

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE :
 :
 v. : ID No. 2212001152B
 :
 CORNELIUS E. ARCHY :

**ORDER DENYING MOTON FOR APPOINTMENT
OF POSTCONVICTION COUNSEL**

AND NOW TO WIT, this 5th day of August, 2024, the Court having duly considered Cornelius E. Archy’s (“Archy”) Motion for Appointment of Counsel and the Record, **IT APPEARS THAT:**

(1) On September 7, 2023, a jury found Archy guilty of Possession of a Firearm by a Person Prohibited (“PFBPP”), and Possession of Ammunition by a Person Prohibited (“PABPP”).¹ On June 17, 2024, the Court sentenced Archy as follows, for PFBPP, 15 years at Level V,² and for PABPP, 8 years at Level V suspended for 6 months at Level IV DOC Discretion, followed by 1 year at Level III.³

(2) Archy did not file a direct appeal.

¹ D.I. 7.

² Archy was sentenced for PFBPP as a Habitual Offender pursuant to 11 *Del. C.* § 4214(d). D.I. 25.

³ D.I. 24.

(3) On July 25, 2024, Archy filed a *pro se* motion for postconviction relief.⁴

Five days later he filed a Motion for Appointment of Counsel.⁵

(4) Pursuant to Superior Court Criminal Rule 61(e)(2):

The judge shall appoint counsel for an indigent movant's first timely postconviction motion and request for appointment of counsel if the motion seeks to set aside: (i) a judgment of conviction after a trial that has been affirmed by final order upon direct appellate review and is for a crime designated as a class A, B, or C felony under 11 Del. C. § 4205(b); (ii) a judgment of conviction after a trial that has been affirmed by final order upon direct appellate review and resulted in the imposition of a life sentence under 11 Del. C. § 4214; or (iii) a sentence of death.⁶

(5) Because Archy did not file a direct appeal he fails to satisfy Rule 61(e)(2)(i).⁷

WHEREFORE, Archy's Motion for Appointment of Postconviction Counsel is **DENIED**.

/s/ Jan R. Jurden
Jan R. Jurden, President Judge

⁴ D.I. 27.

⁵ D.I. 31.

⁶ Super. Ct. Crim. R. 61(e)(2).

⁷ Archy does not meet the criteria set forth in Rule 61(e)(4) for the same reason. *See* Super. Ct. Crim R. 61(e)(4) (“The judge may appoint counsel for any other first postconviction motion only if the judge determines that: (i) the motion is an indigent movant's first timely postconviction motion and request for appointment of counsel; (ii) *the motion seeks to set aside a judgment of conviction after a trial that has been affirmed by final order upon direct appellate review*; (iii) the motion sets forth a substantial claim that the movant received ineffective assistance of trial or appellate counsel; (iv) the motion sets forth a substantial claim that the movant is in custody in violation of the United States Constitution or the Delaware Constitution; (v) granting the motion would result in vacatur of the judgment of conviction for which the movant is in custody; and (vi) specific exceptional circumstances warrant the appointment of counsel.”) (emphasis added).

Original to Prothonotary

cc: Jillian L. Schroeder, Esq., DAG
Cornelius Archy