

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 Plaintiff,)
)
 v.) Cr. ID No. 9911016961
)
 DARREL PAGE,)
)
 Defendant.)
)

Submitted: March 19, 2025
Decided: April 16, 2025

**COMMISSIONER’S REPORT AND RECOMMENDATION THAT
DEFENDANT’S NINTH MOTION FOR POSTCONVICTION
RELIEF SHOULD BE SUMMARILY DISMISSED**

Abigail E. Rodgers, Esquire, Deputy Attorney General, Department of
Justice, Wilmington, Delaware, Attorney for the State.

Darrel Page, James T. Vaughn Correctional Center, Smyrna, Delaware, *pro*
se.

PARKER, Commissioner

This 16th day of April, 2025, upon consideration of Defendant's ninth Rule 61 motion for postconviction relief, it appears to the Court as follows:

BACKGROUND AND PROCEDURAL HISTORY

Defendant Darrel Page was tried before a Superior Court jury and convicted on June 17, 2003, of three counts of Murder in the First Degree, robbery, conspiracy and weapons charges. On February 24, 2006, Page was sentenced to life imprisonment, without the possibility of parole, for each of the three counts of Murder in the First Degree plus a term of years on the other convictions.

Following Page's convictions and sentences, Page filed a direct appeal. On October 10, 2007, the Delaware Supreme Court affirmed his convictions and sentences.¹ Thereafter, Page filed eight Rule 61 motions, all of which have been unsuccessful.² He has also filed two unsuccessful petitions for federal habeas corpus relief.³

On March 4, 2025, Page filed the subject Rule 61 motion, his ninth Rule 61 motion.

¹ *State v. Page*, 934 A.2d 891 (Del. 2007).

² See, *State v. Page*, 2019 WL 1013738, *2, ftnt. 10 (Del.Super.)(Superior Court Commissioner's report and recommendation denying Page's seventh Rule 61 motion detailing the prior six Rule 61 motions and the denials thereof); See, *Page v. State*, 2024 WL 2239366 (Del.)(Delaware Supreme Court's summary dismissal of Page's eighth Rule 61 motion).

³ See, *State v. Page*, 2019 WL 1013738, *2, ftnt. 11 (Del.Super.)(Superior Court Commissioner's report and recommendation denying Page's seventh Rule 61 motion detailing the federal petitions for habeas corpus relief and the denials thereof).

PAGE'S SUBJECT RULE 61 MOTION

Before Page is entitled to proceed with the subject Rule 61 motion, his ninth, he must first satisfy the pleading requirements. For second or subsequent postconviction motions, like the subject motion, in order to overcome the procedural bars warranting the summary dismissal of the motion, the defendant must plead with particularity: 1) that new evidence exists to establish the movant's actual innocence in fact of the charges for which he was convicted, or 2) that the existence of a new, retroactively applicable constitutional rule applies to the movant's case and renders a conviction invalid.⁴

Page has not satisfied the pleading requirements for proceeding with this motion.

Page does not raise any new facts, let alone, new facts that would create a strong inference that he was actually innocent of the charges for which he was convicted. In the subject motion, Page merely reasserts the same claim he made in his second motion for postconviction relief in 2011 (over 14 years ago), stemming from the trial testimony of a witness from trials in 2003 and 2005 (over 20 years ago).⁵

Specifically, in the pending motion, Page again claims that the inconsistency of the testimony of a witness in his trial (in which the witness

⁴ Super.Ct.Crim.R. 61(d)(2) & (5); and Rule (i).

⁵ See, *State v. Page*, 2011 WL 1213841, *3-5 (Del.Super.), *aff'd*, 2012 WL 11615 (Del.).

testified that he had seen drugs in the house) in contradiction to that witness' testimony in Page's co-defendant's trial (in which the witness denied that he was aware that there were drugs in the house) should somehow result in the granting of a new trial.

When Page presented this same claim in his second Rule 61 motion in 2011, this claim was fully and thoroughly considered and was found to be without merit. The Court has already held that whether the witness was aware of the existence of drugs in the house was not material to the material issues in Page's case.⁶ The Court held that the conflicting trial testimony of the witness at issue was essentially impeachment material, "and not very powerful impeachment material at that."⁷ The Court further noted that the evidence establishing Page's guilt was overwhelming and that the conflicting testimony of this witness was not significant to the material issues in the case.⁸

Page has not overcome the factual procedural hurdle for proceeding with the pending motion. Page has not alleged the existence of any newly discovered factual evidence, let alone exculpatory evidence that could not have been discovered ever before, that establishes his actual innocence in fact.⁹

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ See, *State v. Clay*, 2022 WL 893744, *3 (Del.Super.)(when defendant was aware of factual evidence and already raised it in a postconviction motion, and the evidence was

The pleading requirements to proceed on a second or subsequent postconviction motion can also be met if there is a new, retroactively applicable constitutional rule applicable that would render Page's conviction(s) invalid.¹⁰ Page contends that the United States Supreme Court's decision in *Glossip v. Oklahoma*, 145 S.Ct. 612 (2025), creates such a new rule of constitutional law. Page is incorrect in this regard.

