerced confession of guilty plea, and falsifying information, perjury, regarding defendant's Immediate Sentencing form. Specifically, he alleges in full:

Counsel [sic] did not show defendant the "Family Court statement".

Counsel [sic] incorrectly stated there was a plea agreement signed by defendant on May 9, 2008, when in fact there was no such plea for that date.

Alleges Perjury when someone else filed out his Immediate Sentencing Form ("ISF"), which contained inaccurate information, specifically that the ISF failed to state in 1998 defendant was ordered to have a mental health evaluation.

Alleges the confession signed on March 17, 2008 was coerced because he was taking medications due to mental health issues.

Alleges breach of contract because he only signed one sentencing document, yet his signature appears on the subsequent corrected sentencing orders.

The motion was not timely filed within a year of when judgment of conviction was final, and thus, it is time-barred.² 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

²Rule 61(i)(1).

renders the conviction or death sentence invalid.³

Defendant has failed to make this showing. Defendant's motion is time-barred, and consequently is DISMISSED.⁴

IT IS SO ORDERED.

Very truly yours,

/s/ Richard F. Stokes

Richard F. Stokes

cc: Prothonotary
Department of Justice
Dean Johnson, Esquire
Robert Robinson, Esquire

³Rule 61(i)(5); Rule 61(d)(2).

⁴Defendant 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).