

This 8th day of January, 2019, upon consideration of Defendant's Motion for Postconviction Relief¹ and the record in this matter, it appears to the Court that:

1. Defendant Charleston S. Williams ("Williams") was indicted by the Grand Jury on a single count of Rape First Degree.² After a four day jury trial, he was convicted of the lesser included offense of Unlawful Sexual Contact First Degree on June 1, 2010.³ On March 4, 2011, he was sentenced to eight years of incarceration suspended after six years, followed by decreasing levels of supervision. Williams appealed his conviction and sentence to the Delaware Supreme Court which affirmed the judgment of the Superior Court on December 29, 2011.⁴

2. On November 29, 2017, Williams filed a Motion for Postconviction Relief ("Motion").⁵ Williams alleged three grounds for relief in the Motion: 1) ineffective assistance of counsel; 2) violation of due process; and 3) conflict of interest.⁶ His claims focused on his assertion that the State improperly coached the complaining witness to cry on the witness stand and that his lawyer failed to properly preserve that issue for appeal.⁷ That Motion was Summarily Dismissed by this Court

¹ D.I. 38.

² D.I. 2.

³ D.I. 13.

⁴ *Williams v. State*, 34 A.3d 1096 (Del. 2011).

⁵ D.I. 28.

⁶ *Id.*

⁷ *Id.*

on December 4, 2017.⁸ He unsuccessfully appealed that summary dismissal to the Delaware Supreme Court.⁹

3. The present motion alleges that the State failed to honor a commitment it made in his plea agreement in an unrelated Kent County case to recommend probation in this case.¹⁰

4. Before addressing the merits of a defendant's motion for postconviction relief, the Court must first apply the procedural bars of Superior Court Criminal Rule 61(i).¹¹ If a procedural bar exists, then the Court will not consider the merits of the postconviction claim.¹²

5. Under Delaware Superior Court Rules of Criminal Procedure, a motion for post-conviction relief can be barred for time limitations, successive motions, procedural defaults, and former adjudications. A motion exceeds time limitations if it is filed more than one year after the conviction becomes final or if it asserts a newly recognized, retroactively applied right more than one year after that right was first recognized. A motion is considered successive and therefore barred if it asserts any ground for relief "not asserted in a prior post-conviction proceeding." Successive motions are only considered if it is "warranted in the interest of justice." Grounds for relief "not asserted in the proceedings leading to the judgment of

⁸ D.I. 31.

⁹ *Williams v. State*, 2018 WL 2979955 (Del. June 14, 2018).

¹⁰ D.I. 38.

¹¹ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

¹² *Id.*

conviction” are barred as procedurally defaulted unless the movant can show “cause for relief” and “prejudice from [the] violation.” Grounds for relief formerly adjudicated in the case, including “proceedings leading to the judgment of conviction, in an appeal, in a post-conviction proceeding, or in a federal habeas corpus hearing” are barred. Former adjudications are only reconsidered if “warranted in the interest of justice.”¹³ A ground for relief is barred as formerly adjudicated if it was adjudicated at trial or on appeal.¹⁴

6. The bars to relief do not apply either to a claim that the court lacked jurisdiction, to a claim that pleads with particularity that new evidence exists that creates a strong inference of actual innocence,¹⁵ or that a new retroactively applied rule of constitutional law renders the conviction invalid.¹⁶

7. Summary dismissal is appropriate if it plainly appears from the motion for postconviction relief and the record of prior proceedings in the case that the movant is not entitled to relief.¹⁷

8. In applying the procedural bars of Rule 61(i), it is clear that the motion is barred. The motion is untimely since it was filed nearly eight years after the conviction became final. It also barred as a successive motion and as subject to

¹³ Super. Ct. Crim. R. 61(i)(1).

¹⁴ Super. Ct. Crim. R. 61(i)(4).

¹⁵ Super. Ct. Crim. R. 61(i)(5).

¹⁶ Super. Ct. Crim. R. 61(d)(2)(i) and (ii).

¹⁷ Super. Ct. Crim. R. 61(d)(5).

procedural default since the grounds for relief asserted here were never previously asserted.

9. In order to overcome these bars to relief, Williams must satisfy the pleading requirements of Rule 61(2)(i) or (2)(ii).¹⁸ He may do so by pleading with particularity that new evidence exists that creates a strong inference that he is actually innocent¹⁹ or by pleading with particularity a claim that a new retroactive rule of constitutional law applies to his case and renders his conviction invalid.²⁰ He attempts to satisfy this requirement by claiming a newly recognized constitutional right – “New U.S. Supreme Court ruling of constitutional rights denied an individual during prosecution and/or sentencing – violation of contract law.”²¹ Specifically, he cites “*Class v. U.S.*, 138 S.Ct. 798 & *McCoy v. Louisiana* #16-8255.”²² Neither case warrants lifting the bars to relief. In holding that a guilty plea did not, by itself, bar a defendant from challenging the constitutionality of the statute under which he was convicted, nor did it waive appellate review, the Supreme Court in *Class* did not establish a new retroactive rule of constitutional law.²³ That *Class* did not purport to establish a new retroactive rule of constitutional law is obvious from the Court’s statement that “Fifty years ago this Court directly

¹⁸ Super Ct. Crim. R. 61(i)(5).

¹⁹ Super. Ct. Crim. R. 61(d)(2)(i).

²⁰ Super. Ct. Crim. R. 61(d)(2)(ii).

²¹ D.I. 38.

²² *Id.*

²³ 138 S.Ct at 807.

addressed a similar claim (a claim that the statute of conviction was unconstitutional). And the Court stated that a defendant's 'plea did not ...waive his previous [constitutional] claim.'"²⁴ The other case Williams cites as establishing a new retroactive rule of constitutional law, *McCoy v. Louisiana*,²⁵ has no bearing on Williams' case at all. *McCoy* held that the Sixth Amendment guarantees a defendant the right to choose the objective of his defense and insist that his counsel refrain from admitting guilt even when counsel's view is that confessing guilt affords the defendant the best chance to avoid the death penalty.²⁶

10. Having said all of that though, Williams' claim fails as well because the underlying basis of his claim – that the State failed to live up to its contractual obligations to recommend probation in this case – is just wrong. The State did recommend probation at his sentencing: "...the State is bound by that agreement. The State's going to recommend eight years Level 5, suspended for level 3 probation..."²⁷ Since there is no factual support for his claim, lifting a bar to relief is not "warranted in the interests of justice." Accordingly, this untimely, successive, factually unsupported motion must be **SUMMARILY DISMISSED**.

²⁴ *Id.*, at 803.

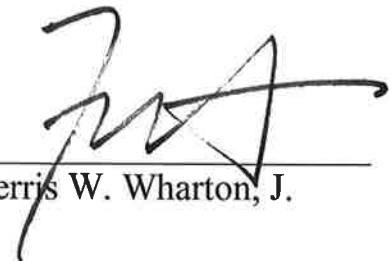
²⁵ 138 S.Ct 1500 (2018).

²⁶ *Id.*, at 1505.

²⁷ Sent. Hrg. Tr. at 4 (March 4, 2011), D.I. 37.

Therefore, since it plainly appears from Motion for Postconviction Relief and the record in this case that Williams is not entitled to relief, the Motion for Postconviction Relief is **SUMMARILY DISMISSED.**

IT IS SO ORDERED.



Ferris W. Wharton, J.

oc: Prothonotary
cc: Investigative Services