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

STATE OF DELAWARE,	)	
	)	
v.	)	ID#: 0805017969
	)	
SYE C. NEWTON,	)	
	)	
Defendant.	)	

Submitted: July 8, 2010
Decided: July 15, 2010

ORDER

Upon Defendant's Motion for Postconviction Relief –
SUMMARILY DISMISSED

1. On April 19, 2010, Defendant filed this, a timely motion for postconviction relief.[1]

2. The Prothonotary properly referred the motion for preliminary consideration.[2]

3. As explained below, because it plainly appears from the motion

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[1] Super. Ct. Crim. R. 61(i)(1).

[2] Super. Ct. Crim. R. 61(d)(1).

and the record that Defendant is not entitled to relief, the motion is subject to summary dismissal.[3]

4. The Supreme Court presents the case's facts[4] in its order affirming Defendant's convictions. In summary, Defendant is a prison inmate. Defendant took another inmate hostage and held him at knifepoint during a several hour standoff with correctional authorities. A SWAT team ended the siege by force. Defendant's terrified hostage received stitches for a cut on his neck.

5. Defendant was indicted for one count each of kidnaping in the first degree, possession of a deadly weapon during the commission of a felony, and assault in a detention facility. At his insistence, Defendant represented himself at trial. Defendant was convicted on all counts and sentenced to six years in prison. Also at his insistence, Defendant unsuccessfully represented himself on appeal.

6. From the beginning, Defendant's core claim has been that the kidnaping was merely guerrilla theater. According to Defendant, he and the other inmate planned the incident as a protest against the prison authorities.

7. The fundamental problem with Defendant's claim is that it is supported by no *evidence*. Neither Defendant nor the victim testified. The

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[3] Super. Ct. Crim. R. 61(d)(4).

[4] *Newton v. State*, 2010 WL 922727 (Del. Supr. Mar. 15, 2010).

circumstances surrounding the victim's failure to testify are also set out in the Supreme Court's decision.[5] Accordingly, if it can be said that through his arguments, Defendant has raised the theoretical possibility that the hostage-taking was an orchestrated protest, no witness testified to that effect. Accordingly, there was ample circumstantial evidence to support the guilty verdict.

8. In his motion, Defendant presents four grounds for relief. In his words, they are:

- Cumulative Errors of Various 6th & 14th Amendment Violations;
- Newly Discovered Evidence;
- Judicial Abuse of Discretion;
- State's "Brady" Violation deprived Defendant of Fair Trial.

9. Because Defendant represented himself at trial and on appeal, he was responsible for raising what he perceived as violations of his Constitutional rights. The same is true for what he perceived as "judicial abuse of discretion." Accordingly, those claims are procedurally barred.[6] Defendant has neither shown cause for relief from his procedural default nor prejudice from violation of his rights.

10. Defendant's "newly discovered evidence" flows from

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[5] *Id.* at *1-2.

[6] Super. Ct. Crim. R. 61(i)(3).

Defendant's claim that if the towel that Defendant wrapped around the victim's neck were analyzed, the blood on it would be Defendant's, not the victim's. In other words, Defendant has no new evidence. In any event, the evidence that the victim was cut by Defendant and sutured by medical personnel is unrebutted. Accordingly, even if DNA analysis supported Defendant's claim, it probably would not raise reasonable doubt about Defendant's guilt. Moreover, although couched there as a claim of prosecutorial misconduct for failing to test the towel, Defendant raised the State's failure to test the towel on direct appeal.

11. Although Defendant's claims are subject to dismissal under Rule 61(i)(3), as explained above, Defendant's current grounds for relief were formally adjudicated in large measure in the proceedings leading to the conviction, and in Defendant's direct appeal.

12. As the court explained in its order denying Defendant's post-trial motion for judgment of acquittal, "this was not a close case." If anything, the State had too many witnesses. The State's case was virtually unrefutted. What Defendant did was no quiet thing. He turned a major correctional facility upside down for hours and he injured a fellow inmate. Perhaps, if evidence had been presented to support Defendant's non-testimonial claim that the victim was not what he appeared to be – a terrified hostage – the case might have been closer. That is not to say Defendant

would have had much chance of acquittal. As it was, the evidence presented to the jury left no room for reasonable doubt about Defendant's guilt. And, Defendant received a fair trial.

For the foregoing reasons, Defendant's motion for postconviction relief is **SUMMARILY DISMISSED**. The Prothonotary **SHALL** notify Defendant.

IT IS SO ORDERED.

/s/ Fred S. Silverman
Judge

oc: Prothonotary (Criminal Division)
pc: Karin M. Volker, Deputy Attorney General
Sye C. Newton, Defendant