

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILBUR L. MEDLEY,	§
	§
Defendant Below,	§ No. 149, 2024
Appellant,	§
	§ Court Below: Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID Nos. 1903000471 (N)
	§
Appellee.	§

Submitted: October 4, 2024
Decided: December 12, 2024

Before **TRAYNOR, LEGROW, and GRIFFITHS**, Justices.

ORDER

After considering the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Wilbur L. Medley, filed this appeal from a Superior Court opinion denying his first motion for postconviction relief under Superior Court Criminal Rule 61.¹ For the reasons discussed below, we affirm the Superior Court's judgment.

(2) On March 1, 2019, Medley was arrested for a burglary committed on February 22, 2019. He posted bond and was released on March 13, 2019. Medley

¹ *State v. Medley*, 2024 WL 1330005 (Del. Super. Ct. Mar. 28, 2024).

was detained for other cases and violations of probation from March 19, 2019 through April 28, 2019, June 9, 2019 through November 9, 2020, and June 16, 2021 through June 22, 2021.

(3) On April 15, 2019, a grand jury indicted Medley for second-degree burglary, theft, second-degree conspiracy, and criminal mischief. Several continuances were granted in 2019 so that Medley could undergo a psychological evaluation and the parties could work on a global resolution of this case and other cases pending against Medley, including Cr. ID Nos. 1901013794 and 1906005528 and violations of probation in Cr. ID Nos. 1008025826, 100901420, and 1009005821. Despite being represented by counsel (“Counsel”), Medley filed multiple *pro se* letters and motions with the court.

(4) On April 7, 2020, Medley’s counsel moved to suppress evidence found during the execution of search warrants for his residence, DNA, and cell phones. On April 24, 2020, the State filed its opposition to the motion to suppress. At the June 14, 2021 hearing on the motion to suppress, the State advised that it would not be seeking to introduce the DNA and cell phone evidence. The Superior Court found those portions of the motion to suppress moot and denied the remainder of the motion.

(5) On June 22, 2021, Medley pleaded guilty to second-degree burglary. The parties agreed to immediate sentencing and to recommend a sentence of five

years of Level V incarceration, suspended after two-and-a-half years for eighteen months of Level III probation with GPS monitoring. The plea agreement was silent as to credit time. The Superior Court imposed the recommended sentence, giving credit for 210 days previously served.

(6) Between June 23, 2021 and June 29, 2021, DOC employees and Medley's counsel emailed the Superior Court about Medley's credit time. Based on information provided by Medley's counsel, the Superior Court issued an amended sentencing order on June 25, 2021 that increased Medley's credit time to 576 days. After DOC advised that their records showed that most of that time was attributable to other cases and that Medley had only been held for this case between March 1, 2019 through March 13, 2019, the Superior Court issued a second amended sentencing order on June 29, 2021 that reduced Medley's credit time to thirteen days.

(7) On September 17, 2021, Medley's counsel filed a motion for modification of sentence to include 576 days of credit time. The State did not oppose the motion as long as any credit time was not applied in more than one case. The Superior Court denied the motion, holding that Medley had been credited with this time in an August 27, 2021 sentencing order in a different case.² Medley's counsel appealed.

² This order does not specify the case number for the August 27, 2021 sentencing order, but the Superior Court entered a sentencing order on that date for Medley's violations of probation in Cr. ID Nos. 1008025826, 100901420, and 1009005821.

(8) While the appeal was pending, Medley filed a *pro se* motion for postconviction relief under Superior Court Criminal Rule 61 and other *pro se* motions. The Superior Court stayed those motions pending resolution of his appeal. On July 12, 2022, this Court concluded that Medley was only entitled to thirteen days of credit time in this case and affirmed the Superior Court’s denial of his motion for sentence modification.³

(9) On May 10, 2023, Medley filed another motion for postconviction relief. As requested by the Superior Court, Counsel responded to Medley’s ineffective-assistance-of-counsel allegations, and the State responded to all Medley’s postconviction claims. Medley filed responses to Counsel’s affidavit and the State’s submission. On March 28, 2024, the Superior Court denied Medley’s motion for postconviction relief under Rule 61. This appeal followed.

(10) We review the Superior Court’s denial of a motion for postconviction relief for abuse of discretion.⁴ We review constitutional claims, including claims of ineffective assistance, *de novo*.⁵ The Court considers the procedural requirements of Rule 61 before addressing any substantive issues,⁶ but in most cases claims of ineffective assistance raised in a timely postconviction motion are not procedurally

³ *Medley v. State*, 281 A.3d 29, 33 (Del. 2022) (“If Medley believes he has not been given credit time to which he is entitled in his other cases, he should file an appropriate motion in those cases.”).

