

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)
)
 v.) I.D. No. 75060892DI
)
STERLING HOBBS aka AMIR)
FATIR)
)
 Defendant.)

Submitted: October 7, 2014

Decided: October 27, 2014

Upon Defendant’s Fifth Motion for Post-conviction Relief.

SUMMARILY DISMISSED.

Upon Defendant’s Motion for Appointment of Counsel.

MOOT.

ORDER

Sterling Hobbs aka Amir Fatir, *pro se*, Smyrna, DE.

Joseph Grubb, Esquire, Department of Justice, 820 N. French St., Wilmington, Delaware, Attorney for the State.

WHARTON, J.

This 27th day of October, 2014, upon consideration of Defendant's fifth Motion for Post-conviction Relief and Defendant's Motion for Appointment of Counsel, it appears to the Court that:

1. Defendant, Sterling Hobbs aka Amir Fatir, filed his fifth Motion for Post-conviction Relief on September 19, 2014, alleging that the "[c]ourt had no jurisdiction over [his] person due to no arraignment."¹ Specifically, Defendant alleges that he was not arraigned in Superior Court nor did he knowingly and voluntarily waive his right to an arraignment. Defendant asserts that he did not raise this issue in the previous four motions for post-conviction relief that he filed with the Court because the "State hid the knowledge from [him] that [he] had a right to an arraignment [sic] and no one told [him] what an arraignment even was."² Defendant also filed a Motion for Appointment of Counsel on the grounds that "[h]e is not an attorney and the issues are complex."³
2. In March 1976, following a jury trial, Defendant was found guilty of First Degree Murder, First Degree Robbery, Second Degree Conspiracy and Possession of a Deadly Weapon During the

¹ Def.'s Mot. for Post-conviction Relief, D.I. 243, pg. 3.

² *Id.*

³ Def.'s Mot. for Appointment of Counsel, D.I. 246, pg. 1.

Commission of a Felony. In April 1976 Defendant was sentenced to death. Pursuant to *State v. Spence*,⁴ the death sentence was vacated and replaced by a life sentence without parole in 1980. Defendant has previously filed four other Motions for Post-conviction Relief on the following grounds: “Death-charged jury, ineffective assistance of counsel, lack of jurisdiction, unlicensed prosecutor.”⁵ The Court has denied all four Motions.

3. On June 4, 2014 the current version of Super. Ct. Crim. R. 61 became effective and provides, in relevant part, that:

a second or subsequent motion under this rule shall be summarily dismissed, unless the movant was convicted after a trial and the motion either:

- (i) pleads 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) pleads 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.⁶

⁴ 367 A.2d 983 (Del. 1976).

⁵ Def.’s Mot. for Post-conviction Relief, pg. 2.

⁶ Super. Ct. Crim. R. 61(d)(2).

Additionally, if the pleadings are insufficient to survive summary dismissal, a Motion for Appointment of Counsel is moot.⁷

4. Defendant's claim that he was not arraigned fits neither of the pleading requirements set forth in Super. Ct. Crim. R. 61(d)(2). As such, the Court must summarily dismiss Defendant's fifth Motion for Post-Conviction Relief. Furthermore, because Defendant's fifth Motion for Post-Conviction Relief does not satisfy the pleading requirements, Defendant's Motion for Appointment of Counsel is moot.

Therefore, Defendant's fifth Motion for Post-conviction Relief is **SUMMARILY DISMISSED** and Defendant's Motion for Appointment of Counsel is **MOOT**.

IT IS SO ORDERED.

/s/Ferris W. Wharton, J.

oc: Prothonotary
cc: Investigative Services
Joseph Grubb, Esquire
Sterling Hobbs aka Amir Fatir, SBI # 137010.

⁷ See Super. Ct. Crim. R. 61(e)(4):

Second or subsequent motions. For an indigent movant's second or subsequent postconviction motion, the judge may appoint counsel for an indigent movant only if the judge determines that the second or subsequent motion satisfies the pleading requirements of subparagraphs (2)(i) or (2)(ii) of subdivision (d) of this rule.