In *Glossip*, the United States Supreme Court did not establish any new rule of constitutional law. The Court applied long-existing constitutional law to that case. The Court held that the prosecution in *Glossip* violated its obligations under *Napue v. Illinois*, 360 U.S. 264 (1959). In *Napue*, the United States Supreme Court held that prosecutors have a constitutional obligation to correct false testimony that was knowingly used to obtain a conviction.¹¹

In *Glossip*, nearly two decades after the defendant's trial, the State disclosed eight boxes of previously withheld documents. The newly disclosed factual evidence established that the trial testimony of the State's star witness was false, that the State knew the testimony was false, and that the State knowingly failed to correct it.¹² The United States Supreme Court held that

formerly adjudicated in a postconviction proceeding, it cannot constitute newly discovered evidence).

¹⁰ Super.Ct.Crim.R. 61(d)(2)(ii).

¹¹ *Glossip v. Oklahoma*, 145 S.Ct. 612, 618 (2025).

¹² *Glossip v. Oklahoma*, 145 S.Ct. 612, 618, 622-624, 626-630 (2025).

the facts as conceded by the State and supported by that record established a violation of *Napue*.¹³

In *Glossip*, the United States Supreme Court did not create any new rule of constitutional law, it applied long-standing constitutional law principles, including those set forth in *Napue* (decided in 1959), to the facts of that case.

Page having not alleged the existence of any newly discovered factual evidence that establishes his actual innocence in fact,¹⁴ and not having not alleged the existence of any new, retroactively applicable constitutional law that would render his conviction invalid,¹⁵ has failed to meet the pleading requirements that must be met to overcome the summary dismissal of the pending motion.¹⁶

For the sake of completeness, Page's attempt to reraise the claim presented herein is also procedurally barred as previously adjudicated.¹⁷

Furthermore, after a full, thorough, and careful consideration of the claims raised by Page in his direct appeal, and thereafter in his first Rule 61 motion, the Superior Court opined, and the Delaware Supreme Court affirmed, that Page had suffered no deprivation of constitutional rights, by counsel, the Superior Court, the State, or otherwise.¹⁸

¹³ *Id.*

¹⁴ Super.Ct.Crim.R. 61(d)(2)(i).

¹⁵ Super.Ct.Crim.R. 61(d)(2)(ii).

¹⁶ Super.Ct.Crim.R. 61(d)(2).

¹⁷ Super.Ct.Crim.R. 61(i)(4).

¹⁸ See, *State v. Page*, 2014 WL 4348286, *2 (Del.Super.), *aff'd*, 2015 WL 428107 (Del.).

Page has already been advised that he had more than ample opportunity to raise claims of deprivations of his constitutional rights during the proceedings leading to his conviction, direct appellate proceedings, and during his first motion for postconviction relief.¹⁹ In the denial of Page's third motion for postconviction relief in 2013, the Superior Court further held, and the Delaware Supreme Court affirmed, that any claim for postconviction relief which Page has not asserted by that point was barred by Rule 61(i)(3).²⁰

Page has failed to meet the pleading requirements for proceeding with this motion and the motion is otherwise procedurally barred. This Rule 61 motion should be summarily dismissed.

EVIDENTIARY HEARING SHOULD BE DENIED

In accordance with the mandates of Rule 61, Page's Rule 61 motion should be summarily dismissed as it failed to meet the pleading requirements for proceeding with the motion and is otherwise procedurally barred. As such, Page's request for an evidentiary hearing is moot based on the Court's ruling above and should likewise be denied.

¹⁹ *Id.*

²⁰ *State v. Page*, 2013 WL 4828600, *5 (Del.Super.), *aff'd*, 2013 WL 6389595 (Del.).

For all of the foregoing reasons, Page's Motion for Postconviction Relief should be summarily dismissed and his request for an evidentiary hearing denied.

IT IS SO RECOMMENDED.

/s/ Lynne M. Parker
Commissioner Lynne M. Parker

cc: Prothonotary
James E. Liguori, Esquire