⁴ *Baynum v. State*, 211 A.3d 1075, 1082 (Del. 2019).

⁵ *Id.*

⁶ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

barred.⁷ Under Rule 61(i)(5), a procedurally barred claim may be heard if the movant pleads lack of jurisdiction, new evidence creating a strong inference of actual innocence, or a new rule of constitutional law retroactively rendering the conviction invalid.

(11) Medley's arguments on appeal may be summarized as follows: (i) the State breached the plea agreement because he did not receive 576 days of credit time as the parties agreed; (ii) Counsel was ineffective; (iii) the Superior Court violated his right to due process by amending his sentence outside of his presence and delaying resolution of his postconviction motions; and (iv) the Superior Court erred in denying his motion to suppress. Medley has waived appellate review of claims he raised in the Superior Court but did not argue on appeal.⁸

(12) The Superior Court found that Rule 61(i)(4), which precludes consideration of any ground for relief that was previously adjudicated, barred Medley's breach-of-plea claim because this Court previously held that Medley was not entitled to more than thirteen days of credit time in this case.⁹ Medley contends that Rule 61(i)(4) does not apply because he is arguing that the State breached its agreement in the plea that he would receive 576 days of credit time, which has not

⁷ *Cephas v. State*, 2022 WL 1552149, at *2 (Del. May 17, 2022) (citing *Green v. State*, 238 A.3d 160, 175 (Del. 2020)).

⁸ *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997); *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

⁹ *Medley*, 2024 WL 1330005, at *5.

been previously adjudicated. Even assuming Rule 61(i)(4) does not apply, the record does not support Medley's claim of an enforceable agreement for him to receive 576 days of credit.

(13) During plea negotiations, Counsel asked the prosecutor if Medley would receive Level V credit time he had earned, and the prosecutor responded that he would. Counsel did not ask if Medley would receive credit for 576 days, and the prosecutor did not state that Medley would receive that amount of credit time. Medley claims that the parties had an oral agreement that he would receive credit for 576 days previously served, but he affirmed in the Truth-in-Sentencing Guilty Plea Form that he had not been promised anything that was not stated in his plea agreement. Neither side objected at sentencing when the case manager advised the judge that Medley was entitled to 210 days of credit time, not 576 days as Medley claims the parties had agreed. And finally, even if the parties agreed that Medley should receive credit for 576 days consisting mostly of time that he served in other cases, a "sentencing judge has no obligation to credit a defendant with more time than the defendant has served on the specific case."¹⁰

(14) To prevail on his ineffective-assistance-of-counsel claims, Medley must demonstrate that: (i) his counsel's representation fell below an objective standard of reasonableness; and (ii) but for counsel's unprofessional errors, there is

¹⁰ *Medley*, 281 A.3d at 33.

a reasonable probability that the outcome of the proceedings would have been different.¹¹ There is “a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.”¹² “A reasonable probability is a probability sufficient to undermine confidence in the outcome.”¹³ In the context of a plea agreement, the defendant must show that “there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.”¹⁴

(15) As he did below, Medley argues that Counsel was ineffective because she incorrectly advised him that he would receive credit in this case for time he had served in other cases, failed to include the credit time in the plea agreement and inform the court of the parties’ oral agreement regarding his credit time, miscalculated the appeal deadline, and refused to file a direct appeal. The Superior Court concluded that Medley failed to show that Counsel’s representation fell below an objective standard of reasonableness or that he was prejudiced by Counsel’s alleged errors.

(16) In her affidavit, Counsel stated that based on her experience she thought the court would apply credit from Medley’s other pending cases to this case. She

¹¹ *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984).

¹² *Id.* at 689.

¹³ *Id.* at 694.

¹⁴ *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

did not identify any oral agreement about credit time that should have been included in the plea agreement or disclosed to the Superior Court as Medley contends. The record does not support the existence of any such agreement.¹⁵

(17) By pleading guilty in this case, Medley avoided a maximum sentence of twelve years of Level V time and gained the State's agreement to recommend a sentence of not more than two years and six months of unsuspended Level V time.¹⁶ As the Superior Court emphasized and Medley has acknowledged, he received credit for the time he served in the sentences for his violations of probation.¹⁷ Medley also received more than 500 days of credit for time served in his sentences for Cr. ID Nos. 1901013794 and 1906005528.¹⁸ Given the advantages of the plea agreement, the other cases and violations of probation pending against Medley when he entered the plea, his entitlement to credit for time served in the other matters, and his receipt of that credit, Medley cannot show prejudice.

