IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE	)	ID. No. 1411010212
	)	In and for Kent County
	)	
v.	)	RK14-12-0112-01
	)	Rape 1st < 12(F)
ADRIAN B. RIGBY,	)	RK14-12-0113-01
	)	RK14-12-0114-01
Defendant.	)	RK15-12-0115-01
	)	Rape 4th < 16 (F)

ORDER

Submitted: January 2, 2018
Decided: January 26, 2018

On this 26th day of January, 2018, upon consideration of the Defendant's Motion for Postconviction Relief, the Commissioner's Report and Recommendation, and the record in this case, it appears that:

1. The defendant, Adrian B. Rigby ("Rigby"), pled guilty on March 8, 2016 to one count of Rape in the First Degree, victim under 12 years old, 11 *Del. C.* § 773, and three counts of Rape Fourth Degree, victim under 16 years old, 11 *Del. C.* § 770 as lesser included offenses of one count of Rape in the First Degree and two counts of Rape in the Second Degree. In exchange for his plea the State allowed Rigby to plea to lesser included offenses and recommended a sentence of forty years suspended for the minimum mandatory sentence of fifteen years incarceration on the Rape in the First Degree charge and one year incarceration pursuant to 11 *Del. C.* 4204(k) on each of the Rape in the Fourth Degree charges. Due to the nature of the charges and the age of the victim, Rigby faced enhanced sentencing and a minimum mandatory sentence of twenty-five years of incarceration on each Rape in the First Degree charge and the possibility of life imprisonment on each charge. The Court agreed with the State's recommendation and sentenced Rigby to a total of forty-three years incarceration

suspended after eighteen years for probation, fifteen of which were minimum mandatory.

2. On June 17, 2016, Rigby filed a Motion for Review of Sentence which the Court denied. The defendant did not appeal his conviction to the Delaware Supreme Court. He filed, *pro se*, the pending motion for postconviction relief pursuant to Superior Court Criminal Rule 61 on July 29, 2016.

3. The matter was referred to the Commissioner for findings of fact and recommendation pursuant to 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 62. The Commissioner has filed a Report and Recommendation recommending that the Court deny the Defendant's Motion for Postconviction Relief.

4. After the issuance of the Commissioner's Report, neither party filed an appeal.

NOW, THEREFORE, after a *de novo* review of the record in this action, and for the reasons stated in the Commissioner's Report and Recommendation dated October 25, 2017.

IT IS HEREBY ORDERED that the Commissioner's Report and Recommendation is adopted by the Court in its entirety. Accordingly, Movant's Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61 is hereby **DENIED**.

IT IS SO ORDERED.

/s/ Noel Eason Primos
Judge

NEP/wjs
oc: Prothonotary
cc: The Honorable Andrea M. Freud
Kathleen A. Dickerson, Esquire
Alexander W. Funk, Esquire
Adrian B. Rigby, JTVCC