(18) Similarly, Medley has not shown prejudice from the absence of a direct appeal of his conviction. Counsel pursued Medley's claim for 576 days of credit through an unsuccessful motion for sentence modification and appeal. This Court

¹⁵ *See supra* ¶ 13.

¹⁶ *Medley*, 2024 WL 1330005, at *6.

¹⁷ *Id.* at *6 nn. 60, 69; Feb. 22, 2022 Motion for Postconviction Relief, D.I. 92. *See also supra* ¶ 7.

¹⁸ *Medley v. State*, 2024 WL 4074826, at *2 (Del. 2024).

affirmed the Superior Court’s judgment that Medley was not entitled to more than thirteen days of credit in this case.¹⁹

(19) Medley next contends that the Superior Court violated his right to due process by amending his sentence outside his presence and delaying resolution of his Rule 61 motions. Medley did not assert a due process claim based on the amendment of his sentence in the proceedings below, and we therefore review for plain error.²⁰ Plain error “is limited to material defects which are apparent on the face of the record; which are basic, serious and fundamental in their character, and which clearly deprive an accused of a substantial right, or which clearly show manifest injustice.”²¹ There is no plain error here because this Court previously adjudicated (and rejected) Medley’s claim that the Superior Court deprived him of his right to be present with his counsel for amendment of his sentence.²²

(20) Medley did argue below that the Superior Court violated his right to due process by delaying resolution of his Rule 61 motions. He correctly points out that the postconviction motion he filed in February 2022 was not premature because the motion was filed after his conviction became final in July 2022 when no direct appeal of the conviction was filed.²³ But the Superior Court did not err in

¹⁹ *Medley*, 281 A.3d at 33-34.

²⁰ Supr. Ct. R. 8.

²¹ *Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986). .

²² *Medley*, 281 A.3d at 34.

²³ Supr. Ct. Crim. R. 61(m)(1).

determining that it had properly exercised its discretion to stay consideration of Medley’s postconviction motions pending this Court’s resolution of his appeal from the denial of his motion for sentence modification.²⁴ Under Rule 61(d)(3), the Superior Court may stay postconviction proceedings “[i]f any part of the record of prior proceedings in the case has been removed in connection with an appeal.” Between December 2021 and August 2022, the Superior Court record in this case was with this Court for the appeal of the denial of Medley’s motion for sentence modification. In addition, as the Superior Court recognized, Medley’s credit time was a central issue in both the appeal and postconviction proceedings.²⁵

(21) Relying on *Barker v. Wingo*,²⁶ Medley also argues that the Superior Court violated his right to due process by delaying resolution of his postconviction motions after the appeal was resolved. *Barker* involved a defendant’s right to a speedy trial under the Sixth Amendment of the United States Constitution, not postconviction proceedings.²⁷ The United States Supreme Court has stated that postconviction proceedings are outside the scope of the right to a speedy trial under the Sixth Amendment.²⁸ The Superior Court did not err in rejecting Medley’s due process claim.

²⁴ *Medley*, 2024 WL 1330005, at *7.

²⁵ *Id.*

²⁶ 407 U.S. 514 (1972).

²⁷ *Id.* at 515.

²⁸ *Betterman v. Montana*, 578 U.S. 437, 444 (2016).

(22) Finally, Medley argues that the Superior Court erred in denying his motion to suppress. He ignores that after this denial he chose to plead guilty, instead of going to trial and, if convicted, appealing the denial of his motion to suppress. As this Court previously ruled:

In his plea colloquy, Medley stated that he “freely and voluntarily decided to plead guilty” to the charge, that he had not “been promised anything that is not stated in [his] written plea agreement,” and that no one “promised [him] what [his] sentence [would] be.” During the colloquy, Medley confirmed that the Plea Agreement was accurate and he agreed to it knowingly, intelligently, and voluntarily.²⁹

By knowingly, intelligently, and voluntarily pleading guilty, Medley waived his right to challenge the denial of his motion to suppress on appeal.³⁰ Having considered the parties’ positions and the record below, the Court concludes that the Superior Court’s denial of Medley’s motion for postconviction relief must be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Abigail M. LeGrow
Justice

²⁹ *Medley*, 281 A.3d at 31 (citations omitted).

³⁰ *Miller v. State*, 840 A.2d 1229, 1232 (Del. 2003).